



LEAD CENTER

What Disability Advocates Need to Know about New WIOA Equal Opportunity Provisions

February 28, 2017
3:00 – 4:30 PM EST

WELCOME

Christopher Button, Ph.D.

Supervisor, Workforce Systems Policy

Office of Disability Employment Policy

U.S. Department of Labor



MODERATOR

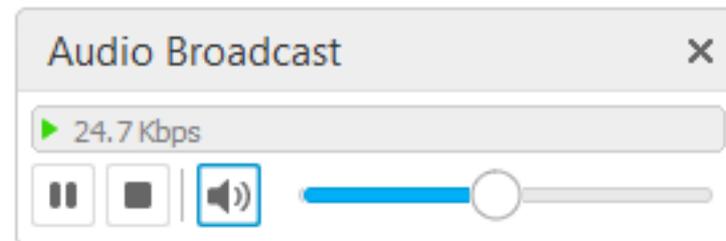
Michael Morris, Executive Director

National Disability Institute and LEAD Center
Public Policy Co-Chair



LISTENING TO THE WEBINAR

- ▶ The audio for today's webinar is being broadcast through your computer. Please make sure your speakers are turned on or your headphones are plugged in.
- ▶ You can control the audio broadcast via the audio broadcast panel
- ▶ If you accidentally close the panel, you can re-open it by going to the Communicate menu (at the top of the screen) and choosing Join Audio Broadcast



LISTENING TO THE WEBINAR, *CONTINUED*

If you do not have sound capabilities on your computer or prefer to listen by phone, dial:

1-415-655-0001

1-855-749-4750
(Toll-Free Number)

Meeting Code:
661 243 699

You do not need to enter an attendee ID.



CAPTIONING

- ▶ Real-time captioning is provided during this webinar.
- ▶ The captions can be found in the Media Viewer panel, which appears in the lower-right corner of the webinar platform.
- ▶ If you want to make the Media Viewer panel larger, you can minimize other panels like *Chat*, *Q&A*, and/or *Participants*.



SUBMITTING QUESTIONS

For Q&A: Please use the Q&A box to submit any questions you have during the webinar and we will direct the questions accordingly during the Q&A portion of the webinar.

- ▶ If you are listening by phone and not logged in to the webinar, you may also ask questions by emailing questions to btaylor@ndi-inc.org.

Please note: This webinar is being recorded and the materials will be placed on the LEAD Center website at: <http://www.leadcenter.org/webinars/what-disability-advocates-need-know-about-new-wioa-equal-opportunity-provisions>



TECHNICAL ASSISTANCE

- ▶ If you experience any technical difficulties during the webinar, please use the chat box to send a message to the host Brittany Taylor, or you may also email her at btaylor@ndi-inc.org



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.



LEAD CENTER MISSION

- ▶ To advance sustainable individual and systems level change that results in improved, competitive integrated employment and economic self-sufficiency outcomes for individuals across the spectrum of disability.



AGENDA

- ▶ Review of the final rules revising WIOA's Equal Opportunity Provisions (Section 188)
- ▶ Relationship between Section 188 and WIOA disability-related provisions
- ▶ Promising Practices with the Section 188 Disability Reference Guide
- ▶ State and local perspectives on improving access and equal opportunity
- ▶ Questions & Answers



TODAY'S SPEAKERS

Lee Perselay

Senior Policy Advisor
Civil Rights Center
U.S. Department of Labor

Jamie Robinson

Manager, Financial Empowerment & Workforce
National Disability Institute

Danielle Smith

State WIA Equal Opportunity Officer
Missouri Division of Workforce Development



OFFICE OF DISABILITY EMPLOYMENT POLICY

Christopher Button, Ph.D.

Supervisor, Workforce Systems Policy

Office of Disability Employment Policy

U.S. Department of Labor



UPDATES TO WIOA'S EQUAL OPPORTUNITY PROVISIONS

Lee Perselay

Senior Policy Advisor

Civil Rights Center

U.S. Department of Labor



Important Updates (1)

- ❖ The Final Rule provides important updates to the existing regulations, which have not been substantively updated since 1999.
- ❖ The old rule did not reflect the many developments in civil rights law since that time, changes in the CRC's enforcement procedures and processes, or new practices of beneficiaries and recipients of WIOA Title I financial assistance (for example, the routine use of computer and internet-based systems).



