



Section 188, the Nondiscrimination Provisions of WIOA

Part 4 of 4-Part Series on WIOA

LEAD Center WIOA Webinar Series
September 24, 2015

WELCOME

Michael Morris

Co-Chair Policy Team, LEAD Center

Executive Director, National Disability Institute

mmorris@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.

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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.

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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

TODAY'S SPEAKERS

Christopher Button, Ph.D.

Supervisor, Workforce Systems Policy
Office of Disability Employment Policy
US Department of Labor

TODAY'S SPEAKERS, CONTINUED

Lee Perselay

Senior Policy Advisor
Civil Rights Center
US Department of Labor

Laura Ibañez

Unit Chief, Specialty
National Programs Unit
Employment and Training
Administration
US the Department of Labor

TODAY'S SPEAKERS, CONTINUED

Lisa Stern

Employment Policy Advisor
National Disability Institute

TODAY'S SPEAKERS, CONTINUED

Danielle Smith

State WIA Equal Opportunity
Officer

Missouri Division of
Workforce Development

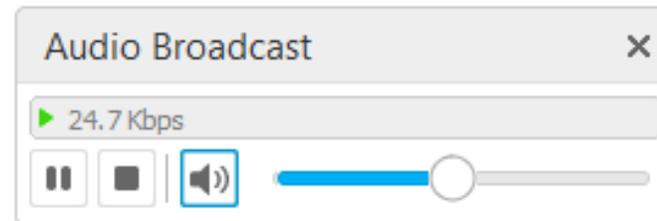
Jim Sahaida

Local WIA Equal Opportunity
Officer

St. Louis Agency on Training
and Employment (SLATE)

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PRESENTER

Michael Morris

Co-Chair Policy Team, LEAD Center

Executive Director, National Disability Institute

mmorris@ndi-inc.org



LEAD CENTER WIOA WEBINAR SERIES- PART 1

▶ **WIOA From a Disability Perspective: An Overview**

▶ February, 25, 2015

▶ Archive available here: <http://www.leadcenter.org/webinars/wioa-disability-perspective-overview-part-1-4>

LEAD CENTER WIOA WEBINAR SERIES- PART 2

▶ **WIOA and the Unified State Planning Process**

▶ April 29, 2015

▶ Archive available here: <http://www.leadcenter.org/webinars/wioa-and-unified-state-planning-process-part-2-4-part-series-wioa>

LEAD CENTER WIOA WEBINAR SERIES- PART 3

▶ **Understanding Changes Regarding Youth Services**

▶ June 24, 2015

▶ Archive available here:

<http://www.leadcenter.org/webinars/understanding-changes-regarding-youth-services-part-3-4-part-series-wioa>



Christopher Button, Ph.D.

Supervisor, Workforce Systems Policy

Office of Disability Employment Policy

US Department of Labor

Promising Practices in Achieving Universal Access and Equal Opportunity:



A Section 188 Disability Reference Guide

Featured Panel:

Chris Button, Policy Supervisor, ODEP

Kim Vitelli, Division Chief, ETA

Lee Perselay, Senior Policy Advisor, CRC

Lisa Stern, Policy Advisor, LEAD Technical Assistance Center

Diversity of Job Seekers



The American Job Center system is serving customers who are low-skilled, low-wage, disconnected, disadvantaged, and “at-risk”, with multiple employment challenges, many of whom have hidden disabilities.

Section 188 Disability Reference Guide



Universal Access
to programs and activities.

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



While the Reference Guide focuses on the American Job Center system, it is also a useful resource for:

- Governors;
- State Administrators;
- State Workforce Agencies;
- Equal Opportunity Officers; and
- State and Local Workforce Development Agencies.

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.

Lee Perselay
Senior Policy Advisor
Civil Rights Center
US Department of Labor

A SECTION 188 DISABILITY REFERENCE GUIDE

**PROMISING PRACTICES IN ACHIEVING
UNIVERSAL ACCESS AND EQUAL
OPPORTUNITY**

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” 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 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

OTHER LAWS

- ▶ While the Reference Guide addresses the equal opportunity provisions of the Section 188 regulations ensuring equal opportunity for individuals with disabilities, recipients may also be subject to the requirements of:
 - ▶ Section 504 of the Rehabilitation Act, which prohibits discrimination against individuals with disabilities by recipients of Federal financial assistance;
 - ▶ Title I of the ADA, which prohibits discrimination in employment based on disability; and
 - ▶ Title II of the ADA, which prohibits State and local governments from discriminating on the basis of disability.



