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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 14-18

TO: STATE WORKFORCE AGENCIES

FROM: ROSEMARY LAHASKY
Deputy Assistant Secretary

SUBJECT: Unemployment Insurance and the Workforce Innovation and Opportunity Act

- 1. Purpose.** To provide guidance to state workforce agencies responsible for administration of the federal-state Unemployment Insurance (UI) programs on provisions of the Workforce Innovation and Opportunity Act (WIOA) related to UI, and to: 1) recommend that state UI agencies continue to work with other workforce partners in the development and implementation of strategies that support the WIOA vision, as described in Training and Employment Guidance Letter (TEGL) No. 19-14; 2) encourage State and Local Workforce Development Boards to consider how to most effectively leverage federal-state UI programs, including the Reemployment Services and Eligibility Assessment Program (RESEA), as they implement integrated service delivery strategies through American Job Centers under WIOA; and 3) clarify the requirements and methods for UI to make financial contributions towards WIOA infrastructure costs.
- 2. References.** See Attachment.
- 3. Background.** WIOA became law on July 22, 2014. WIOA is designed to help job seekers access employment, education, training, and support services to succeed in the labor market and match employers with the skilled workers they need to compete in the global economy. WIOA supersedes titles I and II of the Workforce Investment Act of 1998 (WIA), and amends the Wagner-Peyser Act and the Rehabilitation Act of 1973. Both the U.S. Department of Labor (DOL) Final Rule and the corresponding joint WIOA Final Rule between DOL and the U.S. Department of Education (ED) became effective on October 18, 2016. This Unemployment Insurance Program Insurance Letter (UIPL) rescinds UIPL No. 20-15 and UIPL No. 21-99, to issue guidance more aligned with other DOL policy guidance. This IPL focuses on aspects of WIOA that most directly impact UI programs and state UI operations. It will be important, however, for states to focus on all WIOA operating guidance for a complete understanding of the WIOA provisions impacting UI programs.

WIOA seeks to modernize and leverage components of the workforce system to provide comprehensive, integrated, and streamlined services. Such service delivery requires linking and aligning the different one-stop partners, including UI programs. As referenced in this guidance, "UI programs" include: state UI programs (federal-state UI Program); Unemployment Compensation for Ex-Servicemembers (UCX); Unemployment

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Compensation for Federal Employees (UCFE); Extended Benefits (EB); Disaster Unemployment Assistance (DUA); Self-Employment Assistance (SEA); and Short-Time Compensation (STC). Additional UI services operated within the state also include Worker Profiling and Reemployment Services (WPRS) and the Reemployment Services and Eligibility Assessment (RESEA) grants. Also included are Trade Readjustment Allowances (TRA), Alternative Trade Adjustment Assistance (ATAA) and Reemployment Trade Adjustment Assistance (RTAA) benefits under the Trade Adjustment Assistance (TAA) program authorized by chapter 2, title II of the Trade Act of 1974 (19 U.S.C. 2271, et seq.) (“Trade Act”). For ease of continued reference, the programs in this paragraph will be collectively referenced throughout as “UI program, services and benefits.”

UI programs play a vital role in the comprehensive, integrated workforce system by providing temporary income support to eligible individuals, who are important customers of the workforce system. These benefits allow unemployed workers to survive economically while engaging in work search activities for suitable work; and the workforce system is a key source of services to support the reemployment of UI claimants. As a required one-stop partner program in the local one-stop delivery system, not only does UI make a financial contribution towards infrastructure costs, but UI claimants benefit from services provided by other one-stop partners in the American Job Center network. Depending on program requirements, such services may be provided in-person or virtually. In addition, a key role of the workforce system is to connect skilled workers with employers who need them, and because UI claimants have recent attachment to the workforce, they are a significant part of the available labor pool for employers.

Consistent with the requirement to promote increased public identification of the one-stop delivery system and the requirement for the use of a common identifier across the nation (section 121(e)(4), WIOA), DOL, in coordination with ED, established the “American Job Center” network as a unifying name and brand that identifies online and in-person workforce development services as part of a single network of publicly-funded services (20 CFR 678.900). This guidance therefore refers to one-stop centers as American Job Centers.

4. **The State UI Agency as a Required One-Stop Partner.** WIOA designates the state UI agency as a required one-stop partner (section 121(b)(1)(B)(xi), WIOA). WIOA provisions for required one-stop partners are similar to those under WIA, but there are a number of changes (section 121(b), WIOA).

**A. WIOA Career Services Include Providing “Information and Assistance”
Regarding the Filing of a UI Claim.**

The integrated workforce system established by WIOA is intended to provide participants with a seamless, one-stop experience that includes a professional level of service provided in a timely manner. WIOA requires, as a career service, the provision of both information and assistance to individuals regarding UI claims filing (section 134(c)(2)(A)(x), WIOA; 20 CFR 678.430(a)(10)). As such, individuals directly seeking career services from American Job Centers should receive services beyond what they could obtain on their own using self-

service tools, such as public web sites and telephone services. The objective is for individuals to receive more robust staff-assisted services, as needed.

As described in 20 CFR 678.305(d), access to each partner program and its services means:

- Having a program staff member physically present at the American Job Center;
- Having a staff member from a different partner program physically present at the American Job Center and appropriately trained to provide information to customers about the programs, services, and activities available through all partner programs; or
- Making available a direct linkage through technology to a program staff member who can provide meaningful information or services.

