



**LEAD CENTER**

# **Section 188: Equal Opportunity (EO) and Accessibility for WIOA Partners During COVID-19 and Beyond**

**Thursday, June 18, 2020**

*The LEAD Center is led by Social Policy Research Associates and National Disability Institute and is funded by the Office of Disability Employment Policy, U.S. Department of Labor, Contract No. #GS-10F-0281S*

# DISCLAIMER

- ▶ This product has been funded, either wholly or in part, with federal funds from the U.S. Department of Labor, Office of Disability Employment Policy.
- ▶ The contents of this publication do not necessarily reflect the views or policies of the Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement of same by the U.S. Government.
- ▶ Recipients should review the Civil Rights Center's web materials and 29 CFR part 38 to better understand their legal obligations.



# CAPTIONING AND HOUSEKEEPING

- ▶ **Personalized Captions:** Open the captioning web page in a new browser. The link posted in the Chat (<https://www.streamtext.net/player?event=CFI-SPRA>).
- ▶ **Chat:** If you have questions during the presentation, please type them into the chat. (Select the button with a speech bubble icon.) We'll save time at the end for a Q&A.
- ▶ **Technical Support:** If you are experiencing technical issues or have questions for the technical support team, open the participants list, and select the Raise Hand button next to your name.



# WELCOME

## **Jennifer Sheehy**

Deputy Assistant Secretary,  
Office of Disability  
Employment Policy  
(ODEP),  
U.S. Department of Labor  
(DOL)



# WEBINAR OBJECTIVES

## Participants will:

- ▶ Review WIOA Section 188, with a focus on programmatic accessibility
- ▶ Learn about effective EO policies and procedures around disability disclosure and reasonable accommodations
- ▶ Explore EO and accessibility scenarios during COVID-19, including accommodations for people with disabilities and workforce professionals



# SPEAKERS



**Jamie Robinson**  
LEAD/WIOA Policy  
Center  
National Disability  
Institute



**Laura Gleneck**  
(Moderator)  
LEAD/WIOA Policy  
Center  
National Disability  
Institute



**Danielle Smith**  
Missouri State WIOA  
Equal Opportunity  
Officer



**Yvonne Wright**  
Senior Manager,  
Policy and Partnerships

# SECTION 188 OF WIOA (29 CFR §38)

- ▶ Section 188 of WIOA implements the nondiscrimination and equal opportunity provisions for workforce services, activities and programs
- ▶ Section 188 of WIOA prohibits discrimination on the basis of:
  - ▶ Race
  - ▶ Color
  - ▶ Religion
  - ▶ Sex
  - ▶ Age
  - ▶ **Disability**
  - ▶ Political affiliation or belief
  - ▶ National origin (including Limited English Proficiency)
  - ▶ Citizenship status

Regulations for Section 188 of WIOA can be found at 29 CFR Part 38  
<https://www.govinfo.gov/content/pkg/CFR-2018-title29-vol1/xml/CFR-2018-title29-vol1-part38.xml>



## SECTION 188 (CONT.) (29 CFR §38.14)

- ▶ AJC programs are required to provide reasonable accommodations for individuals with disabilities to ensure equal access and opportunity.
- ▶ Reasonable accommodation is:
  - ▶ a modification or adjustment in the way the program is administered that enables an individual with a disability to receive any aid, benefit, service, training, or employment equal to those provided to individuals without disabilities.
- ▶ AJC programs have written policies explaining obligations to make reasonable modifications to policies, practices, and procedures to ensure equal opportunity for individuals with disabilities.
- ▶ In limited circumstances, the AJC programs may not be required to provide a specific reasonable accommodation if it can establish that making modifications would cause undue hardship for the AJC programs.



# WHO DOES SECTION 188 APPLY TO? (29 CFR §38.2, 38.4)

- ▶ **“Recipients” are defined as any entity to which financial assistance under WIOA Title I is extended, including:**
  - ▶ State level agencies that administer or are financed by WIOA Title I funds
  - ▶ State Employment Security Agencies
  - ▶ State and local Workforce Investment/Development Boards
  - ▶ One-Stop (Job Center) Operators
  - ▶ Service providers, including eligible training providers
  - ▶ On-the-Job Training employers
  - ▶ Job Corps contractors and center operators (excluding federally-operated Job Corps centers, and
  - ▶ Programs and activities that are part of the One-Stop delivery system that are operated by One-Stop partners



## SECTION 188 (CONT.)

- ▶ To fully understand what is covered by Section 188 and promising practices:

### ***Promising Practices in Achieving Nondiscrimination and Equal Opportunity: A Section 188 Disability Reference Guide***

