Public Comment & Response

Response to CJP Comments to Berks County WDB Transitional Local Plan (5/31/2016)

The Berks County WDB welcomes the public comments and suggestions submitted by the Community Justice Project (CJP) in Harrisburg, PA regarding our proposed PY2016 Berks County WDB Transitional Local Plan.

State policy issued on *February 29, 2016* specifies the elements to be included in the local transitional plans and does not include elements to be addressed regarding priority of service. However, the guidance does include a certification (section 5.9) checklist specifying that local program management is in compliance with state policy and processes, including policy regarding priority of services. The Berks WDB adopted the required *Adult Priority of Services Policy* effective March 21, 2016 and the policy was reviewed and approved by PA L&I on May 16, 2016. The current *Adult Priority of Services Policy* has been posted on the Berks County WDB page of the County of Berks website. Further details regarding implementation of priority of service will be included in the Berks County WDB's multi-year plan to be developed in PY2016.

As stated in the local proposed transitional plan (Section2.2; p. 25), the Berks WDB supports the development of career pathways but cautions that career pathways are best nurtured within a well-established industry sector strategy as developed and promoted by the Berks WDB. In our experience, career pathways independent of a robust local industry sector (such as advanced manufacturing or healthcare) too often lead to occupational dead ends for job-seekers and unfilled positions for employers. This is especially detrimental for job-seekers with barriers to employment who have much less room for recovery from ill-advised training programs. The Berks WDB *Training and Industry Partnership Committee* will assist with the development of regional sector-based training strategies to include career pathways and the identification of high priority occupations (Section 3.1.A; p.29). Further details regarding implementation of career pathways will be included in the Berks County WDB's multi-year plan to be developed in PY2016.

Transitional Employment (TE) provides limited, subsidized work experience for individuals with chronic unemployment or inconsistent/limited work history. In anticipation of full WIOA implementation, the Berks County WDB updated its Work-Based Training Policy at the beginning of PY2015 to specify that TE will be available to Berks County participants who are eligible under the Youth, Adult or Dislocated Worker funding streams. As described in the Berks WDB's local proposed transitional plan (Section 4.8; p.49), all training activity (including TE) is linked to High Priority Occupations (HPOs), and their relevant wage and educational attainment levels, within the priority Industry Sectors as defined by the full board. State policy issued on *February 29, 2016* specifies the elements to be included in the local transitional plans and does not include elements to be addressed regarding TE. However, the guidance does include a certification (section 5.9) checklist specifying that local program management is in compliance with state policy and processes, including transitional work. Further details regarding TE will be included in the Berks County WDB's multi-year plan to be developed in PY2016.

Community Justice Project Comments on the Berks County Workforce Development Board Local WIOA Transition Plan

(May 23, 2016)

The Community Justice Project (CJP)[1] submits these comments on behalf of Success Against All Odds and the many low-income clients CJP represents every year who seek to better their lives through better jobs. The Berks County Workforce Development Board WIOA Transition Plan (BCWDB Plan) was published for public comment on April 27, 2016, with comments due by May27, 2016.

Because we work on behalf of low-income clients, our comments focus on: (i) priority of service for recipients of public assistance and other low-income, high needs persons; (ii) Career Pathways; and (iii) Transitional Jobs (subsidized employment).

I. Background

WIOA, like its antecedents -- the Workforce Investment Act and the Job Training Partnership Act -- places special importance on serving low-income, high needs groups. According to WIOA:

> Priority for individualized career services and training services must be given to:
>
> *(i) recipients of public assistance;*
> *(ii) other low-income individuals ;and*
> *(iii) individuals who are basic skills deficient*

WIOA Sec. 134(c)(3)(E)

WIOA strengthens priority of service requirements under the Workforce Investment Act in a number of ways, including eliminating the provision under WIA that priority of services applies only when funds are limited. Under WIOA, priority of service must be provided, regardless of funding.

