



LEAD CENTER

Creating an Inclusive Workforce System: *Implementing WIOA Section 188's Equal Opportunity Provisions*

January 20, 2016

WELCOME

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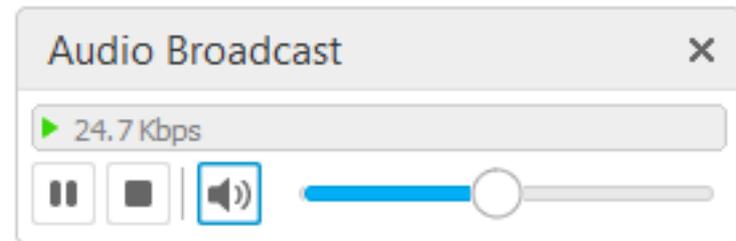
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The National Center on Leadership for the Employment and Economic Advancement of People with Disabilities (LEAD) is a collaborative of disability, workforce and economic empowerment organizations led by **National Disability Institute** with funding 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 U.S. Department of Labor's Office of Disability Employment Policy, 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.

www.leadcenter.org



AGENDA

- ▶ Welcome
- ▶ Review Webinar Outcomes
- ▶ Presentations from a Federal, State, and Local Level
- ▶ Questions & Answers
- ▶ Final Thoughts



WEBINAR OUTCOMES

- ▶ Attendees will learn about:
 - ▶ Critical elements of Section 188
 - ▶ Promising Practices with the Section 188 Disability Reference Guide
 - ▶ Relationship between Section 188 and WIOA disability-related provisions
 - ▶ State and local perspectives on improving access and equal opportunity
 - ▶ Perspectives on the status of Section 188 implementation



TODAY'S SPEAKERS

Christopher Button, Ph.D.

Supervisor, Workforce Systems Policy
Office of Disability Employment Policy
U.S. Department of Labor



TODAY'S SPEAKERS (CONTINUED)

Roger Ocampo

Chief, Office of Compliance and Policy

Civil Rights Center

U.S. Department of Labor



TODAY'S SPEAKERS (CONT'D)

Kimberly Vitelli

Deputy Administrator

Employment and Training Administration

U.S. Department of Labor



TODAY'S SPEAKERS, CONTINUED

Jamie Robinson

Manager, Financial Empowerment & Workforce
National Disability Institute



TODAY'S SPEAKERS: MISSOURI EO PRACTICE NETWORK

Danielle Smith

State WIA Equal
Opportunity Officer

Missouri Division of
Workforce Development

Yvonne Wright

Director Business Outreach
& Workforce Development

Missouri Vocational
Rehabilitation Services



PRESENTER

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WHAT IS SECTION 188?

- ▶ Section 188 implements the nondiscrimination and equal opportunity provisions of WIOA, which are contained in section 188 of the statute.
- ▶ Section 188 prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, among other bases.
- ▶ Section 188 also requires that reasonable accommodations be provided to qualified individuals with disabilities in certain circumstances.
- ▶ Section 188 of WIOA contains provisions identical to those in Section 188 of WIA.
- ▶ The regulations for Section 188 of WIOA can be found at 29 CFR Part 38.



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 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 DISABILITY REFERENCE GUIDE

- ▶ On July 6, 2015, Secretary of Labor Tom Perez released [Promising Practices in Achieving Universal Access and Equal Opportunity: A Section 188 Disability Reference Guide](#)
- ▶ 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

- ▶ **Part I:** contains continuum of examples highlighting some ways AJCs can meet their legal obligation broken out into sections on (1) universal access, (2) equal opportunity and (3) governance/Implementation.
- ▶ **Part II:** contains language from current Section 188 regulations that form the basis of the promising practices and includes hyperlinks directly to the promising practices in Part I.



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.

EXAMPLES OF REASONABLE ACCOMMODATIONS

- ▶ An application/ registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, training, or employment that the qualified applicant/registrant desires;
- ▶ Enable a qualified individual with a disability to perform the essential functions of a job, or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities; or
- ▶ Enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated individuals without disabilities.



EXAMPLES OF EQUAL OPPORTUNITY

- ▶ Prohibiting discrimination against individuals with disabilities;
- ▶ Providing reasonable accommodations or reasonable modifications of policies, practices and procedures for individuals with disabilities;
- ▶ Using the same processes for all customers, including individuals with disabilities for selecting participants in all programs;
- ▶ Administering programs in the most integrated setting appropriate;
- ▶ Ensuring effective communication, including by providing auxiliary aids and services where necessary; and
- ▶ Providing programmatic and architectural accessibility.



EQUAL OPPORTUNITY: EXAMPLES OF PROMISING PRACTICES

▶ Prohibiting discrimination—

- ▶ Covered entities rejects all job offers from employers that will not accept applications from individuals with disabilities.
- ▶ Covered entities do not stereotype individuals with disabilities when evaluating their skills, abilities, interests, and needs.
- ▶ Covered entities select locations that are accessible and ideally, near a public transportation system.
- ▶ Covered entities regularly review eligibility criteria for training and other services to eliminate discriminatory criteria.