Important Updates (2)

- ❖ The update ensures the entire workforce system is aware of current equal opportunity rights and responsibilities of beneficiaries and recipients of WIOA Title I financial assistance.
- ❖ This rule increases equality of opportunity for the millions of job applicants, training participants, program beneficiaries, and employees of recipients who interact with the workforce development system each year.



Important Updates (3)

- ❖ The rule's updates also enhance access to the system, in particular for people with disabilities, individuals with limited English proficiency, transgender individuals who may face various forms of sex discrimination, and individuals who are pregnant, have had a child or have related medical conditions.

What's New in the Final Rule

- ❖ CRC has revised its regulations to implement the nondiscrimination and equal opportunity obligations under WIOA **Section 188**.
- ❖ **Section 188** prohibits discrimination against individuals in any WIOA Title I—financially assisted program or activity, which includes job training for adults and youth and programs or activities provided by recipients at American Job Centers (one-stop centers).



New Final Rule Information (1)

- ❖ These programs or activities may not refuse to offer or provide services to individuals because of their race, color, religion, sex, national origin, age, disability, or political affiliation or belief.
- ❖ Discrimination on these bases is also prohibited against employees who are employed in the administration of, or in connection with, any WIOA Title I-financially assisted program or activity.



New Final Rule Information (2)

- ❖ Beneficiaries, applicants, and participants – as defined by the Final Rule – cannot be denied covered services because of their citizenship status, and cannot be denied their rights because of participation in a WIOA Title I–financially assisted program or activity.

New Final Rule Information (3)

- ❖ The rule applies to recipients of WIOA Title I financial assistance and to programs and activities that are operated by American Job Center partners (one-stop partners) as part of the American Job Center system (one-stop delivery system), such as Unemployment Insurance, Temporary Assistance for Needy Families, adult education, Trade Adjustment Assistance, and others.

The Final Rule (1)...

- ❖ **Updates the nondiscrimination and equal opportunity provisions to align them with current law and legal principles.**
- ❖ **The rule captures developments since 1999 under the following laws, reflected in case law and in regulations issued by other Federal agencies, including the Departments of Justice and Education and the Equal Employment Opportunity Commission:**
 - ◆ Title VI and Title VII of the Civil Rights Act of 1964;
 - ◆ Title IX of the Education Amendments of 1972;
 - ◆ The Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008; and
 - ◆ Section 504 of the Rehabilitation Act of 1973.

The Final Rule (2) ...

- ❖ While the rule makes many substantive changes since 1999, the final rule does not impose significant new obligations on recipients.
- ❖ The rule's updated provisions generally reflect obligations already imposed by changes to other nondiscrimination and equal opportunity laws.

The Final Rule (3) ...

- ❖ **Ensures protection from discrimination based on pregnancy.**
- ❖ The rule makes clear that sex discrimination includes discrimination based on pregnancy, childbirth, and related medical conditions, in accord with the Pregnancy Discrimination Act of 1978, which amended Title VII of the Civil Rights Act of 1964, and in accord with Title IX of the Education Amendments of 1972.

The Final Rule (4) ...

- ❖ **Safeguards meaningful access to the workforce system for persons with limited English proficiency (LEP).**
- ❖ The regulations clarify that discrimination based on national origin includes failing to provide language services to someone with limited English proficiency.
- ❖ As such, under the rule, recipients must take reasonable steps to ensure that individuals with LEP have meaningful access to aid, benefits, services, and training.

The Final Rule (5)...

- ❖ These steps may include oral interpretation and written translation of both hard-copy and electronic materials into non-English languages.
- ❖ This ensures that individuals with LEP are informed about or able to participate in covered programs or activities.

The Final Rule (6)...