Strengthening the priority of service requirement was clearly needed, as a declining number of low-income persons were served under WIA, despite its priority of service requirement. National data show that only 48.7 percent of adult "exiters" who received training and/or intensive services through the WIA Adult funding stream were "low-income individuals" in Program Year 2013 – a marked decrease from 71.3 percent in Program Year 2001. ***And only 3.8 percent of those served in Program year 2013 were TANF recipients.***[2]

Over the past decade and a half, WIA delivered training services to a declining share of low-income individuals, and WIA served a far lower percentage of low-income adults than the predecessor federal

---

[1] The Community Justice Project is a statewide project of the Pennsylvania Legal Aid Network focusing on impact advocacy. CJP has worked for many years with its client group Success Against All Odds to improve access to adult and postsecondary education for single parents participating in the TANF and SNAP programs.

[2] Comparison of nationwide data from PY2002 and PY2013 presented in Table II-1, Characteristics of Adult Exiters Who Received Intensive or Training Services, in Department of Labor Workforce Investment Standard Record Data (WIASRD) Data Books for PY2005 and PY2013, respectively. Online at: http://www.doleta.gov/performance/results/pdf/PY_2005_WIASRD_DataBook_Rev%208-14-2007.pdf (page 15) and http://www.doleta.gov/performance/results/pdf/PY_2013_WIASRD_Data_Book.pdf (page 21).

law in place before 1998, the Job Training Partnership Act, which required that 90 percent of the funds for adults were targeted for those who were low-income.[3]
In light of the underlying intent of WIOA, WIA, and the JTPA - and past failure by states to realize the goals of priority of service -- the Wolf Administration placed special emphasis on this key provision of WIOA in its March 17, 2016 WIOA State Plan. In order to ensure successful implementation of priority of service for recipients of public assistance and other low-income, high needs groups targeted by WIOA, the State Plan included:

- Service benchmarks for those entitled to priority of service;
- Specific guidance to Local Workforce Development Boards (LWDBs) and CareerLinks on what "priority of service" means and how it works;
- A directive that LWDBs and Career Links provide detailed information on how they will address a range of issues critical to successful implementation of priority of service requirements.

(See, WIOA State Plan, pp. 10-11 and 67-70)

We focus in these comments on the last of these three priority of service provisions in the WIOA State Plan because an important purpose of the local and regional plans is for the LWDBs and CareerLinks to demonstrate that they have thought carefully about how they will ensure that training services are provided to low-income, high needs persons and have workable plans for so doing.

II. Comments

A. Priority of Service

In their local plans, LWDBs and PA CareerLink® centers are required to "state the additional methods by which they will apply the WIOA priority of service requirements and the commonwealth's policy regarding priority of service," by stating "in detail" how they will address specific issues critical to successful implementation of priority of service. (WIOA State Plan pp. 69-70)

The Berks County Workforce Development Board Plan says virtually nothing about priority of service and fails to state a coherent and comprehensive plan to ensure that public assistance recipients and other low-income persons will receive priority for Title I WIOA training services. The only we could find to services for low-income persons discusses services to youth, not even mentioning services for the Title I adults:

> The Board recognizes that the new training targets emphasize the targeting of individuals with barriers to employment, including low-income individuals and those who are basic skills deficient. During Program Year (PY) 2015 the WDB has prepared for this effort through the redesign of the youth program to one focused on serving disconnected young adults.

---

[3] Frank, Abbey and Elisa Minoff. 2005. "Declining Share of Adults Receiving Training Under WIA Are Low-Income or Disadvantaged." Washington, DC: Center for Law and Social Policy. Online at http://www.clasp.org/resources-and-publications/files/0254.pdf. See also: Ridley, Neil. 2010. "Strengthening Priority of Service for Low-Income Adults through WIA Reauthorization." Washington, DC: Center for Law and Social Policy. Online at http://www.clasp.org/resources-and-publications/files/WIAServices.pdf.

(BCWDB Plan, p. 33)

Not surprisingly, the BCWDB Plan fails to detail how the agency will address the priority of service implementation issues set forth in the WIOA State Plan, despite the clear mandate to do so. This deficiency must be addressed.

Each of the issues related to successful implementation of priority of service implementation that LWDBs and PA CareerLinks are required to address is listed below. For each one, we explain why the issue in question is important to successful implementation of priority of service, and we offer suggestions as to how it might be effectively addressed.

(i) How [the LWDB and CareerLink] will obtain data reflecting each of the three categories of persons entitled to priority of service in their service area and the approximate numbers in each category.