INDIVIDUAL WITH A DISABILITY

For the purposes of the Reference Guide, the term “individual with a disability” is the same as the ADA definition:

- ▶ An individual with a:
 - ▶ Physical or mental impairment that substantially limits one or more of the major life activities of such individual (prong 1);
 - ▶ A Record of such an impairment (prong 2); or
 - ▶ Being regarded as having such an impairment (prong 3).



REASONABLE ACCOMMODATIONS

- ▶ Covered entities are required to provide reasonable accommodations for individuals with disabilities to ensure equal access and opportunity.
- ▶ The term “reasonable accommodations” is defined in the Section 188 regulations as modifications or adjustments
 - ▶ to 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;
 - ▶ that 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
 - ▶ that 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.



EQUAL OPPORTUNITY

- ▶ Covered entities are required to ensure that individuals with disabilities have equal opportunity to access their programs, benefits, and activities.
- ▶ Equal opportunity includes:
 - ▶ 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.
- ▶ The reference to programmatic accessibility as part of Section 188 is new in WIOA. Programmatic accessibility includes, among other things, providing assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

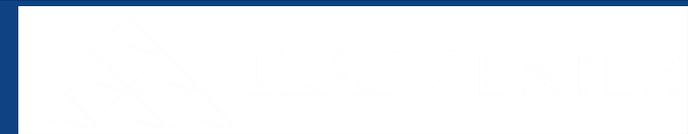


EQUAL OPPORTUNITY

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

- ▶ 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

- ▶ 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.

EQUAL OPPORTUNITY

EXAMPLES OF PROMISING PRACTICES

- ▶ Effective communication— For individuals who are deaf and hard of hearing, effective communication may include the use of the following auxiliary aids, devices, and strategies:
 - ▶ Qualified interpreters on site or through video remote interpreting services;
 - ▶ Real-time computer aided transcription services;
 - ▶ Open and closed captioning, including real-time captioning;
 - ▶ Voice, text, and video-based telecommunications products and systems, including TTYs, videophones, and captioned telephones or equally effective telecommunications devices; and
 - ▶ Videotext displays.



EQUAL OPPORTUNITY

EXAMPLES OF PROMISING PRACTICES

- ▶ Effective communication— For individuals who are blind or visually impaired, effective communication may include the use of the following auxiliary aids, devices, and strategies:
 - ▶ Qualified readers;
 - ▶ Taped texts;
 - ▶ Audio recordings;
 - ▶ Braille materials and displays;
 - ▶ Screen reader software;
 - ▶ Magnification software;
 - ▶ Optical readers;
 - ▶ Secondary audio programs; and
 - ▶ Large print materials.



EQUAL OPPORTUNITY

EXAMPLES OF PROMISING PRACTICES

- ▶ Architectural and information and communication technology accessibility—
 - ▶ Equal Opportunity Officers are involved from the beginning of any physical site planning and technology acquisitions to ensure equal access and opportunity for individuals with disabilities.
 - ▶ Staff involved in site planning and program development is trained in the equal opportunity and access requirements of Section 188.
 - ▶ Covered entities make technology accessible.



Laura Ibañez

Unit Chief, Specialty National Programs Unit
Employment and Training Administration
US the Department of Labor

WIOA

Workforce Innovation and Opportunity Act

- Promotes accountability, transparency, and data-driven decisions
- Improves American Job Center system
 - Customer-centered design
 - Certification against standard criteria
 - Joint funding of infrastructure, shared services
- Improves services to businesses
- Investments in disadvantaged populations

WIOA

Workforce Innovation and Opportunity Act

- TEGl 19-14 “Vision for the Workforce System and Initial Implementation of WIOA”
- TEGl 37-14 - Update on Complying with Nondiscrimination Reqs: Discrimination Based on Gender Identity, Gender Expression, Sex Stereotyping
- TEGl 03-15 - Guidance on Services Provided through the Adult and Dislocated Worker Programs under WIOA
- TEN 01-15 “Promising Practices in Achieving Universal Access and Equal Opportunity: A Section 188 Disability Reference Guide”
- TEGl 04-15 “Vision for the One-Stop Delivery System under WIOA”