- ❖ In addition, the rule clarifies which documents contain “vital” information and thus must be translated into languages spoken by a significant number or portion of the population eligible to be served or likely to be encountered.

The Final Rule (7)...

- ❖ “Vital” information means information, whether written, oral or electronic,
 - ◆ that is necessary for an individual to understand how to obtain any aid, benefit, service, and/or training;
 - ◆ necessary for an individual to obtain any aid, benefit, service, and/or training;
 - ◆ or required by law.

- ❖ The rule requires recipients to record the limited English proficiency and preferred language of applicants who seek to participate in the workforce development system to help ensure they have the necessary information to serve individuals with LEP effectively.

The Final Rule (8)...

- ❖ Finally, an appendix to the LEP section of the rule describes promising practices to help recipients comply with their legal obligations and includes the components of a plan to facilitate meaningful access for individuals with limited English proficiency.

The Final Rule (9)...

- ❖ Ensures equal access to the workforce system for people with disabilities by bringing the regulations in line with updated disability rights law.
- ❖ The rule brings the CRC regulations in accord with the Americans with Disabilities Act Amendments Act of 2008 and the implementing regulations and guidance issued by the Department of Justice, as well as the implementing regulations and guidance issued by the Equal Employment Opportunity Commission.



The Final Rule (10)...

- ❖ The rule's updated language ensures that the definition of "disability" will be interpreted broadly, which will enable more individuals with disabilities to be effectively served within the workforce development system.
- ❖ The rule also addresses accessibility requirements (such as for information and electronic technologies) and service animals.

The Final Rule (11)...

- ❖ **Ensures that recipients and beneficiaries are aware of the full scope of their responsibilities and rights.**
- ❖ CRC revised the equal opportunity notice or poster that recipients are required to display and distribute in order to ensure that they, and individuals participating in their programs and activities, are aware of the scope of the nondiscrimination and equal opportunity responsibilities and recent developments in law.
- ❖ As the final rule explains, CRC will make translations of this notice available to recipients in the ten most frequently used languages in the U.S. (other than English).

The Final Rule (12)...

- ❖ Changes to the notice reflect, for example, that “sex,” as a prohibited basis for discrimination, includes pregnancy, childbirth, and related medical conditions; transgender status and gender identity; and sex stereotyping.
- ❖ Similarly, the changes make clear that discrimination against persons with limited English proficiency is a form of national origin discrimination.

The Final Rule (13)...

- ❖ **Outlines protections against sex discrimination.**
- ❖ **The rule states that discrimination on the basis of transgender status, gender identity, and sex stereotyping are forms of sex discrimination, in accord with similar developments under other civil rights laws.**

The Final Rule (14)...

- ❖ The rule specifically states that Section 188's prohibition of discrimination on the basis of sex includes, at a minimum, sex discrimination related to an individual's sexual orientation where the evidence establishes that the discrimination is based on gender stereotypes.
- ❖ CRC anticipates that the law regarding sex discrimination will continue to evolve, and CRC will monitor legal developments in this area.

Parting Thoughts

- ❖ The new WIOA Section 188 regulations were published in the Federal Register on December 2, 2016 and became effective on January 3, 2017.
- ❖ They can be found through the links on our website: www.dol.gov/crc.



Jamie Robinson

Manager, Financial Empowerment & Workforce
National Disability Institute

Danielle Smith

State WIA Equal Opportunity Officer
Missouri Division of Workforce Development



SECTION 188 DISABILITY REFERENCE GUIDE

- ▶ On July 6, 2015, Secretary of Labor Tom Perez released:
Promising Practices in Achieving Universal Access & Equal Opportunity: A Section 188 Disability Reference Guide
<https://www.dol.gov/oasam/programs/crc/Section188Guide.pdf>
- ▶ The Reference Guide was jointly developed by:
 - ▶ Civil Rights Center (CRC)
 - ▶ Employment and Training Administration (ETA)
 - ▶ Office of Disability Employment Policy (ODEP)
 - ▶ With support and assistance from ODEP's LEAD Technical Assistance Center at the National Disability Institute.