This data is important in order to provide a sense of whether the LWDBs and CareerLinks (local agencies) are meeting the needs of the low-income communities they serve. While the Commonwealth intends to monitor LWDBs and PA CareerLinks to determine whether at least 70 percent of those served are persons entitled to priority,[4] this in and of itself, does not tell us to what extent the needs of the low-income community overall are being met.

Comment: The BCWDB Plan should:

- Include county by county data easily obtained from DHS showing the number of persons receiving public assistance (TANF and SNAP) -- a core group of those entitled to priority -- from the Department of Human Services (DHS).
- State how it will obtain data reflecting the number of other low-income persons, we well as those who are basic skills deficient.

(ii) The outreach [the LWDB and CareerLink] will do to inform the public of Pennsylvania's priority of service policy and how they will target this outreach to best reach those potentially eligible for priority of service and any agencies that serve them.

Because public assistance recipients and other low-income persons have been chronically and historically underserved, many in this community have little or no idea that training services are available to them through the LWDBs and CareerLinks, much less that they have priority for training. Local agencies will have to take specially tailored measures to reach this population. (Doing so will not only provide training opportunities for populations not previously served, but will help local agencies reach priority of service benchmarks established by the Commonwealth.) (WIOA State Plan, pp. 10-11 and 68).

---

[4] The commonwealth will monitor data reported by LWDBs and PA CareerLink® centers to determine the percentage of those served who are individuals with priority of service. Should this percentage be less than 70 percent, the commonwealth shall provide the LWDB or PA CareerLink® center with technical assistance to ensure that effective affirmative outreach efforts to individuals with priority of service are made. (WIOA State Plan, p. 68)

The BCWDB Plan fails to include any strategy whatsoever for effective outreach to public assistance recipients and other low-income persons entitled to priority of service.

Perhaps the best strategy for outreach is for local agencies to connect with the Department of Human Services and work cooperatively with DHS state level policy makers and local County Assistance Offices to explore the needs of TANF and SNAP recipients within their service area for adult and postsecondary education, transitional jobs, and other services and to develop a collaborative system for those in need of such services to be screened, referred to, and served by the local agency.

Comment: The BCWDB Plan should include a commitment by the agency to work in partnership with DHS and its CAOs to develop a plan for outreach and provision of training services to persons receiving TANF and SNAP benefits that includes:

- A process for informing TANF and SNAP clients of the opportunities for training services available to them through WIOA, in addition to those available through DHS and its welfare to work contractors, or through both.[5]
- A process for assessing TANF and SNAP clients interested in WIOA training opportunities to determine their education level, aptitudes, barriers, career interests, and training needs/goals -- along with a breakdown of what agencies/contractors will be responsible for each aspect of this process.
- The provision of career counseling to inform TANF and SNAP clients about training and job opportunities in High Priority Occupations suited to their interests, aptitude, and experience.
- A system for referral of TANF and SNAP clients to the local WIOA agency for training services.[6]
- A process for sharing data regarding activities pursued by TANF and SNAP clients and the progress that have made.

(iii) How [the LWDB and CareerLink] will inform individuals seeking to access WIOA services of their priority of service, such as through posters and prominent placement of other information.

This is important in order to ensure that those who contact the local agency for training services and do not know they are entitled to priority of service will be able to identify themselves as such and receive the priority to which they are entitled.

The WIOA State Plan, itself, suggests a couple of methods to educate the public about priority of service, but there are many more. A local agency could develop and play a video in the office waiting room, run public service announcements, place advertisements at bus stops, etc.

Comment: The BCWDB Plan should describe a range of strategic methods it will use to educate the public about priority of service.

(iv) When otherwise deemed eligible for program participation, how [the LWDB and CareerLink] will affirmatively identify persons entitled to priority of service and inform those individuals of the full array of services available.

---

[5]Career Pathways programs are a good example of an important opportunity available through the WIOA system that is not available through DHS or its contractors. Transitional jobs may be another, depending on location.
[6]Under WIOA this can now be done by contract with DHS, an option that should be seriously considered.

