



**Integrating TANF and WIA Into a Single Workforce System:
An Analysis of Legal Issues**

Executive Summary

February 2004

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INTEGRATING TANF AND WIA INTO A SINGLE WORKFORCE SYSTEM: AN ANALYSIS OF LEGAL ISSUES

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A number of states and localities want to promote improved coordination or integration of workforce development efforts under the Temporary Assistance for Needy Families (TANF) block grant and the Workforce Investment Act (WIA). The goals of TANF and WIA are overlapping but not identical. TANF provides a funding stream that can be used for a broad range of services and benefits, including efforts to link low-income unemployed parents with work and to provide benefits and supports to low-income working families. WIA seeks to integrate a range of employment and training programs into a single one-stop delivery system, with all unemployed and employed workers potentially eligible for a range of services, and with a strong focus on responsiveness to the needs of the business community.

This analysis identifies and analyzes the legal issues presented by efforts to bring together TANF and WIA into an integrated workforce development system. In such a system, all unemployed and employed workers needing employment assistance could seek that assistance from a universal system, and states and localities would have flexibility to structure service strategies based on individualized assessments and individual needs rather than dictated by federal rules that specify particular approaches for particular categories of claimants.

Establishing an Integrated Structure: Key Issue Areas

In efforts to blend TANF and WIA funding into an integrated structure, key areas that must be considered include eligibility rules; rules relating to range and sequence of services; use of funds for supportive services; use of funds for income support; performance measurement; reporting requirements; and administrative structures and decision-making. The following text summarizes principal issues in each area; any aspects noted in the summary tables but not discussed in the accompanying text are explained in the full version of this paper.

A. Who Can Be Provided Employment Services?

Under both TANF and WIA, a state or locality has broad but not unlimited discretion in use of the funding streams to provide employment services. Between the two funding streams, it is technically possible to provide employment services to any unemployed adult and to any low-income employed adult. Overall, as to eligibility, the biggest problems states are likely to face are not the inability to find a potentially allowable funding stream, but the occasional complexity of the rules and the lack of sufficient funding.

TANF funds can be used for employment services for low-income parents, whether or not those parents are receiving TANF assistance. TANF funds can also be used for employment preparation services for youth in families receiving TANF assistance. Arguments can be made in support of using TANF funds for other low-income youth, though there is no clear federal guidance on this issue. A state can use TANF funds to provide employment services for low-

income non-custodial parents, but it remains unclear whether TANF funds can be used to provide employment services for other individuals without children.

WIA funds are received in the form of separate allocations for adults, youth, and dislocated workers. Generally, each funding stream may only be used for individuals eligible under that funding stream, though localities may, with a Governor’s approval, transfer up to 30 percent of funds between adult and dislocated worker funding streams. Unemployed adults are broadly eligible for WIA services; the principal constraints are likely to be limited resources rather than statutory restrictions. For youth, the principal constraint (apart from limited resources) arises if a state or locality wishes to serve a youth under the age of 18 who does not meet the definition of “eligible youth.” As to employed individuals, core services can be made broadly available to all workers, but intensive and training services are limited to adults who are determined to be in need of such services in order to obtain or retain employment that allows for self-sufficiency.

Eligibility for Employment Services Under TANF and WIA		
	TANF	WIA
Low-income unemployed parents (custodial and non-custodial)	Yes	Yes
Low-income employed parents (custodial and non-custodial)	Yes	Yes
Low-income adults who are not parents	Unclear	Yes
Unemployed adults who are not low-income	Probably not	Yes
Employed adults who are not low-income	Probably not	Only for “core” services
Youth in families receiving TANF assistance	Yes	Yes
Other low-income youth	Probably	Yes
Other youth who are not low-income	Probably not	No

B. What Kinds of Employment Services Can Be Provided and Under What Conditions?

Under both TANF and WIA, states have broad discretion in funding appropriate employment services. The principal constraint in using TANF funds flows from the need to ensure that the state is meeting TANF participation rates. The principal constraints under WIA flow from the law’s requirements for sequential eligibility and for providing that WIA-funded training must be delivered in a structure of Individual Training Accounts (ITAs).

