

which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (d)(2)(F), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended. Title I of the Act is classified generally to subchapter I (§720 et seq.) of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (d)(4)(B)(i)(I), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education, and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

AMENDMENTS

2006—Subsec. (d)(2)(F). Pub. L. 109-270 substituted “career and technical education activities at the postsecondary level, and career and technical education activities available to school dropouts, under the Carl D. Perkins Career and Technical Education Act of 2006” for “postsecondary vocational education activities and vocational education activities available to school dropouts under the Carl D. Perkins Vocational and Applied Technology Education Act”.

1998—Subsec. (d)(4)(F)(iii). Pub. L. 105-277 added cl. (iii).

PART F—GENERAL PROVISIONS

§ 2871. Performance accountability system

(a) Purpose

The purpose of this section is to establish a comprehensive performance accountability system, comprised of the activities described in this section, to assess the effectiveness of States and local areas in achieving continuous improvement of workforce investment activities funded under this subchapter, in order to optimize the return on investment of Federal funds in statewide and local workforce investment activities.

(b) State performance measures

(1) In general

For each State, the State performance measures shall consist of—

(A)(i) the core indicators of performance described in paragraph (2)(A) and the customer satisfaction indicator of performance described in paragraph (2)(B); and

(ii) additional indicators of performance (if any) identified by the State under paragraph (2)(C); and

(B) a State adjusted level of performance for each indicator described in subparagraph (A).

(2) Indicators of performance

(A) Core indicators of performance

(i) In general

The core indicators of performance for employment and training activities authorized under section 2864 of this title (except for self-service and informational activities) and (for participants who are eligible youth age 19 through 21) for youth activities authorized under section 2854 of this title shall consist of—

(I) entry into unsubsidized employment;

(II) retention in unsubsidized employment 6 months after entry into the employment;

(III) earnings received in unsubsidized employment 6 months after entry into the employment; and

(IV) attainment of a recognized credential relating to achievement of educational skills, which may include attainment of a secondary school diploma or its recognized equivalent, or occupational skills, by participants who enter unsubsidized employment, or by participants who are eligible youth age 19 through 21 who enter postsecondary education, advanced training, or unsubsidized employment.

(ii) Core indicators for eligible youth

The core indicators of performance (for participants who are eligible youth age 14 through 18) for youth activities authorized under section 2854 of this title, shall include—

(I) attainment of basic skills and, as appropriate, work readiness or occupational skills;

(II) attainment of secondary school diplomas and their recognized equivalents; and

(III) placement and retention in postsecondary education or advanced training, or placement and retention in military service, employment, or qualified apprenticeships.

(B) Customer satisfaction indicators

The customer satisfaction indicator of performance shall consist of customer satisfaction of employers and participants with services received from the workforce investment activities authorized under this subchapter. Customer satisfaction may be measured through surveys conducted after the conclusion of participation in the workforce investment activities.

(C) Additional indicators

A State may identify in the State plan additional indicators for workforce investment activities authorized under this subchapter.

(3) Levels of performance

(A) State adjusted levels of performance for core indicators and customer satisfaction indicator

(i) In general

For each State submitting a State plan, there shall be established, in accordance with this subparagraph, levels of performance for each of the core indicators of performance described in paragraph (2)(A) and the customer satisfaction indicator described in paragraph (2)(B) for workforce investment activities authorized under this subchapter. The levels of performance established under this subparagraph shall, at a minimum—

(I) be expressed in an objective, quantifiable, and measurable form; and

(II) show the progress of the State toward continuously improving in performance.

(ii) Identification in State plan

Each State shall identify, in the State plan submitted under section 2822 of this title, expected levels of performance for each of the core indicators of performance and the customer satisfaction indicator of performance, for the first 3 program years covered by the State plan.

(iii) Agreement on State adjusted levels of performance for first 3 years

In order to ensure an optimal return on the investment of Federal funds in workforce investment activities authorized under this subchapter, the Secretary and each Governor shall reach agreement on levels of performance for each of the core indicators of performance and the customer satisfaction indicator of performance, for the first 3 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan prior to the approval of such plan.

(iv) Factors

The agreement described in clause (iii) or (v) shall take into account—

(I) the extent to which the levels involved will assist the State in attaining a high level of customer satisfaction;

(II) how the levels involved compare with the State adjusted levels of performance established for other States, taking into account factors including differences in economic conditions, the characteristics of participants when the participants entered the program, and the services to be provided; and

(III) the extent to which such levels involved promote continuous improvement in performance on the performance measures by such State and ensure optimal return on the investment of Federal funds.

(v) Agreement on State adjusted levels of performance for 4th and 5th years

Prior to the 4th program year covered by the State plan, the Secretary and each Governor shall reach agreement on levels of performance for each of the core indicators of performance and the customer satisfaction indicator of performance, for the 4th and 5th program years covered by the State plan, taking into account the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan.