Innovation & Opportunity Network

Implementing the Workforce Innovation and Opportunity Act

- Quick start action planners
- Customer-centered design
- Peer learning opportunities
- Convenings for state and local teams
- “Deep dive institutes”

❖ Wioa.workforce3one.org

❖ Doleta.gov/wioa

MISSOURI EQUAL OPPORTUNITY PRACTICE NETWORK

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 Career 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*

DISABILITY & THE WORKFORCE SYSTEM

- ▶ Jobseekers with disabilities regularly accessing the generic workforce system:
 - Long-term unemployed
 - WIA Adult and Dislocated Worker
 - TANF
 - Veterans
 - Seniors
 - Youth
 - Limited English Proficient
 - Etc., etc., etc.

188 PILOT – INDIVIDUAL GOALS

- ▶ WIB determines concentration area(s)
- ▶ Goals are based on evidence of need
- ▶ Ensure at least one state initiative is tied in to outcomes
 - *Consider: VR and the workforce development system must work together on a mandatory unified state plan that meets Section 188 protection against discrimination and equal opportunity requirements*

PROCESS IN MISSOURI

- ▶ Step 1: Take the pulse of AJC staff to determine areas of of greatest need, suggestions for improvement and evidence of success
 - ▶ **Section I:** Basic demographic
 - ▶ **Section II:** Providing universal access to programs, services and activities
 - ▶ **Section III:** Ensuring Equal Opportunity

SECTION I: Basic Demographic Information

SAMPLE

Please tell us a little about who you are and where you work.

1a. Which region best represents your primary work location?

1b. Please select the career center that best represents your current work location.

1c. If you are not located in a career center, please select the center with which you are most familiar.

1d. Approximately how many days per week do you spend (onsite) in one of Missouri's Career Centers?

1f. Please select the role that best describes your current duties.



SECTION II: Providing Universal Access to Programs, Services & Activities

BACKGROUND: The Missouri Career Center system is expected to meet the needs of their customers by ensuring universal access to their programs and activities for all eligible individuals.

HOW ARE WE DOING? Please rate the following areas and offer an example as evidence of our success and/or a suggestion for improvement in the space provided.

2a: UNDERSTANDING LOCAL NEEDS

**Refer to examples below (provided for illustrative purposes)*

DROP DOWN 

Evidence of Success (2a)

FILL IN

Suggestion (2a)

FILL IN

All examples used throughout the survey (and provided for illustrative purposes) were taken directly from the U.S. Department of Labor’s WIOA Section 188 Guide*.

SECTION III: Ensuring Equal Opportunity

SAMPLE

- 3a.** Provide reasonable accommodations or reasonable modifications of policies, practices and procedures for individuals with disabilities
- 3b.** Prohibit discrimination against individuals with disabilities (use the same processes for all customers)
- 3c.** Administer programs in the most integrated setting appropriate
- 3d.** Ensure effective communication, including providing auxiliary aids and devices where necessary
- 3e.** Provide program and architectural accessibility and access to information and communication technology (ICT)