Local Boards, in conjunction with workforce system partners and one-stop operator(s), must establish the method or means of providing access to partner programs and document such means or methods in their Memoranda of Understanding (MOUs). See additional information on MOUs in section 4.E. of this UIPL.

In the context of providing assistance to UI claimants, “meaningful assistance” means having staff that are well-trained in UI claims filing and claimant rights and responsibilities, available in American Job Centers. These staff members provide UI claim-filing assistance, if requested or if the individual is identified as needing services due to barriers such as limited English proficiency, disabilities, or other barriers. The staff providing this assistance may be UI, Wagner-Peyser, or other American Job Center staff that have been properly trained to provide this type of assistance and service to assist in claims taking by facilitating routine acceptance of information. The costs associated with providing both information and assistance to individuals filing UI claims may be paid for by the UI state administrative grant under Title III of the Social Security Act or some combination of program funding that is consistent with the program’s authorizing language and Federal cost principles.

Providing meaningful information or services can be carried out using technology to make a direct linkage to an appropriate program staff member as outlined above. A direct linkage can take many forms. As described in 20 CFR 678.305(d)(3)(i), a “direct linkage” means providing a direct connection at the American Job Center within a reasonable time, by phone or through a real-time web-based communication, to a program staff member who can provide program information or services to the customer.

The level and timeliness of remote services should be comparable to assistance the individual would receive if staff were assisting such individual in person in the American Job Center. This means that if an individual in an American Job Center is referred to a telephone for UI claims assistance, there must be a phone line dedicated to serving American Job Center customers in a timely manner (20 CFR 678.305(d)). Individuals must not simply be referred to a general information/dial-in line with the state UI agency contact center where the individual is placed into a phone queue along with all other claimants who are calling for assistance in the state. Solely providing a phone number, web site, information, pamphlets, or other resources and materials does not constitute a “direct linkage” (20 CFR 678.305(d)(3)(ii)). If the assistance is provided remotely using technology, it must be a technology that enables trained staff to provide the assistance on a timely basis.

It is important to emphasize that determinations of UI eligibility must be made by state UI merit staff who are responsible for carrying out this activity. As described in UIPL No.12-01, Outsourcing of Unemployment Compensation Administrative Functions, and further explained in UIPL No. 12-01, Change 1, Outsourcing of Unemployment Compensation Administrative Functions—Claims Taking, only state merit staff may, either in person at American Job Centers or remotely, answer questions, provide advice, or make decisions that could affect claimants' UI eligibility. For example, for claim filing assistance, only UI merit staff may provide advice specific to the individual, including an indication of the possible effect on UI eligibility of an individual's specific circumstances or actions. And, with regard to services to claimants, only UI merit staff may adjudicate issues that may arise, which includes fact-finding from all parties.

B. Integrated Service Delivery.

As a best practice, the variety of programs that serve dislocated workers—e.g., Rapid Response, TAA, the WIOA title I Dislocated Worker program and National Dislocated Worker grants, and UI and RESEA—should be strategically coordinated to maximize efficient use of funds and to provide the most comprehensive support and services available to impacted workers. This can include integrating data systems, streamlining case management and assessment, and ensuring needed job search or training services are provided. Section 121, WIOA, broadly addresses the establishment of the one-stop delivery system. TEGL No. 16-16, *One-Stop Operations Guidance for the American Job Center Network*, provides general guidance on Section 121, WIOA, and how the one-stop system is operationalized. WIOA state plans address how the lead state agencies responsible for the WIOA core programs align and integrate available workforce and education data on core programs, UI programs, and education through postsecondary education (section 102(b)(2)(C)(v)(I), WIOA).

State Boards have the responsibility to establish the state's one-stop delivery system, which must be described in the state's plan (sections 101(d), 102(b), 103(b), WIOA). A state that elects to submit a combined state plan may include programs authorized under state UI laws within that plan (section 103(a)(2)(G), WIOA). Local Workforce Development Boards (Local Boards) are also required to develop strategies to strengthen linkages between the one-stop delivery system and the UI program (section 108(b)(4)(A)(iv), WIOA). Aligning multi-program services and collaborating with workforce partners are critical for this service integration.

State and Local Boards can play a leading role with partners to facilitate this process of integrating data systems to improve customer service. Integrated data systems allow for unified and streamlined intake, case management, and service delivery; minimize the duplication of data; ensure consistently defined and applied data elements; facilitate compliance with performance reporting and evaluation requirements; and provide meaningful information about core program participation to inform operations. Local Boards must develop strategies for transitioning to an integrated, technology-enabled intake and case management information system for programs carried out under WIOA and by one-stop partners (20 CFR 679.560(b)(20)). In this effort, any sharing of data or

information must be consistent with the confidentiality requirements in 20 CFR part 603 and state law.

State Boards are additionally tasked with assisting the Governor in developing strategies for aligning and integrating technology and data systems across one-stop partner programs (section 101(d)(8), WIOA). State UI agencies should actively work with the State Board, core programs, and other required one-stop partners to design and implement integrated data systems. As a required one-stop partner in the local one-stop delivery system, UI is required to make financial contributions for such costs, as appropriate, since many may be considered infrastructure costs (see additional information on infrastructure costs in section 4.D. of this UIPL). A state may use its UI State Administration Funds to cover its financial contribution for its share of WIOA infrastructure costs. UI's financial contribution must be reflective of its proportionate use and relative benefit received in the local one-stop delivery system and includes situations in which direct linkages or virtual access is being provided.

