



Missouri's Commitment to Equal Opportunity: Using WIOA's Section 188 to Create a Blueprint for Improving Access & Equal Opportunity

SYSTEM INNOVATION BRIEF

February 2019

The State of Missouri began working with the National Center on Leadership for the Employment and Economic Advancement of People with Disabilities (LEAD) Center in 2015. Their State Equal Opportunity Officer was seeking support to implement the Equal Opportunity provisions of Section 188 on the Workforce Investment Act (WIA) of 1998, just as the Workforce Innovation and Opportunity Act (WIOA) was being passed. Although the passage of WIOA did not change the Section 188 provisions, the vision of WIOA created substantial opportunities for people with disabilities. This brief details the LEAD Center's work with Missouri, the strategic direction they chose, Missouri's statewide approach to building infrastructure to support Equal Opportunity, and what they learned along the way. The brief ends with suggested Action Steps, which can be implemented by other systems, and useful Resources.

I. SECTION 188 FINAL RULE & ADA: ENABLING MORE PEOPLE WITH DISABILITIES TO BE SERVED IN THE WORKFORCE SYSTEM

Section 188 of the Workforce Innovation and Opportunity Act prohibits discrimination against individuals who apply to, participate in, work for, or come into contact with programs and activities that receive financial assistance from U.S. Department of Labor (DOL) programs, including partners that are part of the American Job Center (AJC) delivery system. Section 188 prohibits discrimination on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, among other bases. Section 188 also requires that reasonable accommodations be provided to qualified individuals with disabilities.

New WIOA Section 188 regulations, effective January 2017, provide important updates to the existing regulations, which had not been updated since 1999. The Section 188 Final Rule brings regulations in accord with the Americans with Disabilities Act (ADA) Amendments of 2008 (ADA Amendments Act of 2008 P.L. 110-325 Section 3) and implementing regulations and guidance issued by the Department of Justice (DOJ) and Equal Employment Opportunity Commission (EEOC).

With respect to an individual, the definition of disability is now the same under both Section 188 and the [ADA](#), meaning:

The National Center on Leadership for the Employment and Economic Advancement of People with Disabilities (LEAD) is a collaborative of disability, workforce, and economic empowerment organizations led by National Disability Institute with funding from the U.S. Department of Labor's Office of Disability Employment Policy, Grant No. #OD-23863-12-75-4-11. This document does not necessarily reflect the views or policies of the Office of Disability Employment Policy, U.S. Department of Labor, nor does the mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

- A physical or mental impairment that substantially limits one or more major life activities of such individual;
- A record of such an impairment; or
- Being regarded as having such an impairment.

DOL's Civil Rights Center, which is responsible for the regulations that implement the nondiscrimination and equal opportunity requirement of WIOA Section 188, states that "substantially limits" is not meant to be a demanding standard. The Final Rule's definition of disability is meant to be interpreted broadly to enable more people with disabilities to be served in workforce system.

II. PROMISING PRACTICES IN ACHIEVING UNIVERSAL ACCESS AND EQUAL OPPORTUNITY: A SECTION 188 DISABILITY REFERENCE GUIDE

In July 2015, the U.S. DOL issued the *Promising Practices in Achieving Universal Access and Equal Opportunity: A Section 188 Disability Reference Guide*. The *Guide*, authored by the LEAD Center, with input and guidance from multiple federal agencies, provides updated information and examples to help AJCs meet the nondiscrimination and accessibility requirements for individuals with disabilities in Section 188 of WIOA.

The *Guide* is divided into two sections. Part I includes diversified promising practices that promote accessibility and equal opportunity, as well as specific requirements for Equal Opportunity Officers within the AJC system. Part II contains language from the Section 188 regulations that form the basis of the promising practices in Part I. While the *Guide* is focused on the AJC system, it may be used as a resource document for any partner that is working to promote accessibility and equal opportunity.

All of the promising practices within the *Guide* directly correlate with the nondiscrimination, equal opportunity and accessibility requirements of Section 188 of WIOA. The *Guide* does not create new legal requirements or change current legal requirements, and the adoption of promising practices does not guarantee compliance. Also, the promising practices do not preclude states and recipients from devising alternative approaches. In fact, the *Guide* is currently in the process of being updated with new promising practices and will be available online in 2019.

III. SECTION 188 DISABILITY GUIDE – A BLUEPRINT FOR ACCESSIBILITY IN MISSOURI

The Missouri Workforce Development system revamped its Equal Opportunity program and prioritized a partnership with Vocational Rehabilitation (VR), with the goal of improving services to people with disabilities. By strengthening this partnership on both state and local levels and creating joint training opportunities, Missouri workforce professionals gained a stronger

understanding of Section 188 under WIOA, which prohibits discrimination against individuals who apply to, participate in, work for, or come into contact with programs and activities that receive financial assistance from the U.S. DOL, including partners that are part of the AJC system. A major focus was on disability. However, AJC staff learned universal practices under Section 188 that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, or political affiliation or belief, among other bases. All training corresponded with the U.S. DOL's [*Promising Practices in Achieving Universal Access and Equal Opportunity: A Section 188 Disability Reference Guide*](#).