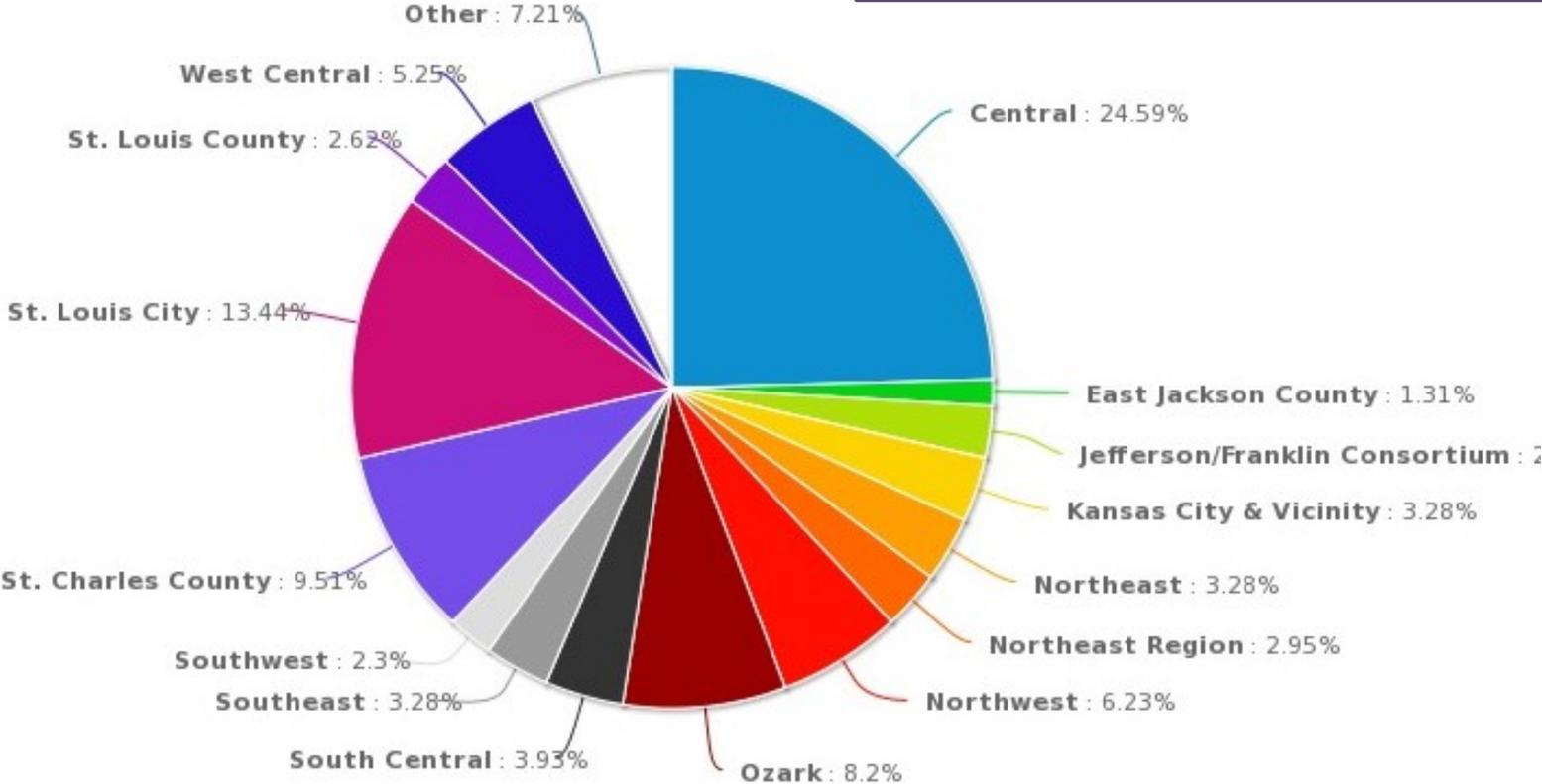
THANK YOU

If there is something you feel we did not address - or anything else you would like us to know, please use the space below.