While issue (iii), above, relates to self-identification, issue (iv) is concerns the problem of how to identify persons entitled to priority of service who seek WIOA services and who either do not know they have priority or have not disclosed this. Use of a screening tool may be the most effective way for the local agency to determine whether a client may be entitled to priority.

Comment: The BCWDB Plan should describe:

- The screening or other tool it intends to use to identify persons entitled to priority of service; and
- The counseling and written materials it will use to inform them of the range of services available to them and how priority of service works.

(v) The assessments [the LWDB and CareerLink] will use to identify barriers to employment among those entitled to priority of service and the services needed to address them.

Many of those entitled to priority of service have barriers to employment, such as those listed in the WIOA statute's definition of this term.[7] The assessment process and tools employed by local agencies should include screening for barriers to employment, done in a manner that respects privacy, but nevertheless informs the client of the types of barriers for which assistance can be provided.

Comment: The BCWDB Plan should:

- Describe the process and tools that it uses or will use for assessment; and
- Explain how this process will inform clients of the range of barriers to employment for which services or accommodations may be available, while respecting the client's right not to disclose personal information should she prefer not to do so.

Once a barrier to employment has been disclosed, services to address or accommodate that barrier will normally be needed. So, for example, a victim of domestic violence might be referred to an agency that can provide appropriate counseling services or safety planning while she is pursuing training services through the local agency. An ex-offender with a criminal history might be counseled and/or referred to a legal services provider for help with expungement. Properly addressing barriers requires knowledge of services available in the community for the range of barriers the agency is likely to encounter and developing relationships with service providers to facilitate referral.

Comment: The BCWDB Plan should describe how it will identify and facilitate access to appropriate services in the community to address the range of barriers to employment listed in WIOA.

---

[7] "Individuals with barriers to employment" include: displaced homemakers; Indians, Alaskan Natives and Native Hawaiians; individuals with disabilities including youth with disabilities; older individuals; ex-offenders; homeless individuals; youth who are in or have aged out of the foster care system; individuals who are English language learners, individuals with low levels of literacy and individuals facing cultural barriers; eligible migrant and seasonal farmworkers; individuals within two years of exhausting lifetime eligibility under TANF; single parents to include single pregnant women; and long-term unemployed individuals.

(vi) The process by which [the LWDB and CareerLink] will develop Individual Employment Plans for persons entitled to priority of service that will address, in addition to training needs, any barriers to employment they may have.

WIOA eliminated sequential service requirements for those seeking Title I training services. This was a significant change and should serve to improve access to training services, especially for those entitled to priority of service.

Comment: The BCWDB Plan should describe each step in its simplified procedure for processing requests for Title I training and other services under Title I of WIOA. In doing so, the Plan should:

- Explain the role of assessments and how they are used;
- Spell out the content and specific steps involved in developing Individual Employment Plans;
- Describe the factors involved in deciding upon and developing plans for training services;
- Explain how the local agency will incorporate plans for addressing barriers to employment.

(vii) How [the LWDB and CareerLink] will ensure that they are serving the spectrum of persons entitled to priority of service, including those, such as English language learners, who may require more resources to serve.

This issue is similar to element (v), dealing with barriers to employment, but is more focused on those needing special services or accommodations, such as persons with limited English proficiency (LEP) and disabilities. These needs are common in the high needs groups covered by priority of service requirements. Addressing the needs of such persons is required by Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act and, thus, the importance of ensuring services to these groups goes without saying.

Access to Career Pathways programs, with their emphasis on adult education including English-as-a-Second-Language (ESL), is especially valuable for those with limited English proficiency. But identifying LEPs and providing interpretation and translated documents will be critical in order to facilitate equitable access and provide meaningful training services. Special attention to language access by LWDBs and CareerLinks in their local plans is warranted given the importance of these services to persons with this particular barrier to employment and considering also Pennsylvania's poor performance in the past in serving LEPs:

> While new provisions in WIOA do target workforce services to these basic skills deficient individuals, the record of career pathways models and other training programs in providing equitable access to individuals who are low-educated and/or LEP is very weak. This is an especially urgent concern in Pennsylvania, for example, where **only 2.5% of those exiting from Title I Adult intensive or training services in the 2014-15 program year were LEP**.[8]

The BCWDB Plan says very virtually nothing about how the agency will identify and serve LEP or disabled persons.