SECTION 188 DISABILITY REFERENCE GUIDE

- ▶ The promising practices in the Guide correlate with the nondiscrimination (equal opportunity) and universal access requirements of Section 188 of the Workforce Investment Act (WIA):
 - ▶ Reference Guide does not create new legal requirements or change current legal requirements;
 - ▶ Promising practices do not preclude states and recipients from devising alternative approaches;
 - ▶ Adoption of promising practices will not guarantee compliance.



188 GUIDE: SECTION 1 - UNIVERSAL ACCESS

- ▶ **Universal access to programs and activities:**
 - ▶ Understanding local needs
 - ▶ Marketing and outreach
 - ▶ Involving community groups and schools
 - ▶ Effecting collaboration, including partnerships/linkages
 - ▶ Intake, registration and orientation
 - ▶ Staff training
 - ▶ Assessments and screenings
 - ▶ Service delivery



188 GUIDE: SECTION 1 - UNIVERSAL ACCESS

▶ Recurring Themes of Promising Practices

- ▶ Partnerships with diverse disability groups
- ▶ Resource mapping and coordination
- ▶ Disability knowledge of staff
- ▶ Training opportunities around disability
- ▶ National/State/Local disability resources



188 GUIDE: SECTION 2 - EQUAL OPPORTUNITY

▶ Equal Opportunity:

▶ Prohibits

- ▶ Discrimination against people with disabilities
- ▶ Discrimination in employment practices

▶ Promotes

- ▶ Reasonable Accommodations for people with disabilities
- ▶ Reasonable Modifications of policies, practices, procedures
- ▶ Programs and activities in most integrated setting appropriate
- ▶ Effective communication with people with disabilities
- ▶ Program, architectural, and information and communication technology accessibility



188 GUIDE: SECTION 2 – EQUAL OPPORTUNITY

▶ Recurring Themes of Promising Practices

- ▶ Interactive process and procedures for reasonable accommodations
- ▶ Legal practices around Asking, Telling, Using, and Storing of disability-related information
- ▶ Representation of people with disabilities in all AJC services and programs
- ▶ Referrals of people with disabilities to separate programs are *not* automatic



188 GUIDE SECTION THREE: IMPLEMENTING UNIVERSAL ACCESS & EQUAL OPPORTUNITY

▶ Implementing Universal Access & Equal Opportunity

- ▶ Designation of Qualified Equal Opportunity Officer
- ▶ Notice and Communication
- ▶ Assurances
- ▶ Data and Information Collection, Analysis, and Maintenance
- ▶ Monitor for Compliance and Continuous Improvement
- ▶ Complaint Processing Procedures
- ▶ Corrective Actions/Sanctions



SECTION 188: Missouri Workforce Pilot



SECTION 188 MISSOURI WORKFORCE PILOT

- ▶ 2010 CRC monitored Missouri for EO Compliance
- ▶ MO DWD charged to revamp nondiscrimination and equal opportunity program
- ▶ Chose to focus on disability
 - ▶ Disability cuts across race, age, gender, sexual orientation and gender identity, ethnicity, religion and socio-economic status
 - ▶ AND...only minority group that anyone can join any time
- ▶ Use ***Section 188 Disability Reference Guide*** as a blueprint to improve equal opportunity

SECTION 188 MISSOURI WORKFORCE PILOT LEAD PARTNERSHIP

- ▶ Initial Action Plan:
 - ▶ Education, Information and Call to Action for all Workforce Leadership
 - ▶ Attendance at NASWA Equal Opportunity Conference
 - ▶ Partnership with LEAD Center
 - ▶ Climate Survey with Missouri Job Center Staff, Customers and Employers

SECTION 188 MISSOURI WORKFORCE PILOT SURVEY FINDINGS

- ▶ Local EOOs, workforce management/staff in need of Section 188 and disability-related training
- ▶ AJCs must be made accessible for ALL individuals
- ▶ Refresher training needed on assistive technology
- ▶ Cross training request with Vocational Rehabilitation
- ▶ Make Reasonable Accommodation policy/procedures more visible for all
- ▶ Employers want more information on recruiting and accommodating people with disabilities