(vi) Revisions

If unanticipated circumstances arise in a State resulting in a significant change in

the factors described in clause (iv)(II), the Governor may request that the State adjusted levels of performance agreed to under clause (iii) or (v) be revised. The Secretary, after collaboration with the representatives described in subsection (i) of this section, shall issue objective criteria and methods for making such revisions.

(B) Levels of performance for additional indicators

The State may identify, in the State plan, State levels of performance for each of the additional indicators described in paragraph (2)(C). Such levels shall be considered to be State adjusted levels of performance for purposes of this chapter.

(c) Local performance measures

(1) In general

For each local area in a State, the local performance measures shall consist of—

(A)(i) the core indicators of performance described in subsection (b)(2)(A) of this section, and the customer satisfaction indicator of performance described in subsection (b)(2)(B) of this section, for activities described in such subsections, other than statewide workforce investment activities; and

(ii) additional indicators of performance (if any) identified by the State under subsection (b)(2)(C) of this section for activities described in such subsection, other than statewide workforce investment activities; and

(B) a local level of performance for each indicator described in subparagraph (A).

(2) Local level of performance

The local board, the chief elected official, and the Governor shall negotiate and reach agreement on the local levels of performance based on the State adjusted levels of performance established under subsection (b) of this section.

(3) Determinations

In determining such local levels of performance, the local board, the chief elected official, and the Governor shall take into account the specific economic, demographic, and other characteristics of the populations to be served in the local area.

(d) Report

(1) In general

Each State that receives an allotment under section 2852 or 2862 of this title shall annually prepare and submit to the Secretary a report on the progress of the State in achieving State performance measures, including information on the levels of performance achieved by the State with respect to the core indicators of performance and the customer satisfaction indicator. The annual report also shall include information regarding the progress of local areas in the State in achieving local performance measures, including information on the levels of performance achieved by the areas with respect to the core indicators of perform-

ance and the customer satisfaction indicator. The report also shall include information on the status of State evaluations of workforce investment activities described in subsection (e) of this section.

(2) Additional information

In preparing such report, the State shall include, at a minimum, information on participants in workforce investment activities authorized under this subchapter relating to—

(A) entry by participants who have completed training services provided under section 2864(d)(4) of this title into unsubsidized employment related to the training received;

(B) wages at entry into employment for participants in workforce investment activities who entered unsubsidized employment, including the rate of wage replacement for such participants who are dislocated workers;

(C) cost of workforce investment activities relative to the effect of the activities on the performance of participants;

(D) retention and earnings received in unsubsidized employment 12 months after entry into the employment;

(E) performance with respect to the indicators of performance specified in subsection (b)(2)(A) of this section of participants in workforce investment activities who received the training services compared with the performance of participants in workforce investment activities who received only services other than the training services (excluding participants who received only self-service and informational activities); and

(F) performance with respect to the indicators of performance specified in subsection (b)(2)(A) of this section of recipients of public assistance, out-of-school youth, veterans, individuals with disabilities, displaced homemakers, and older individuals.

(3) Information dissemination

The Secretary—

(A) shall make the information contained in such reports available to the general public through publication and other appropriate methods;

(B) shall disseminate State-by-State comparisons of the information; and

(C) shall provide the appropriate congressional committees with copies of such reports.

(e) Evaluation of State programs

(1) In general

Using funds made available under this subchapter, the State, in coordination with local boards in the State, shall conduct ongoing evaluation studies of workforce investment activities carried out in the State under this subchapter in order to promote, establish, implement, and utilize methods for continuously improving the activities in order to achieve high-level performance within, and high-level outcomes from, the statewide workforce investment system. To the maximum extent practicable, the State shall coordinate the evaluations with the evaluations provided for

by the Secretary under section 2917 of this title.

(2) Design

The evaluation studies conducted under this subsection shall be designed in conjunction with the State board and local boards and shall include analysis of customer feedback and outcome and process measures in the statewide workforce investment system. The studies may include use of control groups.

(3) Results

The State shall periodically prepare and submit to the State board, and local boards in the State, reports containing the results of evaluation studies conducted under this subsection, to promote the efficiency and effectiveness of the statewide workforce investment system in improving employability for jobseekers and competitiveness for employers.

(f) Fiscal and management accountability information systems

(1) In general

Using funds made available under this subchapter, the Governor, in coordination with local boards and chief elected officials in the State, shall establish and operate a fiscal and management accountability information system based on guidelines established by the Secretary after consultation with the Governors, local elected officials, and one-stop partners. Such guidelines shall promote efficient collection and use of fiscal and management information for reporting and monitoring the use of funds made available under this subchapter and for preparing the annual report described in subsection (d) of this section.