EQUAL OPPORTUNITY: EXAMPLES OF PROMISING PRACTICES (CONT.)

▶ Providing reasonable accommodations

- ▶ Covered entities have a written reasonable accommodations policy in place, including:
 - ▶ Processes for handling requests for reasonable accommodations;
 - ▶ Training and information regarding the process of identifying and providing reasonable accommodations, including a description of the “interactive process” between staff and the individual with a disability that begins when an individual requests a reasonable accommodation;
 - ▶ A process for reviewing reasonable accommodations decisions where necessary; and
 - ▶ Posting the policies and procedures for providing reasonable accommodations on an accessible website and in public areas, and including them in written outreach materials.

▶ Providing reasonable modification of policies, practices or procedures

- ▶ Covered entities have a written policy explaining their obligation to make reasonable modifications to policies, practices, and procedures to ensure equal opportunity for individuals with disabilities



EQUAL OPPORTUNITY: EXAMPLES OF PROMISING PRACTICES (CONT.)

- ▶ Administration of programs in the most integrated setting appropriate—
 - ▶ Covered entities' staff do not automatically refer all job seekers with disabilities to State vocational rehabilitation programs, but makes individual case by case determinations.
 - ▶ Covered entities administer programs so that individuals with disabilities have access to the full range of services available to all customers.
 - ▶ Covered entities ensure that individuals with disabilities, including individuals with significant disabilities, are provided services that lead to competitive, integrated employment.



PRESENTER

Roger Ocampo

Chief, Office of Compliance and Policy

Civil Rights Center

U.S. Department of Labor



STATUS SECTION 188 PROPOSED NPRM (29 CFR PART 38)

- ▶ OMB has concluded its review
- ▶ Publication expected shortly
- ▶ Expect email blasts etc. announcing the publication
- ▶ Review and Comment



Missouri Division of Workforce Development Equal Opportunity Pilot in Partnerships with LEAD

Danielle Smith, State WIOA EO Officer
Division of Workforce Development





History and Goal

- Consider how to incorporate strategies proven to be successful for people with disabilities as broad, universal strategies for all customers accessing the generic workforce system.
- Use Section 188 Disability Reference Guide as a blueprint for improving access and **equal opportunity** to the workforce development system and American Job Centers (Missouri Job Centers).





Pilot/Practice Network

- Using Section 188 (Disability Reference Guide) as a *blueprint* for improving access and *equal opportunity* to the workforce development system and American Job Centers
- Why focus on disability?
 - Disability cuts across: race; age; gender; sexual orientation and gender identity; ethnicity; religion; and socio-economic status
 - AND...it is the only minority group that *anyone* can join at *any time*





Job Seeker Survey Questions and Results

Have you accessed the services of one of Missouri's Job Centers within the last 6 months?

- 670 Job Seekers Responded to the survey
- 8% Disclosed their disability
- Typically we see 2-3% of participants disclose their disability in our initial application process





Job Seeker Survey Questions and Results

How did you learn about the Missouri Job Center?

- 57% Found on my own
- 6% Referred by Community Service
- 11% Referred by a Friend
- 26% Other
 - Unemployment
 - Past use





Job Seeker Survey Questions and Results

When visiting the Missouri Job Center, did you find our staff welcoming?

- Overall 94% said the staff were welcoming
- 6% overall said Job Centers could improve on customer service





Job Seeker Survey Questions and Results

Was the Missouri Job Center easy to access by car or public transportation?

- 94% of all respondents thought it was easy to access by car or public transportation
- 87% who disclosed a disability said it was easy to access by car or public transportation





Job Seeker Survey Questions and Results

Once you got to the Job Center, did you find the building physically easy to access and was it easy to move around inside the Job Center?

- 98% said yes
- 96% who disclosed their disability said yes





Job Seeker Survey Questions and Results

Was it easy to find the information you were looking for at the Job Center?

- 88% said yes
- 76% who disclosed their disability said yes
 - Some people commented that they needed more help
 - Computer issue
 - Customer service





Job Seeker Survey Questions and Results

Did you request an accommodation from the Job Center staff?

- 20% Yes
- 80% No





Job Seeker Survey Questions and Results

Did you receive your requested accommodation?

- 5 people indicated that they did not receive their accommodation

Some of the comments were:

- No one can help me with the computer
- Wasn't able to find part-time work





Job Seeker Survey Questions and Results

On a scale of 1 to 10 (with 10 being very positive), how would you rate your overall experience with the Missouri Job Center?