A state has very broad discretion in determining which employment services are provided to TANF-eligible individuals, with one major qualification. In order to avoid risk of a federal penalty, a state must ensure that a specified percentage of families receiving TANF assistance are engaged in one or more of a set of listed countable activities for a specified number of hours each week. The TANF participation rate provisions do not bar a state from allowing individuals to engage in any particular employment-related activity that the state deems appropriate. But, a state concerned about meeting participation requirements is likely to wish to ensure that a sufficient number of individuals are engaged in those activities that count toward federal participation rates for the requisite number of hours.

States and localities can also fund a wide range of employment-related activities under WIA. However, under WIA’s sequential eligibility requirements, in order to provide intensive services to adults or dislocated workers, there must be a determination that the individual is either:

- Unemployed, unable to obtain employment through core services, and in need of more intensive services in order to obtain employment; or
- Employed, but determined in need of the services to obtain or retain employment that allows for self-sufficiency.

Then, to provide training services, there must be a determination that the individual met the eligibility requirements for intensive services and is unable to obtain or retain employment through such services. If WIA funds are used to provide training for an adult or dislocated worker, then subject to limited exceptions, the training must be provided through an ITA—a voucher to be used with the provider of the participant’s choice, chosen from among the list of eligible providers established by the state.

Factors Affecting Delivery of Employment Services		
	TANF	WIA
Allowable services	Any service reasonably calculated to accomplish a TANF purpose	Statutory framework: core, intensive, and training services
Sequence of services	Up to state discretion	Criteria for moving to intensive and training services
How training services provided	Up to state discretion, consistent with TANF purposes	Through Individual Training Accounts, subject to limited exceptions, for adults and dislocated workers if WIA funds used; WIA funds used after other available sources
Federal participation rate requirements	Specify which activities can count as participation, number of hours of engagement needed to count	None
On-the-job training and customized training	Allowable for eligible families subject to state-determined policies	Regulations define services, limit expenditures to 50% of wages or training costs
Youth	School attendance generally required for teen parents	Specified elements for youth programming

C. Provision of Supportive Services

States have broad flexibility in determining whether and how to provide supportive services under TANF; the greatest constraint on use of funds is likely to flow from whether the supportive service falls within the definition of “assistance.” States do not face the same constraint under WIA, but can only use WIA funds for supportive services for individuals who are unable to obtain supportive services through other programs providing such services.

A state may spend TANF funds for supportive services so long as they are reasonably calculated to further a TANF purpose. In practice, the most common use of TANF for supportive services has been for child care. A state may “directly spend” TANF for child care, and may transfer up to 30 percent of the state’s TANF funds to the state’s program under the Child Care and Development Block Grant (CCDBG). Transferred funds become subject to CCDBG requirements rather than TANF requirements. Directly spent funds remain subject to all TANF requirements. TANF funds directly spent on child care for nonemployed families are considered assistance unless the benefit fits into the exception for nonrecurrent short-term benefits. (The same rule applies when TANF funds are used for transportation or other supportive services.) If the funds are considered assistance, then requirements applicable to receipt of assistance apply, e.g., time limits, work requirements, certain prohibitions on providing assistance, data reporting, etc.

WIA funds may be used for supportive services only when necessary to enable individuals to participate in WIA title I activities and may be used only for individuals who are unable obtain supportive services through other programs providing such services. It is not entirely clear how one would read the WIA and TANF provisions together, i.e., would it be permissible to use WIA funds even though TANF funds were available, if the reason for doing so was to provide supportive services without imposing TANF assistance-related requirements?

Providing Supportive Services to Eligible Participants		
	TANF	WIA
Allowable use of funds	Yes	Yes, if unavailable from other programs
Conditions applicable to services	Subject to “assistance-related requirements” (e.g., time limits, work requirements, etc.) if provided on ongoing basis to nonemployed	Must be necessary for participation in WIA title I activities

D. Income Support in Connection with Employment Services

When using TANF funds, a state may design ongoing or short-term income support for participants in programs of employment services, though ongoing income support is considered TANF “assistance” and subject to the assistance-related requirements. WIA’s provisions are more restrictive, allowing needs-based payments only for participants in or awaiting training, and subject to other limitations. Thus, if a state or local area wished to provide needs-based payments to all needy participants receiving employment services, it would be possible to use TANF funds for families, and WIA funds for single individuals, but the effective constraints (apart from limited resources) would be that the TANF funds will often be considered assistance, and the WIA funds are limited to individuals in training.