[http://www.leadcenter.org/system/files/resource/downloadable\\_version/Promising-Practices-in-Achieving-Nondiscrimination-and-Equal-Opportunity-A-Section-188-Disability-Reference-Guide.pdf](http://www.leadcenter.org/system/files/resource/downloadable_version/Promising-Practices-in-Achieving-Nondiscrimination-and-Equal-Opportunity-A-Section-188-Disability-Reference-Guide.pdf)



# PHYSICAL AND PROGRAMMATIC ACCESSIBILITY (29 CFR 38.15)

- ▶ All WIOA Title I-financially assisted programs and activities must be physically and programmatically accessible, including:
  - ▶ Making reasonable accommodations to policies, practices, and procedures
  - ▶ Administering programs in most integrated setting appropriate
  - ▶ Communicating with individuals with disabilities as effectively as with others
  - ▶ Providing appropriate auxiliary aids and services, including assistive technology devices and services, where necessary to afford individuals with disabilities equal opportunity to participate in, and **enjoy the benefits of, the program or activity.**
- ▶ This definition is different than the similar term “program accessibility” in ADA Title II, which refers to accessibility of facilities, programs, services, technology, and materials for individuals with disabilities.



# DISCUSSING DISABILITY

- ▶ State workforce systems collect/maintain records that include race/ethnicity, sex, age, and where known, **disability status** of every applicant, registrant, participant, applicant for employment, and employee.
- ▶ AJCs develop written policies for staff regarding the legal requirements related to disclosure of a customer's disability.
- ▶ For example, a policy explains that intake staff should inform individuals that, if they have a disability, they may disclose and request a reasonable accommodation, modification, and/or auxiliary aids and services.



# RECOGNIZING DISCLOSURE

- ▶ If a person voluntarily discloses a disability, they may be eligible for certain supports or participation in particular programs.
- ▶ Customers might not use the word 'disability', but instead describe symptoms or characteristics of an illness, injury, or other medical problem.



# RECOGNIZING DISCLOSURE (CONT.)

- ▶ When disability-related information is collected/requested, staff should relay:
  - ▶ Sharing is voluntary and confidential.
  - ▶ What they describe may be considered a disability and supports may be available.
  - ▶ If accommodations are needed to access services, training, or a job, they may be explored and implemented.
  - ▶ If customer chooses, AJCs **may engage** Vocational Rehabilitation or other partners.
  - ▶ Customers must give permission to document their disability.



# OTHER TIPS ON DISCLOSURE AND ACCOMMODATIONS

- ▶ Have processes for staff to discuss, explore, and implement accommodations.
- ▶ A recipient is required, absent undue hardship, to provide a reasonable accommodation to an individual with a disability. [29 CFR Part 38.4](#)
- ▶ WIOA staff should understand policies and processes behind the mandated statement:

*“This job center is an equal opportunity employer/program and does not discriminate. Auxiliary aids are available upon request to individuals with disabilities.”*





# **SECTION 188**

# **TELEWORK AND VIRTUAL SERVICES**



# SECTION 188 AND TELEWORK - 1

## Working from home requires the following:

- ▶ Accessing electronic information
- ▶ Communication with others in a remote way
- ▶ Electronic devices

## Employers may provide employees with:

- ▶ Laptop computers
- ▶ Cell phone
- ▶ Other equipment needed to conduct work from an alternate location



## SECTION 188 AND TELEWORK - 2

A **reasonable accommodation** may include the following, but is not limited to:

- A change to the application or hiring process,
- A change to the way a job is done, or
- A change to the work or training environment

Accommodations are considered “reasonable” if they do not create an undue hardship or a direct threat. [29.38.14](#) & [29.38.4\(p\)](#)



# SECTION 188 AND TELEWORK - 3

## Reasonable Accommodations Examples:

- ▶ Change job task
- ▶ Flexibility in work schedule
- ▶ Provide aid or services to increase access
- ▶ Change the presentation or training material
- ▶ Change equipment or software



# SECTION 188 – OBLIGATIONS - 1

- ▶ Posting on the website, the State and Local EO Officer's
  - ▶ name,
  - ▶ position title,
  - ▶ email/ mailing address, and
  - ▶ telephone number (voice and TDD/TTY), [29 CFR 38.29](#)



## SECTION 188 – OBLIGATIONS - 2

- ▶ Ensuring the website is consistent with modern accessibility standards, such as
  - ▶ Section 508 Standards (36 CFR part 1194) and
  - ▶ W3C's Web Content Accessibility Guidelines (WCAG) 2.0 AA, [29 CFR 38.15](#)
- ▶ Babel Notice/ Other LEP Requirements, [29 CFR 38.9](#)
- ▶ Reasonable Accommodation/Modification Policies/Procedures, [29 CFR 38.14](#)