One-stop delivery system partners must work collaboratively with State and Local Boards to establish and maintain the one-stop delivery system. Consistent with section 121(b)(1)(A), WIOA, and 20 CFR 678.420, obligations of the UI system as a required partner include the following:

- Provide access to its programs or activities through the one-stop delivery system, in addition to any other appropriate locations;
- Use a portion of funds available for the program and activities to help maintain the one-stop delivery system, including payment of a portion of the infrastructure costs of one-stop centers (branded as American Job Centers);
- Enter into a Memorandum of Understanding (MOU) with the Local Board relating to the operation of the one-stop delivery system; and
- Participate in the operation of the one-stop delivery system consistent with the terms of the MOU, requirements of authorizing laws, the Federal cost principles, and all other applicable legal requirements.

Many areas of opportunity exist for improved integration of the UI program into the one-stop delivery system, including, but not limited to:

- Helping UI claimants access the full range of on-line and in-person services delivered through American Job Centers;
- Connecting UI claimants to career services through the WPRS and the RESEA programs, as well as to career services provided through WIOA programs. UI plays a significant role in supporting the reemployment of claimants. States are strongly encouraged to consider how to most effectively leverage other services, such as the WPRS and RESEA, to address the reemployment needs of UI claimants. See additional information provided in section 6 of this UIPL;
- Ensuring claimants meet eligibility requirements (such as searching for work and registering with employment services as required by state law, and participating in reemployment services as required under the RESEA and WPRS programs), and ensuring that a feedback loop exists to provide UI program staff with information

about any potential eligibility issue(s). See additional information provided in section 6 of this UIPL;

- Ensuring that claimants are notified of all deadlines and eligibility requirements associated with the TAA program (including TRA, ATAA and RTAA), and that communication with case managers for TAA participants is seamless;
- Working with Rapid Response teams to provide services to employers and workers in mass layoff situations, and conducting claim filing activities when needed;
- Providing effective services to veterans who file for UCX. Given that UCX claimants make up a significant portion of the veteran population in need of career services, focusing on UCX claimants is an appropriate element of a combined state plan (section 103(a)(2)(G), WIOA). A best practice is for states to: 1) create a strong collaborative partnership between the UI program and other workforce program partners in support of career service delivery to UCX claimants as they transition from military service; 2) improve sharing of UCX data (consistent with confidentiality requirements in 20 CFR part 603 and state law) to support improved outreach to UCX claimants and to better understand the population of UCX claimants and their service delivery needs; and 3) improve outreach, exposure to jobs, and reemployment strategies for UCX claimants, and fully leverage existing resources; and
- Undertaking strategies to promote entrepreneurship, such as implementing an SEA program. States have the option to establish an SEA program to help unemployed workers create their own jobs by starting small businesses. States pay an SEA allowance, in lieu of regular UI, to help support unemployed workers while they are establishing businesses and becoming self-employed. Participants receive weekly allowances while they are getting their businesses started.

C. State Workforce Development Board (State Board) Membership.

In an effort to streamline State Boards, WIOA no longer mandates that all required one-stop partner programs have representation on the State Board. The Governor has discretion to include state agency officials from the one-stop partner programs, like state UI programs, which are not core programs under section 3(13), WIOA. The purpose, membership, and other requirements of the State Boards are described in 20 CFR 679.100 through 679.160.

If the state UI agency is not specifically represented on the State Board, it is critical that the state UI agency be actively engaged and working collaboratively with the State Board and all one-stop partner programs as the state develops its WIOA State Plan and strategies to implement an integrated one-stop delivery system. This includes development of the state's one-stop requirements and policy; development of state and local service delivery strategies, including Rapid Response strategies; development of one-stop certification criteria; development of integrated data systems to support one-stop service delivery performance accountability; and the development of state policies and guidance on cost-sharing of the one-stop infrastructure.

D. Infrastructure and Additional Costs.

The one-stop operating budget consists of two types of costs: infrastructure costs and additional costs. WIOA introduced mandatory funding agreements, with particularly detailed requirements for the funding of infrastructure costs (20 CFR 678.700; TEGL 17-16). To help the local areas develop their infrastructure costs budgets, the Governor in each state is required to issue guidance on one-stop infrastructure funding. Infrastructure costs of one-stop centers or American Job Centers under section 121(h)(4), WIOA, and 20 CFR 678.700(a) are defined as non-personnel costs that are necessary for the general operation of the one-stop center, including: rental of the facilities; utilities and maintenance; equipment (including assessment-related and assistive technology for individuals with disabilities); and technology to facilitate access to the one-stop center, including technology used for the center's planning and outreach activities (section 121(h)(4), WIOA and 20 CFR 678.700). Additional costs, as described in section 121(i), WIOA, must include the cost of applicable career services, and may include shared operating costs and shared services that are related to the operation of the one-stop delivery system but do not constitute infrastructure costs. One-stop partners must also share in additional costs (see TEGL No. 17-16).

Under WIOA and consistent with the Uniform Guidance, funding provided by the one-stop partners to cover the operating costs, including infrastructure costs of the one-stop delivery system, must be based on the partner program's proportionate use of the system and relative benefit received (section 121(h)(1)(B)(i) and (2)(C)(i), WIOA, and Joint WIOA Final Rule at 20 CFR 678.700 through 678.760).