A state may use TANF funds to provide cash to individuals and families in a range of ways:

- The state may provide ongoing cash assistance to needy families with children; this will fall within TANF’s definition of “assistance.”

- A state may provide cash benefits to needy families for up to four months without treating such benefits as “assistance” if the benefits fall within the definition of a “nonrecurrent short-term benefit.”
- Even if a cash benefit lasts for more than four months, it will not be considered “assistance” if not designed to meet “ongoing basic needs.” Thus, a work expense allowance, designed to offset work expenses, has been recognized as being excluded from the definition of assistance. Similarly, payments designed to meet or offset the costs of training could also be considered nonassistance if not designed to meet ongoing basic needs, as could “incentive payments” in connection with participation in training.

If a benefit is considered TANF assistance, it may only be provided to members of a needy family. If it is considered nonassistance, it can be provided to individuals who are not members of needy families so long as the benefit is reasonably calculated to meet a TANF purpose.

Under WIA, needs-related payments are defined as ones that “provide financial assistance to participants for the purpose of enabling individuals to participate in training....” To provide a needs-related payment to an adult, the adult must be unemployed and:

- not qualify for, or have ceased qualifying for, unemployment compensation; and
- be enrolled in a program of training services under WIA.

There are more detailed eligibility requirements applicable to dislocated workers. Payment amounts for adults or left to the determination of local boards; payment amounts to dislocated workers must not exceed specified amounts.

Providing Income to Participants in Employment Services		
	TANF	WIA
Who may be helped?	Needy families with children; noncustodial parents of such children	Unemployed individuals not receiving unemployment benefits
When may the income be provided?	For families, whether or not participating in employment services	Individuals enrolled in training
How much may be provided?	Subject to state discretion	For adults, local board determines; payments to dislocated workers limited to amount of unemployment benefit or poverty level
Other conditions	Will be considered TANF assistance if designed to meet ongoing basic needs	None

E. Performance Measurement

There are significant differences between the means of measuring performance under TANF and WIA. TANF has both a high performance bonus and an out of wedlock bonus, but the principal measure of performance under TANF is probably the participation rate structure. WIA uses a set of outcome-based performance indicators for both state and local performance; state

performance can be the basis for receiving incentive funds or penalties; local performance can be the basis for receiving incentive funds or to the governor taking corrective action.

The TANF structure seeks to encourage state performance through bonuses and penalties. The two bonuses are an “out of wedlock” bonus of \$100 million available annually for up to five states demonstrating the largest reductions in the share of births that are non-marital births while also showing a decline in the number of abortions in the state; and, a \$200 million annual bonus for high performance on a series of indicators. Initially, the high performance bonus was provided for state rankings relating to employment entries, employment retention and earnings growth; for FY 2002, an additional set of categories were added. While these bonuses continue to operate, the provisions that would likely be viewed by many as the key performance indicators are the TANF program participation rate requirements.

In WIA, a set of federal performance indicators is used both for determining eligibility for incentive bonuses and the potential application of penalties. Multiple measures are used, with measures for adults, dislocated workers, younger youth, older youth, and overall measures of employer and participant customer satisfaction. States negotiate expected levels of performance with the U.S. Department of Labor for all individuals registered for WIA services, except those participating exclusively in self-service or informational activities. A state may qualify for an incentive grant if its performance for a year exceeds its negotiated levels of performance for the required core indicators for the adult, dislocated worker, and youth programs under title I of WIA as well as the customer satisfaction indicators for WIA title I programs, and also exceeds its adjusted levels of performance for title II Adult Education and Family Literacy programs and under the Carl D. Perkins Vocational and Technical Education Act. If a state fails to meet at least 80 percent of the negotiated levels of performance for the same program in two successive years, the amount of the succeeding year's allocation for the applicable program may be reduced by up to five percent.