SURVEY HIGHLIGHTS

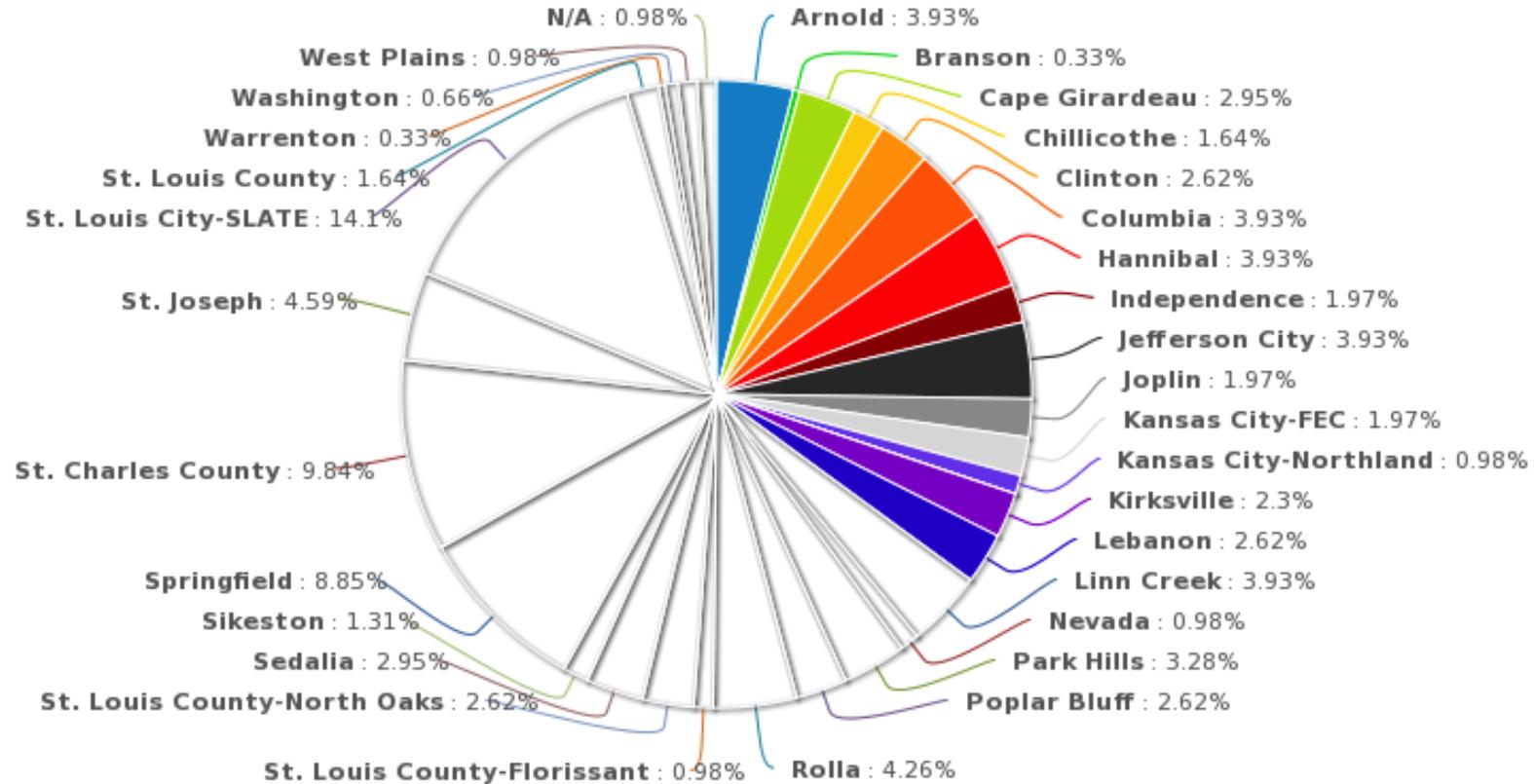
REGION

- 451 unique views
- 67.8% conversion rate (306)