All one-stop partner programs are required to contribute to the infrastructure costs and certain additional costs of the one-stop delivery system in proportion to their use and relative benefits received, as required in 20 CFR 678.700 and 678.760. The sharing and allocation of infrastructure costs among one-stop partners is governed by section 121(h), WIOA. TEGL No. 17-16, *Infrastructure Funding of the One-Stop Delivery System*, provides detailed guidance on infrastructure funding and additional costs, such as shared services, of the one-stop delivery system and was jointly developed by DOL, ED, and the U.S. Department of Health and Human Services (HHS).

E. Memorandum of Understanding (MOU) and Infrastructure Funding Agreement (IFA).

Through MOUs, local areas must establish and clarify the roles and responsibilities of the various one-stop partners participating in the integrated service delivery system, including the state UI agency. WIOA requires that the MOU be developed, with the agreement of the chief elected official, between the Local Board and the one-stop partners, including UI and TAA, to address the operation of the American Job Centers in the local area (section 121(c), WIOA). In states that have been designated by the Governor as a single state local area, the MOU must be developed with and entered into between the one-stop partners and the State Board (section 106(d), WIOA).

The Infrastructure Funding Agreement (IFA) is a mandatory component of the local MOU (section 121(c), WIOA and 20 CFR 678.500).¹ Required elements regarding infrastructure funding that must be included in the MOU are set forth in 20 CFR 678.755. The IFA contains the infrastructure costs budget, which is an integral component of the overall one-stop operating budget. The other component of the one-stop operating budget consists of additional costs, which must include applicable career services, and may include shared operating costs and shared services. An American Job Center's one-stop operating budget is the financial plan that the one-stop partners, CEO, and Local Board have agreed to in the MOU that will be used to achieve their goals of delivering services in a local area. Similar to MOUs, the Local Board may negotiate an umbrella IFA, or individual IFAs, for one or more of its one-stop centers and one or more of its one-stop partner programs, including UI.

TEGL No. 17-16 identifies required elements of an MOU, which include, but are not limited to, a description of the services to be provided, an agreement on funding the costs of services, and the operating costs of the system (section 121(c), WIOA and 20 CFR 678.500). For additional information regarding MOUs and infrastructure funding agreements generally, reference TEGL No. 17-16.

The MOU and its IFA may also contain any other provisions agreed to by the parties that are consistent with all applicable authorizing statutes and regulations (including, but not limited to, the confidentiality and disclosure of wage records governed by the regulations at 20 CFR part 603). For additional information regarding disclosure of confidential information obtained from the state UI agency, see section 9 of this UIPL. For additional information regarding the MOU, see section 6 of TEGL No. 16-16.

There are several common best practices that have been identified that can be applied for MOU development. For example, the MOU describes how UI programs, benefits and services are accessible through the one-stop delivery system. This includes how claimants are provided information and assistance in filing UI claims and accessing services as discussed above. Another best practice is for the MOU to address how UI claimants and participants potentially eligible for benefits under the Trade Act (including TRA, ATAA, and RTAA) are effectively connected to services through the American Job Center. And, the MOU may describe how feedback is provided to UI program staff with regard to potential UI eligibility issues, such as a claimant's failure to report and/or participate in mandatory services to which the claimant was referred (see additional information on feedback to UI staff provided in section 5 of this UIPL).

Although section 121(c), WIOA, allows Local Boards and one-stop partners to develop separate agreements with each partner or groups of partners, the UI program may consider development of model MOU language for use by all Local Boards to facilitate transparent,

¹ As described in TEGL No. 17-16, the Department has exercised its extension authority in section 503(b) of WIOA to require that a local area's PY 2017 final IFA must be in place no later than January 1, 2018, or by an earlier date specified by the Governor, rather than a part of the MOU that must be in place by July 1, 2017.

flexible operational agreements that are not burdensome. However, local areas vary in their one-stop service delivery design, and the MOU may need to be customized to some extent to accommodate such variation. Operational guidance on one-stop operations, including the MOU requirements, is provided in TEGL No. 16-16. Additionally, a Sample MOU and Infrastructure Costs Toolkit was jointly developed by DOL, ED, and HHS, and can be accessed at:

https://ion.workforcegps.org/resources/2017/03/23/13/30/Sample_MOU_Infrastructure_Costs_Toolkit.

5. **Wagner-Peyser Act Employment Service (ES) Program.** WIOA amends Section 7(a) of the Wagner-Peyser Act in several important ways that impact service delivery to UI claimants (section 305(a) and (b), WIOA). The Wagner-Peyser Act authorizes funding for states to deliver a wide array of services to job-seekers. WIOA added new language that reemphasizes the need for Wagner-Peyser Act funds to be used specifically to support reemployment and related services to UI claimants. The coordination of employment services and UI claimant services is essential to ensure an integrated approach to reemployment service delivery. The WIOA amendments to the Wagner-Peyser Act are intended to strengthen the connectivity between the ES and UI programs, and maximize the opportunities for claimants to return to employment as quickly as possible.

Consistent with 20 CFR Part 652.209, the state ES agency, as part of the one-stop delivery system, must deliver reemployment services to UI claimants for whom such services are required as a condition for receipt of UI benefits. Services must be appropriate to the needs of the UI claimants who are referred to reemployment services under any Federal or state UI program or law.