First, Missouri workforce and VR leadership teamed up with the LEAD Center to conduct a comprehensive survey of workforce customers, staff, and employers on Section 188 policies and procedures in the areas of physical and programmatic accessibility. The results of the surveys uncovered important areas in need of technical assistance and training, and helped drive training and curriculum development.

Virtual training was developed and became a requirement across the Missouri workforce system via two tracks. One track targeted leadership from the state's Workforce Development Board (WDB), One-Stop Operators and AJC management. The second track was offered to frontline staff and partners, including VR counselors, TANF counselors, Veterans programs and other WIOA and community-based partners housed within local AJCs across the state. These two tracks allowed for information and specific examples to be discussed on topics related to policy and procedures that were common to workforce and policy leaders, and program staff and partners. LEAD Center staff, Missouri Equal Opportunity Officers, and workforce and VR leadership identified common challenges across all survey responses. Some of these included a lack of understanding of reasonable accommodation procedures, a lack of awareness that immediately making direct referrals of customers with disabilities to VR without offering them workforce services could be considered discrimination, and that partnering with other programs may help to ensure programmatic accessibility for customers with multiple resource needs. These areas were incorporated in both training tracks. The Section 188 Promising Practices Guide also served as a blueprint for the training, providing relatable scenarios and solutions to more effectively serving customers with disabilities.

After workforce leadership and staff across the state of Missouri participated in the virtual training series, local Equal Opportunity Officers (EOOs) were charged with collecting results through a post-training assessment. As part of the assessment, workforce professionals and partners were tasked with a series of "Action Items" that aimed to build their capacity in serving individuals with disabilities. The Action Items included actively reaching out to disability organizations to identify collaboration opportunities; exploring the process and effectiveness of the AJC's reasonable accommodation procedures; and researching local, state, and national resources around disability that can be applied within the workforce system (e.g., Job Accommodation Network, ADA Regional Centers, Independent Living Centers, etc.). Local EOOs across the state were tasked with following up with their local AJCs to monitor the progress of the Action Items and collect the results.

IV. BUILDING AN EQUAL OPPORTUNITY INFRASTRUCTURE: KEY FINDINGS FROM MISSOURI'S STATEWIDE SECTION 188 TRAINING APPROACH

What Missouri leadership learned through their statewide training approach was instrumental in effectively implementing Section 188. The information gleaned through the surveys was applied to the development of a statewide training curriculum that was not only responsive to the system's needs around disability, but also addressed leadership, staff, and partner roles in serving individuals with disabilities, from policy to practice. Additionally, hands-on Action Items generated interest and incentivized Missouri workforce staff to become more proactive with disability partners and resources while implementing Section 188 requirements.

Key findings from Missouri's implementation of Section 188 listed below are currently helping the state level EOO and VR teams to better provide more targeted technical assistance and support the needs in the MO workforce system around disability and accessibility.

- **Strengthening New & Existing Partnerships:** Assigning Action Items helps motivate workforce staff to connect with new and existing community partners in the region, and incite new important discussions. Most AJCs in Missouri reported that they either visited new partner sites or invited partners into the AJC for more in-depth orientation around services, processes for obtaining services, and how they can work together to better serve the community. This led to more cross-agency collaboration of regional partners to support job seekers with disabilities to reach employment goals.
- **Increasing Cross-Agency Partner Training:** As a result of increased outreach to new and diverse partners, workforce staff in Missouri reported a greater awareness and understanding of different types of disabilities and resources that exist to support them. For example, staff ventured into new partnerships with organizations that serve individuals with autism, connected with National Alliance on Mental Illness (NAMI) chapters, and collaborated with regional Business Leadership Networks (BLNs), which provide business-to-business support around disability inclusion in the workplace, supply chain, and marketplace.
- **Increase Training on Reasonable Accommodations:** Many Missouri workforce regions reported that they provide accommodations. However, most listed adaptive equipment as the only accommodations that are provided. The survey identified the needs for a broader understanding of reasonable accommodations and the interactive process involved in engaging with customers with disabilities around reasonable accommodations. Missouri leaders also learned about the need for targeted training specifically around providing reasonable accommodations for people with non-visible disabilities, such as more time to complete assessments, offering private space to discuss disability, or assisting a customer with an application or another job center task.