Performance Measurement		
	TANF	WIA
Bonuses/Incentives	Bonus for reducing nonmarital births; bonus for high performance in meeting TANF employment goals and other goals	Incentive funding for exceeding negotiated performance measures in WIA, adult education, Perkins/vocational education
Performance Relevant to Bonuses/Incentives	reducing nonmarital births; reducing abortions; employment entry; employment retention; earnings gains; increasing share of children in married two-parent families; participation in Medicaid/SCHIP, child care, Food Stamps	<i>Adults and Dislocated Workers:</i> job entries; employment retention; earnings gains; credentials by those entering employment <i>Younger youth:</i> basic skills; education attainment; placements in education and employment <i>Older Youth:</i> job entries; retention; earnings gains; credentials by those entering education, advanced training, employment

		<i>Overall:</i> customer satisfaction of employers; customer satisfaction of participants
Performance-related penalties	Failure to meet program participation rates	Failure to meet at least 80% of negotiated performance measures

F. Participant Reporting Requirements

Both TANF and WIA have extensive participant reporting requirements, and there are many differences across the requirements. TANF’s requirements apply to families receiving assistance. WIA’s requirements apply to registrants. Some, but not all, of the differences in requirements flow from differences in information needed for program administration.

TANF has a detailed set of reporting requirements applicable to families receiving assistance. Extensive disaggregated reporting requirements apply to families, adults, and children receiving assistance, with more limited disaggregated reporting relating to case closures, and limited aggregate reporting as to numbers of families receiving assistance, case closures, and application dispositions. In addition, states wishing to compete for high performance bonuses or to receive caseload reduction credits must report information relating to families receiving assistance in separate state programs. The TANF data collection requirements apply to families receiving “assistance”; there are no data reporting requirements for families receiving nonassistance.

Under WIA, states are required to collect a series of demographic and performance outcome information on each individual who accesses WIA-funded services other than self-service or informational activities. At the completion of the program year, states are required to submit data on participants that exited the WIA program during the year. Individual participant data is collected and reported annually to the Department of Labor through the WIA Standardized Record Data (WIASRD) system. Additionally, states are required to submit annual reports to DOL that contain state and local performance information based on data drawn from the WIASRD. States must also submit certain data on a quarterly basis.

A comparison of TANF and WIA reporting requirements is attached to the full version of this text.

G. Administrative Structures and Decision-Making

TANF does not require any particular administrative structure, and states are free to determine which program activities should be conducted by state government, local government, or private entities. WIA is more detailed, specifying a governance structure at the state and local levels and specifying the role of one-stop centers as a means of service delivery.

Under TANF, virtually all decisions about administrative structures and decision-making within the state are left to state discretion. There is no requirement that the program be administered by a single state agency, and there are no federal specifications concerning which decisions must be made at the state level or left to localities. Jurisdictional areas for program operation—e.g.,

counties, social service districts, etc.—are left to the state to determine. In the provision of services, the state may determine whether part or all of service delivery is conducted by government or private entities. However, if the state does elect to make use of contracts for service delivery, then the charitable choice provisions of law specify that the state may not deny participation in the program to a religious entity on the basis of the entity’s religious character.

There are a number of specific requirements concerning administration and decision-making under WIA. Federal law requires states to establish a State Workforce Investment Board and specifies the composition and functions of that board; such functions include developing a state plan, developing a statewide system of activities, designating local areas, developing allocation formulae, and developing performance measures. Federal law further specifies a structure of Local Workforce Investment Boards with responsibilities for setting policies in local areas of the state system. The local board must designate or certify one-stop operators and conduct oversight of a one-stop service delivery system. One-stop operators may be public or private entities, but may not be the local board unless agreed to by the chief elected officer and the governor.

Administrative Structures and Decision Making		
	TANF	WIA
Administrative structure	States are given broad discretion in deciding how to set up the administrative structure of the program.	States must establish statewide Workforce Investment Boards to oversee and manage the state WIA program. Each local area must have a local Workforce Investment Board.
Decision-making	No federal specifications on which decisions are to be made at the state level or left to localities.	State Workforce Investment Boards are tasked with developing state plans, statewide systems of activities, designating local areas, allocating funds, and developing performance measures. Local Workforce Boards set policies for the local areas of the system.

