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*Submitted via regulations.gov*

Naomi Barry-Perez, Director  
Civil Rights Center (CRC), U.S. Department of Labor  
200 Constitution Avenue NW, Room N-4123, Washington, DC 20210

Re: Regulatory Information Number (RIN) **1291-AA47**, Rescission of Affirmative Outreach Requirements for Recipients of WIOA Title I Financial Assistance

## Introduction

The Autistic Self Advocacy Network (ASAN) opposes the proposed rule, “Rescission of Affirmative Outreach Requirements for Recipients of WIOA Title I Financial Assistance” (RIN 1291-AA47). ASAN is the largest and oldest nonprofit organization run by and for the autistic community. Through policy advocacy and community education, ASAN works to ensure that all people with disabilities have equal rights, self-determination, and the support we need to thrive.

ASAN urges the Department of Labor, Civil Rights Center to withdraw the proposed rule. The Workforce Innovation and Opportunity Act (WIOA) specifically seeks to expand access to opportunity for people with barriers to employment, so it is within DOL’s statutory authority to enact 29 C.F.R. § 38.40. The Department’s arguments against its own authority to have such a regulation are riddled with inaccuracies.

Rescinding affirmative outreach requirements could make it harder for recipients of WIOA Title I funds to both coordinate with industry or interagency partners and avoid the consequences of unknowingly straying from their legal obligations. For the program participants—the job seekers with barriers to employment—the absence of outreach requirements could decrease their enrollment in necessary career and training services. Without the directive to take “appropriate steps to ensure that they are providing equal access,” recipients of these funds could exacerbate existing disparities in employment outcomes for people who would most benefit from Title I programs, including people with disabilities, veterans, low-income people, displaced homemakers<sup>1</sup>, people of color, and people from those combined backgrounds. 29 C.F.R. § 38.40.

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<sup>1</sup> Displaced homemakers, the vast majority of which are women, are people who provide “unpaid services to family members in the home” and meet additional eligibility requirements listed. U.S. Department of Labor. (n.d.). Attachment III – WIOA key terms and definitions. In *Training and Employment Guidance Letter (TEGL)*. [https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2017/TEGL\\_19-16\\_Attachment\\_III.pdf](https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2017/TEGL_19-16_Attachment_III.pdf)

## **The Department Has Not Provided an Opportunity for Public Input Commensurate With the Importance of This Change**

Public policy can only meet the needs of autistic people and others with intellectual and developmental disabilities if we are included in the process of shaping public policy. The 30-day notice and comment period for this proposed rule is unreasonable. It does not provide stakeholders adequate or meaningful opportunity to share their expertise, especially in light of the July 4th holiday, the Department's announcement of approximately seventy regulatory actions this summer alone, and the absence of the typically published unified agenda. The Department should, at the very least, extend the deadline to give our community adequate opportunity to weigh in on this change.

## **The Department's Explanations for its Actions are Pretextual and Weak**

The Department's argument that 29 C.F.R. § 38.40 exceeds its statutory authority under WIOA does not show the "validity of... reasoning" expected of agencies in rulemaking. See *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944). While WIOA does not explicitly mandate the actions contemplated in 29 C.F.R. § 38.40, many of its provisions do promote access to employment training for groups that have historically been excluded from the best professional development opportunities. Among WIOA's explicit purposes is increasing "access to and opportunities for the employment, education, training, and support services they need to succeed in the labor market" "particularly [for] those individuals with barriers to employment[.]" 29 U.S.C. § 3101(1). WIOA specifically seeks to expand access to opportunity for people with disabilities, Native Americans, people who do not speak English as a first language, and women. See 29 USCS § 701(b)(3); 29 U.S.C. § 3221; 29 USCS § 3272(4)(iii); 29 USCS § 3208(a); 29 USCS § 3164(a)(2). This indicates Congressional consideration of the needs of these populations. Congress chose to use the text of WIOA to earmark some groups presently and historically disadvantaged in employment for special consideration. For this reason, it is disingenuous of the Department to argue that a requirement that recipients take steps to reach such groups is a departure from its statutory authority. This rescission also represents a concerning departure from its past positions about how to enforce WIOA without sufficient explanation. See *Skidmore*, 323 U.S. at 140.