Today, Missouri is continuing to build their Equal Opportunity infrastructure around training,

universal access, and monitoring for continuous improvement. The state has demonstrated a commitment to implementing WIOA Section 188 in all AJCs across the state by granting each region \$50,000 annually from the Governor's discretionary funds. These funds currently assist the local areas with support, training, and affirmative outreach to ensure recipients are complying with WIOA Section 188.

Missouri leadership have identified the essential role of the local EOOs as part of their state's priority to implement Section 188. Local EOOs offer monthly training to AJC staff on Section 188-related topics. They also are empowered to update and revise local board policies and procedures to ensure that staff have a method for effectively providing reasonable accommodations and reasonable modifications when requested. They are helping to ensure that Missouri's programs and services are integrated in the most appropriate setting, which is one of the primary components of their AJC Certification. Overall, local EOOs are taking a more proactive role in their AJCs and are considered a trusted resource on disability and accessibility, while providing needed support to WDB and AJC leadership, staff, and partners.

V. THE INSTRUMENTAL ROLE OF VOCATIONAL REHABILITATION IN MISSOURI'S IMPLEMENTATION OF SECTION 188 & AJC CERTIFICATION

Although the relationship between Missouri's state workforce system and VR began long ago under the Workforce Investment Act, it has been significantly strengthened under WIOA. The State VR leadership and State EOO recognized together that their longstanding collaboration would serve their systems well under the new law. More importantly, it would more effectively serve their shared customers with disabilities. While VR is a core partner within the law, Missouri leaders knew it was critical that the workforce system had an internal process and structure to support their collaboration on Section 188 implementation to address all issues related to job seekers with disabilities. The growing partnership between VR and the state workforce system allowed both partners to learn from each other, share practices and processes, and provide support for all of the workforce partners.

The state-level collaboration between the Missouri State EOO and VR leadership served as a visible model across the state. As a result, local level workforce and VR staff were encouraged to build relationships, which created more opportunities for cross-system technical assistance. VR continues to help dispel myths and concerns about serving people with disabilities, while encouraging workforce staff and partners to reach out to them for assistance and guidance.

This has helped build trust in VR by workforce staff and other partners, in their role as a core partner, as they serve the interests of their shared customers.

Currently, in Missouri, many local workforce regions hold monthly trainings in AJCs that focus on a specific disability or disability awareness in general. Prior to WIOA and compliance efforts through Section 188, these types of trainings did not occur now they are held on a regular basis. Additionally, all Missouri AJCs opted to update their adaptive equipment and technology (AT) to better serve job seekers with disabilities. This created a unique partnership with the state's AT

project, in which VR offers training on how to offer access to AT equipment using a more universal design model, as well as providing basic information on how to use the equipment. These efforts have led to the creation of new policies around regularly updating the AT equipment and providing training for local staff.

In order to jointly serve business customers, the Missouri workforce system and VR regularly meet to collaborate on their services and efforts to engage the employer community. Employment collaboratives (known as the Nexus) have formed across the state to bring diversified workforce partners together to focus on having a single point of contact in providing services to businesses. This allows partners to draw from each other's expertise, including helping businesses with issues around hiring/supporting job seekers with disabilities. As this practice was adopted across the state, it increased job opportunities and outcomes for people with disabilities. This approach also strengthened partnerships between agencies that work together to support a customer's success.

The AJC certification has also provided an important opportunity for VR to support and target the improvement of programmatic access within the workforce system, including ways to provide equal access to training, apprenticeship, and other credentialing programs. This year, VR participated in the AJC Certification process as part of the review team. This provided unique access to transcend the review questions and seek out how AJC staff serves and experiences customers with disabilities, what resources they have at their disposal, and what needs the AJC may have moving forward. This process involved conducting personal one-on-one interviews with AJC staff, rather than just using a checklist or survey.

As part of the AJC Certification process, all four WIOA core partners in Missouri formed a team that included members with specific disability expertise from VR, Rehabilitation Services for the Blind, and representation from the state's Centers for Independent Living. Section 188 was used as the underlying framework to establish the elements of the certification survey, particularly regarding physical and programmatic accessibility for job seekers with disabilities. All WIOA partners also developed teams to focus specifically on co-enrollment and braiding of services across systems and programs. Finally, almost all of the 14 local workforce regions created disability subcommittees, as recommended in WIOA and chaired by VR, which have led to annual disability inclusion events in these regions.

This year marks the beginning of Missouri's implementation of this new collaborative approach to their AJC Certification process. The growing partnership between state/local workforce and VR leadership and staff is having a significant impact on how information is gleaned from the field for certification purposes, as well as how it is used to drive training, technical assistance, and partnership-building. Both the Missouri workforce system and VR maintain that they would not be able to comply with Section 188, effectively gain AJC Certifications throughout the state, or successfully serve customers with disabilities, if not for their close working relationship.