The state must also carry out other activities, as appropriate, including:

- Coordinating and providing basic career services, particularly labor exchange services with the provision of UI claimant services, as required by the Wagner-Peyser Act;
- Administering the work test, conducting eligibility assessments, and registering UI claimants for employment services in accordance with a state's UI law, and provision of job finding and placement services; and
- Referring UI claimants to, and providing application assistance for, training and education resources and programs, including Federal Pell Grants and other student assistance under Title IV of the Higher Education Act; the Montgomery GI Bill; Post-9/11 GI Bill; training provided for youths, adults and dislocated workers, as well as training and education programs under WIOA; and for Vocational Rehabilitation Services under Title I of the Rehabilitation Act of 1973.

Staff funded under the Wagner-Peyser Act must ensure that:

- UI claimants receive the full range of reemployment services, including labor exchange services available under the Wagner-Peyser Act that are necessary and appropriate to facilitate their earliest return to work, including career services specified in WIOA;

- UI claimants requiring assistance in seeking work receive the necessary and appropriate guidance and counseling to assist them to make a meaningful and realistic work search; and
- ES staff provides UI staff with information about potential UI eligibility issues such as a claimant's ability to work, availability for work, or work search activities, and the suitability of available work or employment. Sharing such information with UI staff may help to accelerate the claimant's return to suitable employment and otherwise ensure their continued eligibility to receive UI.

To meet the requirement of providing the necessary information related to UI eligibility, states must ensure that:

- An effective feedback loop is in place to advise UI staff whether the claimant reported as directed and participated in the eligibility assessment and/or services, as appropriate;
- The feedback loop is in place for all reemployment service activities in which UI claimants are required to participate, and includes a process for referral to UI adjudication any eligibility issues identified in an eligibility review;
- ES staff are trained to conduct a thorough eligibility assessment to be able to identify potential eligibility issues for referral to UI staff;
- ES staff are trained to properly document information for use by UI staff in adjudicating, as appropriate, any UI eligibility issues;
- A process to provide feedback to UI staff is in place and clearly documented. To the extent possible, states are encouraged to integrate IT systems among workforce partners and the UI agency to provide feedback to UI. If systems integration is not feasible, states must ensure a secure method of exchanging information exists. (Either way, states must comply with the requirements of 20 CFR Part 603.); and
- Only state UI merit staff members have authority to adjudicate UI eligibility issues.

6. **UI Reemployment Programs: WPRS and RESEA.** The UI program serves as one of the principal "gateways" to the workforce system. It is often the first workforce program accessed by individuals who need workforce services. The workforce system, including UI and other workforce programs, share the responsibility to facilitate the reemployment of these individuals.

As states continue to evolve the customer-centered one-stop service delivery strategy under WIOA, states are strongly encouraged to consider how to most effectively leverage other services that focus on UI claimant reemployment. Those programs include WPRS and RESEA that address the reemployment needs of UI claimants. These services are an integral part of the states' strategies for delivering reemployment services.

WPRS, which was mandated by Section 303(j) of the Social Security Act, is designed to identify UI claimants who are most likely to exhaust their benefits and need reemployment assistance to return to work, and refer them to appropriate reemployment services, such as: job search and job placement assistance; counseling; testing; provision of occupational and labor market information; and assessments. WPRS provides reemployment services to

selected claimants through an early intervention process. The number of individuals served under WPRS is determined by the state (and/or local areas) based on its capacity to serve these individuals (see UIPL No. 41-94, *Unemployment Insurance Program Requirements for the Worker Profiling and Reemployment Services System*).

RESEA, which is authorized by Section 306 of the Social Security Act, builds on the success of both WPRS and RESEA's predecessor, the former UI Reemployment and Eligibility Assessment (REA) program. Using an integrated approach that combines the UI REA program and the provision of reemployment services has been found to be particularly successful, with strong reemployment outcomes. A study of these combined services can be accessed at:

http://wdr.doleta.gov/research/FullText_Documents/ETAOP_2012_08_REA_Nevada_Follow_up_Report.pdf.

RESEA operating guidance requires co-enrollment of participants with the employment services funded through Wagner-Peyser. Each completed RESEA should include access to appropriate career services and may include a referral to training, as appropriate.

Any of the WPRS and RESEA reemployment services may be delivered by UI, ES, WIOA, or other one-stop center staff. As previously mentioned, the service delivery staff must be trained to identify any potential UI eligibility issues that come to their attention, or that are identified when staff are providing such services, and refer any such issues to UI merit staff to adjudicate, as appropriate, potential UI eligibility issues.

7. **Resources for Integrated Reemployment Services and Modernizing UI Work Search Requirements.** ETA partnered with the National Association of State Workforce Agencies (NASWA) and a group of state workforce system leaders to collaboratively re-envision UI work search requirements for the 21st century labor market. The result of this collaboration is a series of tools and resources intended to modernize and support the reemployment of UI claimants. Although these resources were designed in the context of UI activities, their use and benefits can be extended to other workforce partners:

- **Reemployment Connections Website:** The Reemployment Connection Resource Page is a compilation of pilot projects, successful models, and lessons learned, which may aid states with their decision-making processes in implementing integrated reemployment service delivery strategies.
https://rc.workforcegps.org/resources/2016/10/03/07/13/State_Local_Service_Delivery.
- **The Pathway to Reemployment Framework:** This framework provides an overview of how job seekers and employers connect and how this process has a re-envisioned approach for UI claimants to find work; an outline of essential elements of 21st century reemployment and work search requirements; and a suggested menu of possible work search activities.
https://rc.workforcegps.org/resources/2016/10/03/05/36/Pathway_to_Reemployment_Framework.