DISCUSSION

The key conclusions that emerge from the prior discussion are:

- **Eligibility:** While populations overlap, some individuals will only be eligible for WIA services (because they are not in families) and some may only be eligible for TANF services (because they do not meet WIA youth definitions or do not qualify for priority under WIA).
- **Services:** A broad range of employment services are fundable under TANF and WIA, but state/local discretion may be constrained under TANF because of program participation

rate requirements and may be constrained under WIA because of sequential eligibility requirements and specific rules applicable to training.

- **Supportive Services:** Both funding streams can be used for supportive services, though a state's discretion under TANF could be constrained if the services fall within the definition of assistance, and discretion under WIA may be constrained by the need to ensure that the program is the purchaser of last resort.
- **Income Support:** States have broad discretion under TANF, constrained by whether the income support is considered "assistance." The ability to use WIA funds for needs-based payments is considerably more limited, though not constrained by assistance-related requirements.
- **Performance Measurement:** While TANF has bonus provisions, its participation rate requirements are probably viewed as the principal federal means for measuring performance. WIA uses a system of multiple performance indicators, with incentives or penalties possible based on whether states meet negotiated levels.
- **Reporting:** The systems have very different reporting structures, reflecting, in part, differences in program requirements.
- **Administrative Structures and Decision-Making:** Decisions about roles of units of government and jurisdictional boundaries are largely left to the state under TANF. There is considerable specificity about respective roles of state and local boards and of how local areas are established under WIA.

One can categorize the differences between TANF and WIA as falling into three categories, though there may be significant disagreements about how to categorize particular requirements:

- **Fundamental policy-based differences:** Some differences between the funding streams occur because of features of one funding stream that Congress likely views as fundamental. For example, TANF uses participation rates, and WIA uses performance measures. This is a critical difference, but not an oversight. There are policy reasons that explain why Congress wants to use participation rates in TANF and performance measures in WIA. Congress could make the funding streams more similar by establishing performance measures in TANF or a participation rate in WIA. However, such a change would have significant policy and program implications. When there is a very strong policy basis for a particular approach, it is doubtful that an interest in fostering integration would be a sufficient reason for Congress to allow overriding a key underlying policy.
- **Statutory/regulatory differences that occur for a reason, but may not be fundamental:** For example, WIA specifies limits on the amounts of needs-based payments for some recipients, while TANF does not. There is certainly a legitimate policy basis for the WIA requirements, but the requirement does not seem to flow from the key reform principles embodied in WIA and presumably could be reexamined in the context of efforts to promote consistency across programs. Similarly, TANF's assistance-related restrictions on supportive services may have an underlying policy basis but would not seem fundamental to the TANF design in a way comparable to program participation rates. In instances in which there is a policy basis that seems less than fundamental, Congress might be more receptive to modifying the rule in one program in the interest in reducing complexity and supporting integration.

- **Differences that are unlikely to reflect underlying policy differences and may be inadvertent:** For example, various differences in data reporting requirements may simply reflect differences in how the statutes were worded or how implementers designed their requirements. As one example, both TANF and WIA have a data element for “educational level” but the coding categories within the data element differ. In such instances, it is difficult to see any policy reason why the respective agencies should not work to harmonize their approaches and to identify areas in which action by Congress is needed.

Some differences arise simply because one program has defined terms and another has not. For example, WIA includes a definition of “low-income,” while TANF does not. WIA’s sequential eligibility structure relies on a distinction among core, intensive, and training services; TANF draws no such distinctions. When one program has a definition and the other doesn’t, it seems worth determining if a definition is needed for either or neither.

It is clearly possible to do much to collocate TANF and WIA services, and some states report significant progress in efforts to integrate their efforts. At the same time, there are numerous large and small differences between program requirements. It will be impossible to fully resolve differences as long as the underlying fundamental differences remain, but an effort by federal agencies to eliminate needless differences, and identify and resolve or present to Congress those for which policy justifications may not be strong, would surely assist state efforts to bring TANF and WIA together in a single workforce system.