---

[8] Margie McHugh and Madeleine Morawkski, "*Immigrants and WIOA Services, Comparison of Socio-Demographic Characteristics of Native and Foreign Born Adults in Pennsylvania*" (National Center on Immigrant Integration Policy, March 2016), p. 4 (emphasis added).

Comment: The BCWDB Plan should describe:

- How it identifies and tracks, through the education, training, and employment process, the primary language of people with limited English proficiency so staff will be prepared to provide accessible services;
- How it provides notice of the right to language services (oral communication through bilingual staff and/or interpretation as well as translated documents);
- How it affirmatively identifies persons with limited English proficiency, so as not to rely entirely on self-identification through notice of the right to language services. (This could include, for example, training of staff to recognize signs that a person is not sufficiently fluent in English to navigate the local agency's WIOA process.)
- How it provides notice to persons with disabilities of their rights under the ADA, including the right to reasonable accommodation.
- How accommodations may be requested and how they are determined.

(viii) How [the LWDB and CareerLink] will address the special needs of individuals with barriers to employment in the delivery of services, such as by assuring that appropriate career planning services are provided. This should include a detailed description of how appropriate career planning services will be provided, or arranged for, through collaboration with other agencies in the event that the LWDB or PA CareerLink® center lacks the required expertise.

WIOA defines "career planning" as:

> [T]he provision of a client-centered approach in the delivery of services, designed—
> (A) to prepare and coordinate comprehensive employment plans, such as service strategies, for participants to ensure access to necessary workforce investment activities and supportive services, using, where feasible, computer-based technologies; and
> (B) to provide job, education, and career counseling, as appropriate during program participation and after job placement.
>
> (WIOA Sec. 3 (8)

We see this as involving two essential components -- career counseling and case management. Career counseling is key to making wise decisions about training services and training providers and should be a central component of the assessment and training program selection process for anyone seeking services from the local WIOA agency, including especially low-income persons, who may have lacked meaningful access to such assistance in their past.

Effective case management, as described in Section 3 (8) of WIOA, is critical to ensure that clients receive support, advice, and assistance, not only in the development of their training plan, but as they pursue their training program and must deal with the need for child care, transportation, and other supportive services, as well as barriers to employment that impact on their participation.

Comment: The BCWDB Plan should:

- Explain whether case management services, as described in Section 3 (8)(A), will be provided directly by the local agency and, if not, by whom it will be provided and under what arrangements;
- Describe the case management services that will be provided, how they will be provided, and how clients will access these services;
- Explain whether career counseling will be provided directly by the local agency and, if not, by whom it will be provided and under what arrangements;
- Describe how and at what points in a client's participation in the WIOA program process career planning is provided.

(ix) How [the LWDB and CareerLink] will ensure access to services, i.e., interpreters and translated documents, for English language learners, as well as for persons who are deaf or hard of hearing.

This is similar to issue (vii), but is more focused on how bi-lingual staff, language line or other telephone interpretation services, in-person interpreters, and translation services are used and whether adequate resources are devoted to these services.

Comment: The BCWDB Plan should:

- Identify the five most common languages spoken in the local agency's service area and the approximate number of persons who speak these languages;
- Identify how the local agency will document LEP persons' primary language in case records or files so staff will be prepared to provide accessible services;
- State the number of bi-lingual agency staff who speak any of the five most commonly spoken languages and their positions in the local agency;
- Explain whether and how it provides interpretation to LEP persons who seek training services;
- Explain how it trains staff to identify and meet the needs of LEP persons.

(x) How [the LWDB and CareerLink] will train staff to ensure that staff members have an understanding of who is entitled to priority of service and that the office is responsive to the needs of these groups.

Priority of services is only meaningful to the extent local agency staff understands and properly implement its requirements.

Comment: The BCWDB Plan should:

- Describe the curriculum it will use to train staff on priority of service requirements; and
- Explain who will receive this training (e.g., reception staff, line workers, management) and how often the training will be provided.

B. Career Pathways

As advocates for low-income public assistance recipients, we are particularly interested in the availability and quality of Career Pathways training programs. Career Pathways programs provide adult education (literacy/English-as-a Second Language/GED), career counseling, and transition to

postsecondary education and job skills training. These programs have proven highly successful. States are strongly encouraged by WIOA to develop and operate such programs.