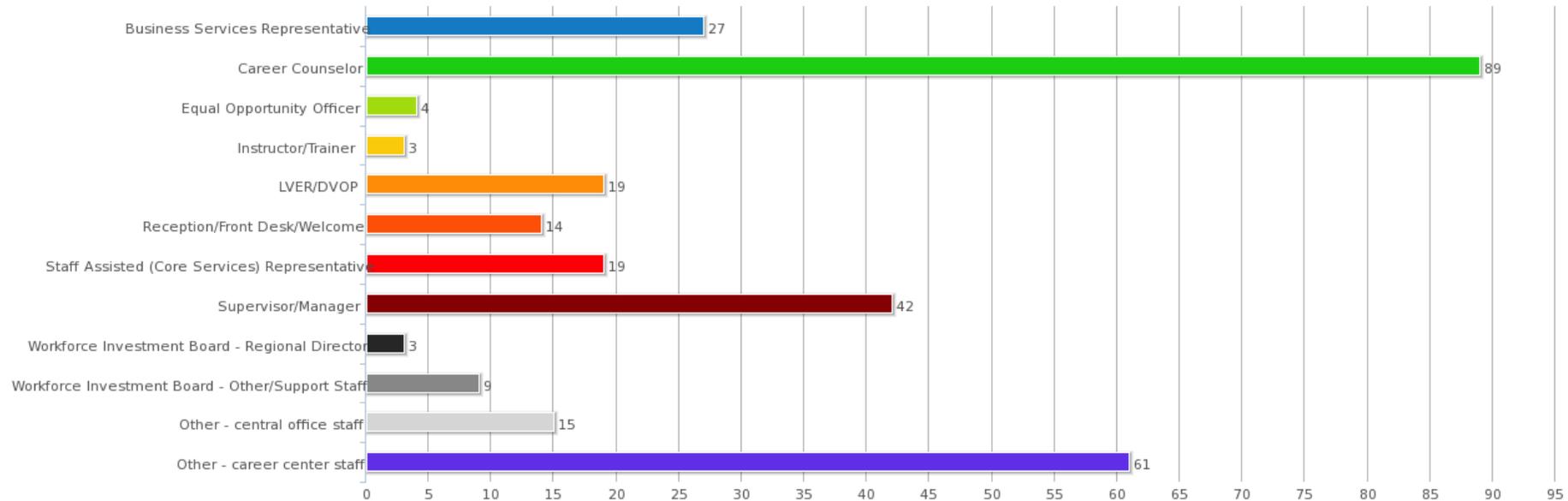
SURVEY RESULTS

CAREER CENTER LOCATION



SURVEY RESULTS

CURRENT DUTIES



- 89% full-time in career center (5 days/week)
- 6% 1-4 days in career center
- 5% less than 1 day per week



SURVEY COMMENTS

REGIONAL OVERLAP AND COMMON THEMES

- ▶ Training (in person whenever possible)
 - ▶ *One comment made about a recent training (transgender population) that was very on point.*
- ▶ EO Tagline on all material
 - ▶ *Tagline can be overlooked. Suggested bold type, different color or font size to make it stand out).*
- ▶ Challenges
- ▶ Ideas and Suggestions

MOVING FORWARD

Next Steps for the State of Missouri

- ▶ Get real-time “Customer Perceptions”
 - ▶ Target all job seekers and employers who have accessed the workforce center in the past 6 months
- ▶ Case notes
 - ▶ Policy and training
- ▶ Additional training
 - ▶ Hidden disabilities



A LOCAL EXAMPLE

- ▶ Accommodation for Success
 - ▶ Half-day conference (no fee)
 - ▶ Targeted employers
 - ▶ Break-out sessions (employer-focused topics) offered by local community partners
 - ▶ Recruiting etiquette
 - ▶ Sourcing to Find Talent
 - ▶ Accommodations & Assistive Technology
 - ▶ Tax Credits



MESSAGING FROM THE MAYOR AND THE WIB

- ▶ Why should the business community attend?
 - ▶ **Mayor Francis G. Slay:** *“The business community has made great strides in integrating persons with disabilities into the workplace. However, every place of business can benefit substantially from the advice and resources that will be available at this event.”*
 - ▶ **SLATE Executive Director Michael Holmes:** *“Accommodation for Success is designed to provide practical advice on ways to diversify the workplace and ensure that everyone has the means to participate in the workforce.”*

WIOA From a Disability Perspective

SECTION 188 QUESTION & ANSWER PANEL



SECTION 188 PANEL: QUESTION 1

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



SECTION 188 PANEL: QUESTION 2

- ▶ How can the Guide be used to inform the development of state and local plans under WIOA? How can the Guide be used to inform professional development efforts?



SECTION 188 PANEL: QUESTION 3

- ▶ How has the process of using the 188 guide served as a proactive tool to examine not only disability issues but equal opportunity and equal access in the AJCs?



SECTION 188 PANEL: QUESTION 4

- ▶ How did the idea for the Accommodation for Success conference come about – and what did you learn from the event that might help other states considering employer engagement activities?



SECTION 188 PANEL: QUESTION 5

- ▶ What is the role of the state and local Workforce Development Boards to evaluate Section 188 implementation to improve access and equal opportunity for youth and adults with disabilities?



SECTION 188 PANEL: QUESTION 6

- ▶ What advice do you have to help other states replicate the Missouri Equal Opportunity Practice Network



SECTION 188 PANEL: QUESTION 6

- ▶ 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 7

- ▶ 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 8

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

WIOA From a Disability Perspective

FINAL THOUGHTS

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 - ▶ Elizabeth Jennings, Asst. Project Director, ejennings@ndi-inc.org
 - ▶ Brittany Taylor, Project Coordinator, btaylor@ndi-inc.org