The Department's invocation of *Students for Fair Admissions v. Harvard* in support of this rescission is also an odd choice. See 600 U.S. 181 (2023). The decision in *Students for Fair Admissions* deals with admissions in higher education. *Id.* at 193-198. The Supreme Court reached this decision narrowly, declining to extend it to other situations. *Id.* at 230-231. It is unclear why the Department believes there is any connection between the holding in *Students for Fair Admissions* and its present proposed actions. There is no obvious nexus between the end of the use of race as a factor in college admissions and the existence of regulations implementing WIOA's expressed purpose of expanding job opportunities. A vague gesture at the Administration's opposition to affirmative equity measures is not a sound legal argument. This attempt to apply a case so far beyond its holding is indicative of bad faith, incompetence, or both.

Similarly, the Department's reliance on certain executive orders in support of the proposed rescission does not support its proposed action. While the Trump administration did issue an executive order requiring federal agencies to examine their regulations for statutory and constitutional violations, it is uncertain why this provision was flagged when it is well-supported by its authorizing statute and not obviously contravened by any act of Congress or Supreme Court decision. See Exec. Order No. 14219, 90 Fed. Reg. 10583 (Feb. 19, 2025). Arguing for this rescission on the basis of Executive Order 14192 is perhaps more telling because it mandates that agencies reduce regulations for the purpose of reducing regulations regardless of content, utility, or

reliance interests that might be affected. 90 Fed. Reg. 9065 (Jan. 31, 2025). Citing it is an admission that there is little rationale for the Department's intended action.

## Overview: Title I of the Workforce Innovation and Opportunity Act (WIOA)

All WIOA Title I programs and the people it serves will suffer under this proposed rule. This includes many people with disabilities.

Title I of WIOA authorizes funding for career and training services for adults, youth, and dislocated workers. In total, all WIOA Title I services helped 616,249 people between July 1, 2022 - June 30, 2023.<sup>2</sup> Its career services include but are not limited to skills assessment, education about available jobs in the local labor market, and guidance on developing individualized, goal-based employment plans. See 20 CFR § 678.430 Training services include but are not limited to occupational skill-building, on-the-job training, upskilling or retraining, and financial literacy instruction.<sup>3</sup> People with disabilities constitute 21.4% of youth programs, 8.4% of the adult programs, and 5.2% of the dislocated worker programs.<sup>4</sup> Amongst WIOA Title I participants, approximately 29,000 of those in the youth programs, 23,900 in adult programs, and 10,700 in dislocated worker programs all self-reported their disability as a barrier to employment.<sup>5</sup>

The youth programs include in- and out- of school youth who meet at least one qualifying criteria including having a disability.<sup>6</sup> The adult and dislocated worker funds require recipients to “give priority to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient.”<sup>7,8</sup> There are many types of dislocated workers, some of which are those who lost jobs due to mass-layoffs or employer closures, those who are self-employed but cannot find work due to economic conditions or natural disasters, service members exiting the military, and spouses of Armed Forces members on active duty who lost employment as a direct result of permanent change in duty station.<sup>9,10</sup>

In this way, WIOA Title I is designed to make the playing field somewhat more level for the people who are often excluded from employment opportunities.

## The Proposed Rescission is Bad Public Policy

The purpose of WIOA is to “support the alignment of workforce investment, education, and economic development systems in support of a comprehensive, accessible, and high-quality workforce development system in the United States.” 29 U.S.C. § 3101 Rescinding requirements for affirmative outreach will make it

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<sup>2</sup> *Demographics of Title I WIOA participants*. (Program Year 2022). U.S. Department of Labor (DOL), Employment and Training Administration (ETA). <https://www.dol.gov/sites/dolgov/files/ETA/Performance/images/Performance%20Data%20Spotlight/PY%202022%20Demographics%20FINAL%20508.pdf>

<sup>3</sup> The Workforce Innovation and Opportunity Act and the One-Stop Delivery System, Table 3. (2025, July 17). <https://www.congress.gov/crs-product/R44252>

<sup>4</sup> Supra.