SECTION 188 MISSOURI WORKFORCE PILOT ACTION STEPS

- ▶ Used **Section 188 Disability Reference Guide** to train EOOs, management and front line staff
- ▶ Reviewed Local Boards' Reasonable Accommodation policies and procedures
- ▶ Revised/trained on Case Note Policy statewide
- ▶ Local Boards charged with developing strategic outreach plans
- ▶ Annual surveys disseminated to determine training needs for workforce staff
- ▶ Business Reps and VR partnering with employers on recruiting people with disabilities

SECTION 188 MISSOURI WORKFORCE MOVING BEYOND COMPLIANCE

- ▶ Solidify partnership with State VR in Section 188 activities
- ▶ Re-vamp survey/assessment using relatable language and scenarios
- ▶ Implement collaborative training series with VR based on survey responses and statewide disability themes
- ▶ Engage local EOOs with local workforce center staff
- ▶ Assign '*Action Items*' for staff to learn by engaging in promising practices around disability

IMPLEMENTING SECTION 188: LESSONS LEARNED

- ▶ Collaboration with Equal Opportunity Officers
- ▶ Ongoing surveying of staff, customers and businesses around disability
- ▶ Modeling collaboration between workforce and disability partners
- ▶ Developing hands-on staff training and practice opportunities with support
- ▶ Ensuring ongoing training opportunities for workforce system, including core partners, leadership and staff



*What Disability Advocates Need to Know about
New WIOA Equal Opportunity Provisions*

QUESTION & ANSWER



SECTION 188 PANEL: QUESTION 1

- ▶ How do you see the 188 Guide helping states in implementing WIOA's new disability-related provisions?



SECTION 188 PANEL: QUESTION 2

- ▶ What do you see as the greatest barrier to Section 188 compliance at a community level?



SECTION 188 PANEL: QUESTION 3

- ▶ What is the importance of Section 188 to advance meaningful participation of people with disabilities in the workforce development system?



SECTION 188 PANEL: QUESTION 4

- ▶ If an individual with a disability encounters an accessibility or other problem at their AJC, what should they do?



SECTION 188 PANEL: QUESTION 5

- ▶ What advice do you have for state and local Workforce Development Boards to improve access and equal opportunity per Section 188 requirements to advance inclusive career services and pathways?



SECTION 188 PANEL: QUESTION 6

- ▶ One of the major new areas of emphasis for WIOA is building career pathways for job seekers. In what ways does Section 188 provide protections of equal opportunity in accessing career services and career pathways for job seekers with disabilities?



SECTION 188 PANEL: QUESTION 7

- ▶ There are concerns in the disability community that still too often a job seeker with disabilities when visiting an AJC for the first time is immediately being directed to VR. How can Section 188 promote more inclusive opportunities for the job seeker with a disability?



SECTION 188 PANEL: QUESTION 8

- ▶ Most people today have found physical barriers of access have been removed at AJCs. There is less understanding about the meaning of program accessibility. What is the difference between “program accessibility” and “programmatically accessible”?



CONNECT WITH THE LEAD CENTER

- ▶ Website: www.leadcenter.org
 - ▶ Employment First: <http://employmentfirst.leadcenter.org/>
- ▶ Sign up for LEAD Center News: <http://eepurl.com/sQiHr>
- ▶ Follow the LEAD Center on...
 - ▶ Facebook: www.facebook.com/LEADCtr
 - ▶ Twitter: [@LEADCtr](https://twitter.com/LEADCtr)
 - ▶ LinkedIn: linkedin.com/groups/LEAD-Center-4828089
 - ▶ YouTube: <https://www.youtube.com/user/LEADCtr>
- ▶ Contact us:
 - ▶ Rebecca Salon, Project Director, rsalon@ndi-inc.org
 - ▶ Elizabeth Jennings, Asst. Project Director, ejennings@ndi-inc.org
 - ▶ Aramide Awosika, Project Coordinator, aawosika@ndi-inc.org