75% of our customers rated our centers 8 or above

7% of our customers rated our centers 4 and below

- Job seekers that disclosed a disability rated our job centers an average of 7.3
- Job seekers that did not disclose rated our job centers an average of 8.3





Moving Forward

- MO used Section 188 Disability Reference Guide to update and revise their case note policy
- Local Boards will create a strategic Outreach Plan
- Bi-annual surveys for Job Seekers and Employers
- Annual surveys for Job Center Staff
- Create online resources for our business customers





Service Note Policy

Based on

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





DWD's Service Note Policy

The revised policy includes:

- The purpose of service notes
- Service note requirements
- Service notes and confidentiality
 - Medical
 - Criminal records
- Examples of an appropriate and inappropriate service notes
- Service Notes are a part of a customer's permanent record:
 - It may be used as documentation in legal and financial realms





DWD's Service Note Policy

- Accuracy of information is crucial-
 - Record the date/time of the conversation
 - Double-check the facts
 - Record facts relevant only to the customer's eligibility for services
 - Don't add opinions or assumptions
 - Service Notes will be read by other staff providing services
 - Customers may request copies of service notes



Employer Survey Results

Yvonne Wright, Director
Business Outreach and Workforce Development
Vocational Rehabilitation





Employer Seeker Survey Questions and Results

Does your company have a diversity policy that includes disability?

65% Yes

18% No

17% Not Sure





Employer Seeker Survey Questions and Results

Does your company have an accommodation process in place for job applicants and current employees?

67% Yes

17% No

16% Not Sure





Employer Seeker Survey Questions and Results

Does your company have an Employer Resource Group (ERG) or Affinity Group specific to disability?

15% Yes

59% No

26% Not sure





Employer Seeker Survey Questions and Results

Does your company's marketing materials include
or depict employees with disabilities?

36% Yes

48% No

16% Not sure





Employer Seeker Survey Questions and Results

Does your company engage in any targeted outreach to job seekers with disabilities, either directly or through a partnership?

35% Yes

49% No

16% Not Sure





Employer Seeker Survey Questions and Results

Does your company have a formal or informal process to customize/modify a position to meet the needs of a current or returning employee with a disability (e.g., flexible schedule, modifying a job description, etc.)?

68% Yes

23% No

9.5% Not sure





Employer Seeker Survey Questions and Results

Would your company like assistance in any of the following areas?

- Incorporating disability into your diversity initiatives? 35.3%
- Implementing an accommodation policy? 29.4%
- Initiating Employer Resource Groups? 23.5%
- Incorporating disability into your marketing materials? 41.2%
- Targeted outreach to job seekers with disabilities? 52.9%
- Other - please describe 35.3%





Employer Seeker Survey Questions and Results

Would you like one of our Missouri Job Center Business Service Representatives to follow-up with you (for any reason)?

- 20% Yes
- 80% Not at this time



SECTION 188 PANEL: QUESTION 1

- ▶ From the perspective of your administration or office at USDOL, what is the importance of Section 188 to advance meaningful participation of people with disabilities in the workforce development system?



SECTION 188 PANEL: QUESTION 2

- ▶ For CRC, what are you seeing from states as they factor in Section 188 mandates in their state planning and service delivery processes?



SECTION 188 PANEL: QUESTION 3

- ▶ For ETA, what are you seeing from states as they factor in Section 188 mandates in their state planning and service delivery processes?



SECTION 188 PANEL: QUESTION 4

- ▶ For ODEP, what are you seeing from states as they factor in Section 188 mandates in their state planning and service delivery processes?



SECTION 188 PANEL: QUESTION 5

- ▶ 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 and without disabilities?



SECTION 188 PANEL: QUESTION 6

- ▶ 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 7

- ▶ Most people today have found physical barriers of access have been removed at AJCs. There is less understanding about the meaning of program accessibility. How can USDOL and ETA, CRC, and ODEP help operationalize the concept of program accessibility?



SECTION 188 PANEL: QUESTION 8

- ▶ What do you feel are the greatest challenges for state and local workforce development areas in meeting their responsibilities in Section 188?



SECTION 188 PANEL: QUESTION 9

- ▶ The Section 188 Promising Practices sets out across multiple dimensions promising strategies that could be implemented at a state and local level. How can we accelerate the adoption of these promising strategies?



SECTION 188 PANEL: QUESTION 10

- ▶ How does Section 188 promote better transition from youth to adult services?



SECTION 188 PANEL: QUESTION 11

- ▶ In terms of a final comment to our diverse audience of listeners nationwide, what are two things that a state or a local workforce development area board and staff should be doing right now as we prepare for the first year of implementation of WIOA with a focus on the intent of equal opportunity and protection against discrimination afforded by Section 188.



FINAL THOUGHTS



LEAD CENTER WEBINAR SERIES

- ▶ **SAVE THE DATE**

- ▶ **LEAD Center webinar on WIOA**

Implementation Partnerships: The important role of Centers for Independent Living

- ▶ **February 25, 2016, 3:00-4:30 p.m. ET**



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