# SECTION 188 – OBLIGATIONS - 3

- ▶ Complaint Process/Procedures/Policies, [29 CFR 38.72](#) and [38.73](#)
- ▶ Equal Opportunity Notice/Poster (in appropriate languages), [29 CFR 38.35](#)
- ▶ EO Tagline, [29 CFR 38.38](#)
- ▶ And all other appropriate sections of the Nondiscrimination Plan, Section 188 and 29 CFR 38, [29 CFR 38.54](#)



# CONTACT INFORMATION FOR DANIELLE SMITH

Danielle Smith | State WIOA Equal Opportunity Officer

PO BOX 1087|Jefferson City, MO 65102

[Email: danielle.smith@dhewd.mo.gov](mailto:danielle.smith@dhewd.mo.gov)

Phone: (573) 751-2428, Missouri Relay at 711| Fax: (573) 751-2428



# COVID-19 RESPONSIVENESS

Flexibility and ease of access for job seekers through policy changes:

- ▶ Temporary Dislocated Worker policy to allow eligibility for customers that may have a call back date
- ▶ Data sharing with the Department of Labor and Industrial Relations (DOLIR) to obtain eligibility documentation
- ▶ Allow for the use of electronic signatures



**COVID-19**  
**RESPONSE**



# COVID-19 RESPONSIVENESS (CONT.)

Addressing the needs of staff to work remotely in serving job seekers

- ▶ Adjustments to work schedules
- ▶ Addressing ergonomic needs
- ▶ Access to Technology
- ▶ Continued communication and access to WIOA core partners to assist job seekers
- ▶ Sharing of resources to staff to assist job seekers with disabilities



**COVID-19**  
**RESPONSE**

---

# SERVING STAFF NEEDS/ACCOMMODATIONS

Many times it takes a collaborative team, each with specific roles:

- ▶ Leadership/managers
- ▶ EO officers
- ▶ Human Resources
- ▶ Legal Counsel
- ▶ Building Safety Coordinators



# EXAMPLES OF SERVING STAFF NEEDS/ACCOMMODATIONS

Missouri example – multiple disabilities means allowing for:

- ▶ Service dogs
- ▶ Workstation accommodations
- ▶ Work schedule adjustments
- ▶ Parking exceptions
- ▶ Ergonomic assessments



# WORKPLACE POSSIBILITIES PROGRAM

Provided by the State of Missouri's Insurance Provider

- ▶ Deploys a Workplace Possibilities Consultant who:
  - ▶ Removes barriers to employees' comfort, safety and ability to perform their job effectively;
  - ▶ Assesses workstations and implements accommodations;
  - ▶ Assists employees in resuming job duties after a disability; and
  - ▶ Promotes open communication among all parties, including the employee, supervisor, HR, medical providers and others



# MISSOURI AS A MODEL EMPLOYER INITIATIVE

Executive Order signed by Governor Parson (Oct 19)

- ▶ Set the state as a Model Employer for Missouri businesses
- ▶ Established a “Talent Showcase” reverse job fair for job seekers with disabilities
- ▶ Mandated training for all state HR staff on working with people with disabilities
- ▶ Established “Disability Navigators” at each agency



# CONTACT INFORMATION FOR YVONNE WRIGHT

Yvonne Wright | Senior Manager, Policy and Partnerships

PO BOX 1087|Jefferson City, MO 65102

[Email: yvonne.wright@dhewd.mo.gov](mailto:yvonne.wright@dhewd.mo.gov)

Phone: (573) 751-3300



# EQUAL OPPORTUNITY RESOURCES

- ▶ [New Promising Practices In Achieving Nondiscrimination and Equal Opportunity](#): A Section 188 Disability Reference Guide
- ▶ [LEADing to Employment Brief](#): Implementing the Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act (Section 188)
- ▶ [System Innovation Brief](#): Missouri's Commitment to Equal Opportunity: Using WIOA's Section 188 to Create a Blueprint for Improving Access and Equal Opportunity

# AJC CERTIFICATION AND SECTION 188

A Window of Opportunity to Impact Equal Opportunity Policy and Practice for Individuals with Disabilities.

Visit ***leadcenter.org/webinars*** for:

- ▶ [WIOA Disability Perspective Section 188 Powerful Foundation Access](#) (Part I)
- ▶ [State Workforce Systems are Making EO Priority](#) (Part II)
- ▶ [Achieving 188 Compliance – AJC Certification](#) (Part III)

# LEAD CENTER WEBSITE



**LEAD CENTER**

[www.leadcenter.org](http://www.leadcenter.org)

Sign up to get information & notifications



# QUESTIONS AND ANSWERS



**THANK YOU!!**