- **My Reemployment Plan (MRP):** The MRP is a comprehensive and interactive job search guide that is structured in a modular way. Each module outlines proven steps to successful reemployment in the 21st century job market, i.e., a “road map” of sorts, and may be used by job seekers directly or as a tool for professional workforce development staff members. The MRP is available in both print and online formats. You can also find a series of helpful videos, which are located on the Reemployment Connection Resource Page, highlighting the components of the MRP and help job seekers with the steps to reemployment.

https://rc.workforcegps.org/resources/2016/10/03/05/28/My_Reemployment_Plan.

- **MRP Implementation Guide:** This guide is designed for public workforce system leaders and practitioners who choose to adopt some or all of the re-envisioned work search principles and reemployment strategies contained in the MRP.

<https://rc.workforcegps.org/-/media/Communities/rc/Files/Reference-Guide-for-Workforce-Professionals-2017.ashx>

- **Work Search Validation and Documentation:** This resource tool guide explores the topic of successful documentation and validation of 21st century work search activities. It considers topics including, but not limited to: What can and should be validated? What type of documentation is available for this purpose? When is self-attestation appropriate and adequate for some activities?

https://rc.workforcegps.org/-/media/Communities/rc/Files/MRP/UI-Documentation-and-Validation-White-Paper_FINAL_20160502.ashx

- **Workforce Connect Technology Tools:** These technology tools support the development of integrated data and technology systems. ETA in partnership with NASWA’s Information Technology Support Center (ITSC), and several states, developed the Workforce Connect software suite. Workforce Connect is a software suite that helps states implement WIOA by connecting partners and providing a seamless experience for job seekers. This allows the customer to see and access one “common front door” for the one-stop delivery system with a single registration process. Workforce Connect consists of three modules:

1. Single sign-on;
2. Integrated Registration; and
3. Personalized Workforce Profile Dashboard.

The three modules can be adopted together or individually and can be highly customized. A new case management module is currently under development. Additional information about Workforce Connect is available at: http://www.itsc.org/Pages/WF_Connect.aspx.

Additional information and analysis of how the above tools and resources can support WIOA and other workforce activities is provided in Training and Employment Notice (TEN) No. 18-16, *Pathways to Reemployment Tools and Resources*.

https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6266.

8. **UI Reemployment Performance Measure.** The UI program is creating a “Reemployment Rate” performance measure that will quantify to what extent UI claimants who are required to look for work, are reemployed by the second quarter after they are determined eligible for UI and receive a first UI payment. As background, “actively seeking work” is a condition of weekly continued UI eligibility, except in those instances where a work search waiver is warranted and consistent with Federal and state UI law requirements. For example, when a claimant is in state-approved training, UI claimants are exempt from work search requirements under state UI law and reported separately from those required to search for work.

There are three key benefits to the UI program’s relationship to the data collection process for the reemployment rate measure. First, states can track how many of these reemployed claimants also had referrals from WPRS and/or RESEA. Second, this approach captures the percentage of UI claimants receiving staff-assisted services. Finally, the data will provide great insight into current and future initiatives on UI claimant reemployment.

In addition, DOL is planning to use the WIOA common measures to assess reemployment outcomes, including RESEA program outcomes. DOL will be providing states the opportunity for notice and comment in the Federal Register as the new reporting and performance requirements are developed.

9. **Disclosure of Wage Records.** Appropriate access to wage records is a high priority under WIOA. Use of wage records for WIOA core program performance, for eligible training provider performance reporting purposes, and for certain DOL and ED evaluations, is mandatory under WIOA. It is essential that state UI agencies coordinate disclosure of wage records for mandatory performance reporting and for identifying, and measuring the performance of, eligible training providers for the state to comply with WIOA requirements.

DOL issued specific guidance in partnership with ED about wage record access issues. The guidance addressed issues related to matching wage records with education data, which is governed by the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g. See TEGL No. 7-16, *Data Matching to Facilitate WIOA Performance Reporting*, which can be found at: https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6956.

A. Disclosure of Wage Records for WIOA Core Program Performance and Eligible Training Provider Performance Report Purposes.

State workforce, training, and education programs are required to use quarterly wage records to measure the progress of the state on the state and local performance accountability measures (section 116(i)(2), WIOA), which includes measuring the performance of the WIOA core programs, of other title I programs authorized by WIOA, and of eligible training providers (20 CFR 677.230(e)). Quarterly wage records are the employer-provided wage reports collected under authority of section 1137, SSA (42 USC 1320b-7). These are the reports state UI agencies obtain for UI tax liability and benefit eligibility determination purposes, and to detect improper payments.

Confidentiality and disclosure of wage records are governed by the regulations at 20 CFR part 603.

“Confidential UC information” and “confidential information” mean any unemployment compensation (UC) information as defined in 20 CFR 603.2(j)², required to be kept confidential under 20 CFR 603.4. Included in the definition at 20 CFR 603.2(j) are those State wage reports collected under section 1137, SSA that are obtained by the State UC agency for determining UC monetary eligibility or are downloaded to the State UC agency’s files as a result of crossmatch reports. This includes wage information reported in the three data categories or elements that states must use for WIOA performance reporting purposes: wages, social security number(s), and employer information. See 20 CFR 603.2(k).

20 CFR 603.5(e) permits states to disclose confidential UC information “to a public office for use in the performance of his or her official duties,” where the other requirements of 20 CFR part 603 are met. See excerpt from 20 CFR 603.5(e) below.

(e) Public official. Disclosure of confidential UC information to a public official for use in the performance of his or her official duties is permissible.

