Comments on Notices of Proposed Rulemaking (NPRMs) of the Workforce Innovation and Opportunity Act (WIOA) of 2014

June 2015

TESOL International Association (TESOL), a global education association representing more than 12,000 English language educators in 150 countries, is pleased to submit the following comments on the proposed rulemaking for the Workforce Innovation and Opportunity Act (WIOA) of 2014. TESOL’s members work with English language learners of all ages around the world, with a large percentage of the association’s members working with adult English learners in the United States. The Adult Education and Family Literacy Act (AEFLA) – authorized as Title II of WIOA – serves as the primary source for federal funding for adult English as a second language (ESL) instruction to adults in the United States, and thus has the greatest impact upon adult ESL programs.

In the 16 years that have passed between the enactment of the Workforce Investment Act of 1998 (WIA) and WIOA, the U.S. has seen significant demographic shifts in its population, not the least of which has been tremendous growth of the English learner population. This growth has had a major impact on both the labor force and the adult education system in the U.S. In the case of the latter, it is not only the primary vehicle for low-skilled workers to begin their path to a postsecondary degree or employment, it serves as the primary integration system for immigrants and adult English learners to improve their English language skills and pursue U.S. citizenship. This latter function takes on greater importance under WIOA as the programs funded under Title II will be critical in supporting the linguistic, economic, and civic integration of the growing population of adult immigrants and refugees who lack a high school diploma or equivalent, or who are Limited English Proficient (LEP).

TESOL will focus its comments on NPRM RIN 1830-AA22 (Docket No. ED-2015-OCTAE-003), which addresses the implementation of programs and activities under AEFLA, authorized as Title II of WIOA.

§463.1 – What is the purpose of the Adult Education and Family Literacy Act?

Under WIA, AEFLA allowed for the provision of English language and civics instruction to immigrant and English learners, however these were not codified as core purposes of the act. TESOL is pleased to see the proposed rulemaking reflect the new statute and explicitly include
English language acquisition services and civics instruction as core purposes of WIOA. Adult education programs as funded through AEFLA have long served as the primary immigration integration system in the U.S., so it is appropriate to see this acknowledged in the law.

**Recommendation: Maintain the definition as it is currently written.**

§463.31 – What is an English language acquisition program?

The general goal of AEFLA as defined in the proposed rulemaking is to create a partnership among federal, stated, and local agencies to support adult education programs that serve a variety of learners, including immigrants and other adult English learners seeking to improve their English proficiency. Although WIOA brings greater alignment between Title I and Title II, and provides greater support for college- and career-readiness, there are many learners in adult education programs looking to improve their English skills, but are not necessarily seeking postsecondary or career advancement. In fact, many adult English learners – such as those with limited formal education – may be many years away from postsecondary education or career training.

As it is currently written, §463.31(b) adds to the definition of English language acquisition programs that they lead to attainment of a secondary school diploma and either transition to postsecondary education or career training. Adding this requirement would leave these programs out of reach of those lowest level learners who are in most need of English language instruction.

**Recommendation: Amend §463.31(b) to read “That provides opportunities that include but are not limited to—”**

§463.33 – What are integrated English literacy and civics education services?

Although it was not codified as part of the WIA statute, Congress authorized funds for the English Language and Civics Education (EL/Civics) program on a year-to-year basis to support programs that combined English language and civics content. Formal statutory authorization for this program was long overdue, so TESOL is pleased to see detailed language on integrated English literacy and civics education services included in the proposed regulations.

The proposed definition of integrated English literacy and civics education services appears to honor the purpose of the original EL/Civics program. TESOL is particularly pleased to see that the definition acknowledges those English learners who are professionals with degrees or credentials from their native countries, often whom are the primary audience for these programs. In addition, the proposed definition acknowledges the primary purpose of integrated
English literacy and civics education, and provides for the possibility – but does not require – workforce training. TESOL supports this definition as it is written.

**Recommendation: Maintain the definition as it is currently written.**

§463.70 – What is the Integrated English Literacy and Civics Education program?

Although the definition of integrated English literacy and civics education services under §463.33 aligns with the original intent of the EL/Civics program, the definition of the Integrated English Literacy and Civics Education (IELCE) program is more restrictive. While the services as defined under §463.33 may include workforce training, the definition of the IELCE program in §463.70 requires these services must be delivered in combination with integrated education and training services (emphasis added).

As referenced in the definition, many learners enrolled in IELCE programs include professionals with degree and credentials from their native countries that may not require additional workforce or career training. Moreover, changing this definition so that integrated education and training services is a requirement of IELCE programs takes away the authority from states to determine the extent which IELCE programs and service should include training, and will limit states’ abilities to use these programs to support integration goals for immigrants.

**Recommendation: Amend §463.70(c) to read “Such educational service may be delivered in combination with integrated education and training services as described in §463.36.”**

§463.73 – What are the requirements for eligible providers that receive funding through the Integrated English Literacy and Civics Education program?

The proposed regulations under §463.73 again add the requirement that the IELCE program be provided in combination with integrated education and training. Moreover, section §463.73(c) adds additional requirements focused on job placement and integration with workforce development.

It is not clear whether these required services are intended to become part of IELCE programs, or that providers must be providing these services in order to be eligible to apply for IELCE funds. If it is intended to be the former, this appears to go well beyond the definition of IELCE services in §463.33, and will limit states’ abilities to use these programs to support integration goals for immigrants.

**Recommendation: Draft new regulations that maintain the definition of IELCE services under §463.33.**