(2) Wage records

In measuring the progress of the State on State and local performance measures, a State shall utilize quarterly wage records, consistent with State law. The Secretary shall make arrangements, consistent with State law, to ensure that the wage records of any State are available to any other State to the extent that such wage records are required by the State in carrying out the State plan of the State or completing the annual report described in subsection (d) of this section.

(3) Confidentiality

In carrying out the requirements of this Act, the State shall comply with section 1232g of title 20.

(g) Sanctions for State failure to meet State performance measures

(1) States

(A) Technical assistance

If a State fails to meet State adjusted levels of performance relating to indicators described in subparagraph (A) or (B) of subsection (b)(2) of this section for a program for any program year, the Secretary shall, upon request, provide technical assistance in accordance with section 2915 of this title, including assistance in the development of a performance improvement plan.

(B) Reduction in amount of grant

If such failure continues for a second consecutive year, or if a State fails to submit a

report under subsection (d) of this section for any program year, the Secretary may reduce by not more than 5 percent, the amount of the grant that would (in the absence of this paragraph) be payable to the State under such program for the immediately succeeding program year. Such penalty shall be based on the degree of failure to meet State adjusted levels of performance.

(2) Funds resulting from reduced allotments

The Secretary shall use an amount retained, as a result of a reduction in an allotment to a State made under paragraph (1)(B), to provide incentive grants under section 9273 of title 20.

(h) Sanctions for local area failure to meet local performance measures

(1) Technical assistance

If a local area fails to meet levels of performance relating to indicators described in subparagraph (A) or (B) of subsection (b)(2) of this section for a program for any program year, the Governor, or upon request by the Governor, the Secretary, shall provide technical assistance, which may include assistance in the development of a performance improvement plan, or the development of a modified local plan.

(2) Corrective actions

(A) In general

If such failure continues for a second consecutive year, the Governor shall take corrective actions, which may include development of a reorganization plan through which the Governor may—

- (i) require the appointment and certification of a new local board (consistent with the criteria established under section 2832(b) of this title);
- (ii) prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance; or
- (iii) take such other actions as the Governor determines are appropriate.

(B) Appeal by local area

(i) Appeal to Governor

A local area that is subject to a reorganization plan under subparagraph (A) may, not later than 30 days after receiving notice of the reorganization plan, appeal to the Governor to rescind or revise such plan. In such case, the Governor shall make a final decision not later than 30 days after the receipt of the appeal.

(ii) Subsequent action

The local area may, not later than 30 days after receiving a decision from the Governor pursuant to clause (i), appeal such decision to the Secretary. In such case, the Secretary shall make a final decision not later than 30 days after the receipt of the appeal.

(C) Effective date

The decision made by the Governor under clause (i) of subparagraph (B) shall become effective at the time the Governor issues the decision pursuant to such clause. Such deci-

sion shall remain effective unless the Secretary rescinds or revises such plan pursuant to clause (ii) of subparagraph (B).

(i) Other measures and terminology

(1) Responsibilities

In order to ensure nationwide comparability of performance data, the Secretary, after collaboration with representatives of appropriate Federal agencies, and representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities, educators, and participants, with expertise regarding workforce investment policies and workforce investment activities, shall issue—

(A) definitions for information required to be reported under subsection (d)(2) of this section;

(B) terms for a menu of additional indicators of performance described in subsection (b)(2)(C) of this section to assist States in assessing their progress toward State workforce investment goals; and

(C) objective criteria and methods described in subsection (b)(3)(A)(vi) of this section for making revisions to levels of performance.

(2) Definitions for core indicators

The Secretary and the representatives described in paragraph (1) shall participate in the activities described in section 9272 of title 20 concerning the issuance of definitions for indicators of performance described in subsection (b)(2)(A) of this section.

(3) Assistance

The Secretary shall make the services of staff available to the representatives to assist the representatives in participating in the collaboration described in paragraph (1) and in the activities described in section 9272 of title 20.

(Pub. L. 105-220, title I, §136, Aug. 7, 1998, 112 Stat. 999.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(3)(B), was in the original “this title” meaning title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, as amended, which enacted this chapter, repealed sections 1501 to 1505, 1511 to 1583, 1592 to 1735, 1737 to 1791h, 1792 to 1792b, 2301 to 2314 of this title, section 211 of former Title 40, Appendix, Public Buildings, Property, and Works, sections 11421, 11441 to 11447, 11449, 11450, 11461 to 11466, 11471, and 11472 of Title 42, The Public Health and Welfare, and sections 42101 to 42106 of Title 49, Transportation, enacted provisions set out as notes under sections 1501, 2301, and 2940 of this title and section 11421 of Title 42, and repealed provisions set out as notes under sections 801 and 2301 of this title and section 1255a of Title 8, Aliens and Nationality. For complete classification of title I to the Code, see Tables.

This Act, referred to in subsec. (f)(3), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

§ 2872. Authorization of appropriations

(a) Youth activities

There are authorized to be appropriated to carry out the activities described in section