VI. ACTION STEPS TOWARDS IMPROVING EQUAL OPPORTUNITY & ACCESSIBILITY

Below are several steps any state/local workforce system, including VR and other partners, can take to improve overall equal opportunity and access for individuals with disabilities and others with multiple resource needs.

1. Build a strong foundation of knowledge in Section 188 compliance and accessibility. Seek out your state/local EOO and ask about training on Section 188. If you are part of your state's workforce leadership, explore options for surveying staff, job seekers, and employers across the state/local workforce regions to better understand their needs, challenges, and successes in serving people with disabilities. View the webinar series and check out the resources listed below and on the LEAD Center website: <http://www.leadcenter.org>.

2. Review the promising practices in the Section 188 Disability Reference Guide. Review the *Guide* and the numerous promising practices in a variety of equal opportunity and accessibility topic areas. Use the scenarios in the *Guide* as examples in your workforce trainings. Pass on this invaluable resource to your state/local EOO, VR, and other workforce and disability partners!

3. Learn about cross-systems committees that exist in your state and local regions. Explore if your state/local region has cross-systems committees in place and join. If Section 188 is not included as a topic, provide them with this brief and other resources, webinars, and the 188 Guide to expand the discussion. Section 188 is the regulatory framework for non-discrimination and equal opportunity for all that touches WIOA.

4. Make a commitment to partnership building with VR and other diverse disability partners. Partnerships are critical in implementing an effective Section 188 and AJC Certification process. Under WIOA, all core partners share some aspects of AJC service delivery and that requires a level of awareness of Section 188 requirements. Since Section 188 is aligned with the ADA, both provide the foundation for AJC Certification. EOOs are charged with ensuring compliance with Section 188. Since VR is the WIOA partner with the most subject matter expertise in disability and accessibility, it is important to seek partnerships with them and other disability-specific organizations (e.g., blind, Deaf, developmental disabilities, autism, mental health disabilities, etc.), which can greatly expand accessibility and awareness in the workforce system.

VII. SUMMARY: WHAT WE KNOW EXPANDS ACCESS & OUTCOMES

Implementing WIOA's Section 188 equal opportunity and non-discrimination regulations can be a daunting task for any state/local workforce system, especially as workforce professionals (broadly defined) work to ensure physical and programmatic accessibility for customers with disabilities. However, staff have access to valuable strategies and resources that Missouri and other states/regions are using to enhance their knowledge and actions in implementing universal access and equal opportunity. U.S. DOL's comprehensive Section 188 Guide offers a diversity of promising practices from all across the country for enhancing physical and programmatic access for customers with disabilities. The 188 Guide can be a source of training content and action planning for states and local workforce systems, EOOs, AJCs, and other partner systems, including VR. The comprehensive collection of strategies described in the *Guide* include marketing and outreach

methods, approaches to effective collaboration, co-enrollment strategies, and multiple ways through which AJCs can ensure accessibility at each step of AJC service delivery.

Partnerships are also paramount to continuous improvement of physical and programmatic access. As a WIOA partner, VR is the natural subject matter expert on disability, accessibility, and employment in the workforce system. VR may support workforce partners, including AJCs, by evaluating physical accessibility, adaptive technology, and inclusive customer flow access into career pathways; offering training opportunities; and collaborating on job prospects. Joining forces with VR and other diversified disability and community-based organizations throughout a state and local area (e.g., Centers for Independent Living) can only enhance collaboration, co-enrollment, and other strategies that lead to greater outcomes for customers with disabilities.

VIII. ADDITIONAL RESOURCES

WEBINAR SERIES: WIOA from a Disability Perspective & Section 188: A Powerful Foundation for Access

RECORDING & SLIDES Part I: <http://leadcenter.org/webinars/wioa-disability-perspective-section-188-powerful-foundation-access-series-1-3>

RECORDING & SLIDES Part II: <http://leadcenter.org/webinars/state-workforce-systems-are-making-equal-opportunity-priority-missouri-virginia-california-series-2-3>

RECORDING & SLIDES Part III: <http://leadcenter.org/webinars/achieving-188-compliance-ajc-certification-key-strategies-actions-policy-procedures-series-3-3>

[Promising Practices in Achieving Nondiscrimination and Equal Opportunity: A Section 188 Disability Reference Guide](https://www.dol.gov/oasam/programs/crc/Section188Guide.pdf) <https://www.dol.gov/oasam/programs/crc/Section188Guide.pdf>

[Joint System Innovation Brief: WIOA Section 188 & AJC Certification: A Window of Opportunity to Impact Equal Opportunity Policy & Practice to Better Serve Individuals with Disabilities](#)