(1) “Performance of official duties” means administration or enforcement of law or the execution of the official responsibilities of a Federal, State, or local elected official. Administration of law includes research related to the law administered by the public official. Execution of official responsibilities does not include solicitation of contributions or expenditures to or on behalf of a candidate for public or political office or a political party.

(2) For purposes of § 603.2(d)(2) through (5), “performance of official duties” includes, in addition to the activities set out in paragraph (e)(1) of this section, use of the confidential UC information for the following limited purposes:

(i) State and local performance accountability under WIOA sec. 116, including eligible training provider performance accountability under WIOA secs. 116(d) and 122;

(ii) The requirements of discretionary Federal grants awarded under WIOA; or

² 20 CFR 603.2(j) provides that “UC information and State UC information mean information in the records of a State or State UC agency that pertains to the administration of the State UC law. This term includes those State wage reports collected under the IEVS (Section 1137 of the Social Security Act (SSA)) that are obtained by the State UC agency for determining UC monetary eligibility or are downloaded to the State UC agency files as a result of a crossmatch but does not otherwise include those wage reports. It does not include information in a State’s Directory of New Hires, but does include any such information that has been disclosed to the State UC agency for use in the UC program. It also does not include the personnel or fiscal information of the State UC agency.”

(iii) As otherwise required for education or workforce training program performance accountability and reporting under Federal or State law.

The link to TEGL No. 7-16, the joint guidance on disclosure of confidential UC information for the purposes of WIOA performance reporting, is provided above.

B. Mandatory Disclosure of Wage Records for Certain DOL and ED Evaluations.

Section 116(e), WIOA requires that states conduct ongoing evaluations of activities carried out in the state under core programs; coordinate the states' own evaluations with evaluations provided for under particular provisions of Federal law; and cooperate, to the extent practicable, in evaluations conducted by DOL and ED under those same provisions of Federal law. Specifically, the types of evaluations may include the following:

- Evaluations of core programs under WIOA;
- Evaluations under section 169, WIOA;
- Evaluations under section 242(c)(2)(D), WIOA, and under sections 12(a)(5), 14, and 107 of the Rehabilitation Act of 1973 (applied with respect to programs carried out under Title I of that Act); and
- Investigations under section 10(b), Wagner-Peyser Act (29 U.S.C. 49i(b)).

“To the extent practicable” means that cooperation is required as long as it would not interfere with the efficient administration of the state’s UC law (20 CFR 603.6(b)(8)). DOL anticipates that it would be exceedingly rare that such cooperation would interfere with the efficient administration of the state UC law.

For states and state UI agencies, this means that disclosure of confidential UC information, including wage records, to DOL or ED, to carry out the evaluations under the Federal statutory authorities identified above, is mandatory. In addition, these disclosures must be made in accordance with the safeguards and security requirements specified in 20 CFR 603.9, the requirements governing agreements in 20 CFR 603.10, and the requirements for payment of costs under 20 CFR 603.8, as well as any other applicable law.

Cooperation in these evaluations includes, in part, providing timely data (in accordance with appropriate privacy and confidentiality protections established in Federal law), the timely provision of responses to surveys, and allowing site visits in a timely manner by the Secretary of Labor, and the Secretary of Education, or their agents.

10. WIOA State Plans. Sections 102 and 103, WIOA, require each state to submit a Unified State Plan (that fosters strategic alignment of the core programs), or a Combined State Plan (that aligns core programs with at least one additional partner program). The Unified and Combined State Plan requirements improve service integration, ensure that the workforce system is industry-relevant, respond to the economic needs of the state, and match employers with skilled workers. Also, the Unified or Combined State Plan includes strategic and

operational planning elements to facilitate the development of an aligned, coordinated, and comprehensive workforce development system.

TEGL No. 14-15, *Workforce Innovation and Opportunity Act (WIOA) Requirements for Unified and Combined State Plans*, provides Federal guidance for development and submission of the initial four-year Unified and Combined State Plans (covering the period July 1, 2016 through June 30, 2020) and subsequent modifications. Given the multi-year life of the State Plan, states must revisit State Plan strategies regularly, reassess their effectiveness and labor market relevance, and when needed, adjust these strategies to respond to the changing economic conditions and workforce needs of the state. At a minimum, states must submit a modification to the Unified or Combined State Plan at the end of the first two-year period of any four-year plan, and under specific circumstances described in section 102(c)(3)(A), WIOA. ETA issued TEGL No. 06-17 in January 2018, *Modification Requirements for Workforce Innovation and Opportunity Act (WIOA) Unified and Combined State Plans*, providing additional guidance for development and submission of State Plan modifications.

Unified Plan (WIOA Section 102):

At a minimum, states must submit a Unified State Plan, which encompasses the core programs under WIOA. Although UI is not a core program, state UI agencies should be actively engaged in the development of the state's WIOA plan, whether Unified or Combined, to ensure both that unified workforce services strategies are being developed in a manner that will best meet the needs of UI claimants, including the return to meaningful employment, and that UI programs and services are fully integrated into the one-stop service delivery system.

As stated throughout this UIPL, state UI agencies need to participate in implementation planning with the State Board and other core, required, and optional one-stop partner programs to support development and implementation of the state plan. UI programs intersect with core program operations in a variety of key ways that should be reflected throughout the Unified Plan, including the following:

- Being a required partner in the one-stop delivery system, with related responsibilities for delivery of career services and supporting operational costs (discussed in section 4 of this UIPL);
- Partnering with state ES programs to provide ES services to UI claimants (discussed in section 5 of this UIPL);
- Developing strategies to integrate data and information technology systems (discussed in section 7 of this UIPL); and
- Supporting workforce system performance and evaluation through access to wage records (discussed in section 8 and 9 of this UIPL).