Over forty percent of adults receiving Temporary Assistance to Needy Families (TANF) lack a high school degree or GED. Yet, less than three percent of these parents are participating in GED programs. DHS does not operate Career Pathways or any other adult education programs for parents on TANF or SNAP. Providing access to Career Pathways programs to parents on public assistance through LWDBs and CareerLinks will provide a pathway from public assistance to employment at family sustaining wages -- a benefit not only to these families, but to the state as well.

The final WIOA State Plan requires that LWDBs and CareerLinks develop and operate Career Pathways programs, as defined in WIOA, and that such programs provide for entry at the literacy, ESL, GED, or postsecondary education level (See, Proposed WIOA State Plan, pp. 8-9)

The Berks County Workforce Development Board WIOA Transition Plan describes what appears to be an existing career pathways program:

> With the encouragement and guidance of the Berks County WDB and fellow *RTP* partners, over the past five years **Reading Area Community College (RACC)** reached back to the County's two excellent high school career and technical centers – **Berks Career and Technical Center (BCTC) and Reading Muhlenberg Career and Technical Center (RMCTC)** – to build comprehensive Technical Academy career pathways and the associated articulation agreements for high school CTE students to earn college credit for high-end technical coursework. In effect, the Technical Academy serves as an *honors program* for qualified CTC students, allowing them to acquire up to 27 college credits at no cost prior to high school graduation.
>
> (BCWDB, p. 17)

This is a good start, but more information is needed.

Comment: The BCWDB Plan should:

- Specify the elements of the Career Pathways programs it intends to operate, which should include at a minimum those required by WIOA;
- Identify the partners (such as Department of Education, Department of Human Services, Community Colleges, Career and Technical Schools) with whom the local agency intends to partner in operating Career Pathways programs;
- Explain the process that will be used to develop Career Pathways programs;
- State the number, location, and estimated time frame for operationalizing each Career Pathways program the local agency plans to establish.
- Explain how the local agency will provide priority of service to public assistance recipients and other low-income persons for Career Pathways slots.
- Explain how the local agency will ensure that the first step on its career pathways (Literacy, ESL or GED) is accessible to those entitled to priority of service.

C. Transitional Jobs

WIOA allows states to spend up to 10% of Title I funds on transitional jobs, i.e., subsidized employment, opportunities for participants. Access to transitional employment slots for low-income persons can provide valuable work experience that can lead to permanent employment. This is particularly important for recipients of public assistance, many of whom want to work but lack work experience. It is also provides an important opportunity for those with criminal backgrounds.

The final WIOA state plan includes a requirement that LWDBs and CareerLinks use between 5% and 10% of their funds to provide transitional jobs and that they ensure that priority of service for transitional jobs is afforded to individuals who qualify for priority of service. (WIOA State Plan, p. 70)

The BCWDB Plan refers to paid work experience opportunities for youth, but says nothing about a transitional jobs program for Title I adults.

Comment: The BCWDB Plan should:

- State the amount of Title I funds that it will dedicate to transitional jobs and the percentage this represents, as well as the total number of jobs that it anticipates will be funded;
- Describe its plans and goals for raising additional funds for transitional jobs;
- Describe in detail the design of its transitional jobs program (Local agencies that operated Way to Work programs with TANF Emergency Funds in 2010 may want to look back to those programs and explain what they would do the same or do differently from Way to Work.)
- Describe how it will recruit employers to participate in the transitional jobs program, and if there are particular employers that it anticipates will participate;
- State whether the local agency will be the employer of record for clients in the transitional jobs program and, if not, whom the employer(s) of record will be.
- State whether the transitional jobs program will be incorporate "wraparound" or complementary services (e.g., job skills training), and describe the services provided, if so.
- Explain how the local agency will provide priority of service to public assistance recipients and other low-income persons for transitional jobs slots.

Thank you for your consideration of these comments.

Peter Zurflieh
Community Justice Project
118 Locust Street
Harrisburg, PA 17101
(800) 322-7572, ext. 210
pzurflieh@palegalaid.net