<sup>5</sup> PY 2023 WIOA National Summary Narrative: Titles I and III National Performance. (n.d.). U.S. Department of Labor (DOL), Employment and Training Administration (ETA). <https://www.dol.gov/agencies/eta/performance/results/national>

<sup>6</sup> Center for Law and Social Policy (CLASP). (2022). SNAPSHOT - Workforce Innovation and Opportunity Act Title I: Youth. In *Funding Career Pathways*. <https://www.clasp.org/wp-content/uploads/2022/04/WIOA-Title-I-Youth.pdf>

<sup>7</sup> U.S. Department of Labor (DOL), Employment & Training Administration (ETA). (2017). *Training and Employment Guidance Letter No. 16-16: Attachment II - Coordination with Partner Programs*. [https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2017/TEGL\\_16-16\\_Attachment-II\\_Acc.pdf](https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2017/TEGL_16-16_Attachment-II_Acc.pdf)

<sup>8</sup> *WIOA Adult and Dislocated Worker Program*. (n.d.). U.S. DOL, ETA, Office of Workforce Investment. <https://www.dol.gov/agencies/eta/workforce-investment/adult>

<sup>9</sup> New York Department of Labor (NYDOL). (n.d.). *Dislocated Worker Definitions*. <https://dol.ny.gov/system/files/documents/2021/03/wioa-dislocated-worker-definition.pdf>

<sup>10</sup> Employment and Training Administration (ETA), U.S. Department of Labor (DOL). (2016). *WIOA Final Rule Factsheet for Veterans and Spouses* [Report]. [https://www.dol.gov/sites/dolgov/files/ETA/wioa/pdfs/WIOA\\_Veterans\\_FactSheet\\_508.pdf](https://www.dol.gov/sites/dolgov/files/ETA/wioa/pdfs/WIOA_Veterans_FactSheet_508.pdf)

harder to achieve this congressionally-mandated goal. Removing affirmative outreach requirements for WIOA Title I threatens to worsen the public's enrollment in programs that strengthen pathways for reentrance into local economies, particularly for those who most need this support.

The proposed rule will increase the burden on recipients of WIOA Title I funds. Rescinding the affirmative outreach requirement means there is no longer a mandate for outreach to, referrals from, and coordination between American Job Centers and local industry partners, community colleges, technical trade apprenticeships, high schools, universities, and state social services. Rescinding that mandate might create the types of disorganization and inefficiency that could be an administrative burden to recipients of WIOA Title I funds, particularly as it relates to shaping local implementation based on market needs.

The regulation that DOL is proposing to rescind helps American Job Centers because it provides them with clear standards for complying with WIOA's nondiscrimination requirements.<sup>11</sup> In the absence of these requirements, recipients have less guidance about what it takes to comply with federal law. As a result, AJCs would face uncertainties and enforcement risks.

The proposed rescission will also increase burdens on job seekers. Those facing barriers to employment need targeted outreach that educates them about the available career and training services under Title I of WIOA. Otherwise, they may never learn about opportunities that could give them pathways to upward mobility. These innocuous efforts ensure that people with the most barriers to employment get the jobs they need to lead financially independent lives. Rescinding requirements for affirmative outreach only stands to worsen unemployment rates and consequently increase the number of people enrolled in high-cost government assistance programs.

This will especially harm job seekers with disabilities, who are among those with the most to gain from these programs. As of June 2025, the employment-to-population ratio for PWD was 38% compared to 71.5% for people without disabilities.<sup>12</sup> In 2024, the unemployment rate (8.1%) for noninstitutionalized disabled people aged 16-64 was more than double the unemployment rate (3.9%) for people without a disability in that same age range.<sup>13</sup> These subpar outcomes cannot be helped by removing the requirement for targeted outreach to people with disabilities. This outreach is necessary because many disabled people are likely unaware of the available career and training services or what is to be gained from enrollment in WIOA Title I programs.

This change would further burden youth job seekers with disabilities by disincentivizing the coordination between the WIOA Title I youth program and Vocational Rehabilitation (VR) within the Rehabilitative Services Administration (RSA), Department of Education. Right now, the WIOA Title I Youth program can "partner with the VR program to coordinate the provision of services to youth with disabilities transitioning from school to post-school life, including postsecondary education and employment."<sup>14</sup> This guidance is predicated on affirmative outreach to people with disabilities, since state VR programs exclusively serve people whose disabilities impede employment, with the priority given to individuals with the "most significant disabilities."<sup>15</sup>

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<sup>11</sup> "Recipients remain subject to WIOA's nondiscrimination requirements." Rescission of Affirmative Outreach Requirements for Recipients of WIOA Title I Financial Assistance, 90 FR 28245 (proposed July 1, 2025) (to be codified at 29 CFR Part 38). <https://www.federalregister.gov/d/2025-11845/p-16>

<sup>12</sup> Kessler Foundation and University of New Hampshire's Institute on Disability. (2025, July 3). *Lunch & Learn Webinar Series: July 2025 Jobs Report* [Slide show]. National Trends in Disability Employment (nTIDE). Center for Research on Disability.