Combined Plan (WIOA Section 103):

A state may elect to submit a Combined State Plan that would include the core programs plus one or more additional programs listed in section 103(a)(2), WIOA, such as UI. The Combined Plan will include all of the common planning elements included in the Unified

State Plan, plus elements describing how the state will align the additional partner programs with the core programs.

If a state includes UI as a partner in a Combined Plan, ETA expects that the Combined Plan will include the state UI agency's State Quality Service Plan (SQSP). The SQSP must comply with the instructions in ET Handbook 336, 18th Edition, Change 3. ETA does not expect to make any change to the established SQSP cycle for states whose Combined Plan includes UI. If a state chooses to include UI in the Combined Plan, it must update the WIOA portal with the most recently approved SQSP.

UI is an integral component of the broader workforce system, and a key goal for the UI program is to ensure that claimants are able to successfully return to work. As such, the SQSP, as part of a Combined Plan, if a state chooses to include UI, must reflect coordination with other WIOA Combined Plan programs to demonstrate a coordinated effort and integrated service delivery. The coordination must be described in the State Plan Narrative portion of the SQSP.

11. **Action Requested.** State agency administrators are requested to provide information contained in this UIPL to UI, ES, WIOA and other appropriate staff and are encouraged to:
1) continue working with other workforce partners to develop strategies to administer WIOA and to support development of the state's Unified or Combined Plan; 2) develop strategies to effectively integrate and leverage reemployment programs and resources to support effective reemployment of UI claimants; and 3) work collaboratively with partner programs to develop strategies for integrated data systems.
12. **Inquiries.** Please direct questions to the appropriate ETA Regional Office.
13. **Attachment.**
References

Attachment

References

- Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113-128),
- Workforce Investment Act (Pub. L. 105-220), Title I;
- Wagner-Peyser Act of 1933, as amended by WIOA; 29 U.S.C. 49 *et seq.*
- Family Educational Rights and Privacy Act, 20 USC 1232g;
- Sections , 303, 306, and 1137of the Social Security Act (SSA), 42 U.S.C. 1320b-7;
- Unemployment Compensation for Ex-Service members, 5 U.S.C. 8521 *et seq.*
- Unemployment Compensation for Federal Employees, 5 U.S.C. 8501 *et seq.*
- Disaster Unemployment Assistance, 42 U.S.C. 5177
- Short Time Compensation program, 26 USC 3306
- Worker Profiling and Reemployment Services, 42 USC 503(j)
- Self-Employment Assistance program, 26 USC 3306, note
- Trade Adjustment Assistance, 19 U.S.C. 2271 *et seq.*
- Federal-State Unemployment Compensation (UC) Program: Confidentiality and Disclosure of State UC Information. 20 CFR Part 603.
- 20 CFR Part 603
- WIOA Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions; Final Rule (Joint WIOA Final Rule), published on August 19, 2016, in the *Federal Register* at 81 FR 55791. Effective October 18, 2016, 20 CFR parts 676, 677, and 678, and 34 CFR parts 361 and 463;
- WIOA (DOL Only) Final Rule, published on August 19, 2016, in the *Federal Register* at 81 FR 56072. Effective October 18, 2016, 20 CFR parts 603, 651-654, 658, 675, 679-688;
- 20 CFR part 603, Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of State UC Information;
- Unemployment Insurance Program Letter (UIPL) No. 20-15, *Unemployment Insurance and the Workforce Innovation and Opportunity Act of 2014*;
- UIPL No. 12-01, Change 1, *Outsourcing of Unemployment Compensation Administrative Functions – Claims Taking*;
- UIPL No. 12-01, *Outsourcing of Unemployment Compensation Administrative Functions*;
- UIPL No. 21-99, *The Workforce Investment Act of 1998 Affect on the Unemployment Insurance Program*;
- UIPL No. 41-94, *Unemployment Insurance Program Requirements for the Worker Profiling and Reemployment Services System*;
- TEGL No. 06-17, *Modification Requirements for Workforce Innovation and Opportunity Act (WIOA) Unified and Combined State Plans*,
- TEGL No. 17-16, *Infrastructure Funding of the One-Stop Delivery System*;
- TEGL No. 16-16, *One-Stop Operations Guidance for the American Job Center Network*;
- TEGL No. 7-16, *Data Matching to Facilitate WIOA Performance Reporting*;
- TEGL No. 19-14, *Vision for the Workforce System and Initial Implementation of the*

Workforce Innovation and Opportunity Act;

- TEGL No. 14-15, *Workforce Innovation and Opportunity Act (WIOA) Requirements for Unified and Combined State Plans;*
- TEGL No. 15-14, *Implementation of the New Uniform Guidance Regulations;*
- Training and Employment Notice (TEN) No. 18-16, *Pathways to Reemployment Tools and Resources;*
- Impact of the Reemployment and Eligibility Assessment (REA) Initiative in Nevada at http://wdr.doleta.gov/research/FullText_Documents/ETAOP_2012_08_REA_Nevada_Follow_up_Report.pdf; and
- REA Impact Study: Implementation Report at <https://www.dol.gov/asp/evaluation/completed-studies/REA-Impact-Study-Implementation-Report.pdf>.