<https://www.researchondisability.org/ntide-lunch-learn-special-episode-ada-generation-employment-insights-disability-advocate>

<sup>13</sup> U.S. Bureau of Labor Statistics. (2025, February 25). *Table 1. Employment status of the civilian noninstitutional population by disability status and selected characteristics, 2024 Annual averages - 2024 A01 results* [Press release]. Bureau of Labor Statistics.

<https://www.bls.gov/news.release/disabl.t01.htm>

<sup>14</sup> U.S. Department of Labor. (n.d.). Attachment II – Coordination with Partner Programs. In *Training and Employment Guidance Letter (TEGL) No. 16-16*. [https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2017/TEGL\\_16-16\\_Attachment-II\\_Acc.pdf](https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2017/TEGL_16-16_Attachment-II_Acc.pdf)

<sup>15</sup> Rehabilitation Services Administration (RSA), U.S. Department of Education. (n.d.). *State Vocational Rehabilitation Services Program*. <https://rsa.ed.gov/about/programs/vocational-rehabilitation-state-grants>

The coordination between VR and the WIOA Title I youth program is discretionary, as opposed to mandatory, so it is reasonable to presume that the proposed rule will drastically reduce the number of disabled youth job-seekers from dually benefitting from both. That is a problem because VocRehab's service offerings, such as "supported employment," uniquely foster job retention for disabled people. Supported Employment describes fairly paid, community-based employment in which people with disabilities receive ongoing support for learning and completing tasks.<sup>16</sup> Rescinding 29 CFR 38.40 will likely weaken the collaboration between VocRehab and Title I WIOA, which could impede the types of early interventions that improve career paths. This will have downstream consequences for the workforce readiness of disabled job seekers.

This NPRM additionally undermines the workforce participation of women, low-income families, and people of color. Affirmative outreach helps homemakers and low-income families access the WIOA Title I programs they need. Pilot programs in Massachusetts and Ohio prove that point.<sup>17</sup> When Massachusetts co-located staff from Temporary Assistance for Needy Families (TANF) in the state's American Job Centers, co-enrollment across both programs increased. In Ohio, combining their WIOA youth program with TANF made it easier for Ohio to meet the congressionally-mandated threshold for funding allocations that serve out-of-school youth. TANF, for context, serves "needy" families with children.<sup>18</sup> It is likely that the proposed rule will lower the enrollment of people facing barriers to employment in programs that would improve their workforce participation.

## Conclusion

The Autistic Self Advocacy Network implores the Department of Labor, Civil Rights Center to withdraw the NPRM RIN: 1291-AA47 because it will hinder job seekers' equal access to necessary career and training services. For more information, contact ASAN Legal Director, Larkin Taylor-Parker at [ltaylorparker@autisticadvocacy.org](mailto:ltaylorparker@autisticadvocacy.org).

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<sup>16</sup> Technical Assistance Center for Quality Employment (TACQE). (2021, July 14). *Supported Employment 101*. Factsheet for Vocational Rehabilitation & Community Rehabilitation Program Partners. <https://tacqe.com/supported-employment-factsheet/>

<sup>17</sup> English, B., Sattar, S., Mack, M., Mathematica, & Social Policy Research Associates. (2019). The Workforce Innovation and Opportunity Act Implementation Study: Early insights from state implementation of WIOA in 2017. *U.S. Department of Labor* (Contract Number DOLQ129633249). [https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WIOA\\_Study\\_EarlyInsights\\_FINAL508.pdf](https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WIOA_Study_EarlyInsights_FINAL508.pdf)

<sup>18</sup> Center on Budget and Policy Priorities (CBPP). (2022, March 1). *Policy Basics: Temporary Assistance for Needy Families*. <https://www.cbpp.org/research/family-income-support/policy-basics-an-introduction-to-tanf>