

What You Need to Know about Section 188: Individuals with Disabilities

Presented by the U.S. Department of Labor, Civil Rights Center

Agenda

- Quick Overview of Disability Provisions in Section 188 Regulations
- WIOA from a Disability Perspective
- Section 188 Disability Reference Guide
 - Promising Practices: Recurrent Themes
 - *NEW* Promising Practices Involving EOO
- Q&A/Discussion

Speakers

Lee Perselay

Senior Policy Advisor
Civil Rights Center
US Department of Labor

Christopher Button

Supervisory Policy Advisor, Workforce System Policy
Office of Disability Employment Policy
US Department of Labor

Speakers

Jamie Robinson

Manager, Financial Empowerment & Workforce

LEAD Center

National Disability Institute

Section 188 Regulation Overview

- CRC is responsible for the 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).

Section 188 Regulation Overview

- CRC is responsible for the 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, as well as those by one-stop partners listed in §121(b) of WIOA.
- 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.

Section 188 Regulation – Disability Provisions

- The Rule's requirements concerning individuals with disabilities generally parallel the requirements under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act.
- Programs and activities operated by one-stops and one-stop partners must be accessible to, and useable by, individuals with disabilities.

§188 Regulation – Prohibited Disability Discrimination

- Denying a qualified individual with a disability the opportunity to participate in or benefit from aid/benefit/service/training.
- Providing a qualified individual with a disability with aid/benefit/service/training that is not equal to what is offered to other or that is not as effective.
- Requiring a qualified individual with a disability to attend different, segregated, or separate programs or activities.
- Remember, programs and activities must be administered in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

§188 Regulation – Specific Disability Requirements

- Reasonable Accommodations
- Reasonable Modifications
- Auxiliary Aids and Services
- Accessible Electronic and Information Technology
- Programmatic Accessibility

§188 Regulation – Reasonable Accommodations

- A recipient must provide **reasonable accommodations** to qualified individuals with disabilities unless providing the accommodation would cause undue hardship.
- A reasonable accommodation is a modification or adjustment that enables a qualified individual with a disability to participate in a program or activity, or to perform the essential functions of a job.

§188 Regulation – Reasonable Modifications

- A recipient must make **reasonable modifications** in policies, practices, or procedures where the modifications are necessary to avoid discrimination, unless making the modifications would fundamentally alter the nature of the service, program, or activity.

§188 Regulation – Auxiliary Aids and Services

- A recipient must:
 - Take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others.
 - Furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities an equal opportunity to participate in/enjoy the benefits of a service, program, or activity.

§188 Regulation – Auxiliary Aids and Services

- In determining what types of auxiliary aids and services are necessary, the recipient must give primary consideration to the requests of individuals with disabilities.

§188 Regulation – Electronic and Information Technology

- When developing, procuring, maintaining, or using electronic and information technology, a recipient must use technology, applications, or adaptations which:
 - Incorporate accessibility features;
 - Are consistent with modern accessibility standards; and
 - Provide individuals with disabilities access to, and use of, information, resources, programs, and activities that are fully accessible, or ensure that the opportunities and benefits are provided in an equally effective and equally integrated manner.

§188 Regulation – Programmatic Accessibility

- Programmatic accessibility means:
 - Providing reasonable accommodations;
 - Making reasonable modifications in policies, practices, or procedures;
 - Administering programs in the most integrated setting appropriate;
 - Communicating with persons with disabilities as effectively as others, including providing appropriate auxiliary aids or services.

§188 Regulation – Resources

- The Section 188 regulations are 29 CFR part 38.
- They can be found through the links on our website:
www.dol.gov/crc.
- Questions and requests for technical assistance can be sent to: civilrightscenter@dol.gov

Section 188 Disability Reference Guide

- On July 6, 2015, the Department of Labor 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 relate to the nondiscrimination (equal opportunity) and affirmative outreach (previously “universal access”) requirements of Section 188:
 - 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.
- The Guide is currently being updated and digitalized.

Section 188 Disability Reference Guide

PART I: PROMISING PRACTICES

- Section 1: Universal Access to Programs/Activities
- Section 2: Equal Opportunity
- Section 3: Implementing Universal Access & Equal Opportunity

PART II: DISABILITY EQUAL OPPORTUNITY REGULATIONS

- Section 1: Universal Access to Programs/Activities
- Section 2: Equal Opportunity
- Section 3: Implementing Universal Access & Equal Opportunity

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
- Requires
 - ✓ 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 3 - 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

188 Guide:

NEW Promising Practices Involving EOO

➤ **Recommended Actions for EOOs**

- Charge S/LWIBs & AJCs to develop strategic outreach plans
- Facilitate statewide surveying of workforce system
- Identify staff training needs
- Examine experiences of customers with disabilities
- Review reasonable accommodation policies/procedures
- Evaluate accessibility & assistive technology
- Ensure understanding of Asking/Telling/Using/Storing disability-related information
- Review Case Note policies to ensure confidentiality

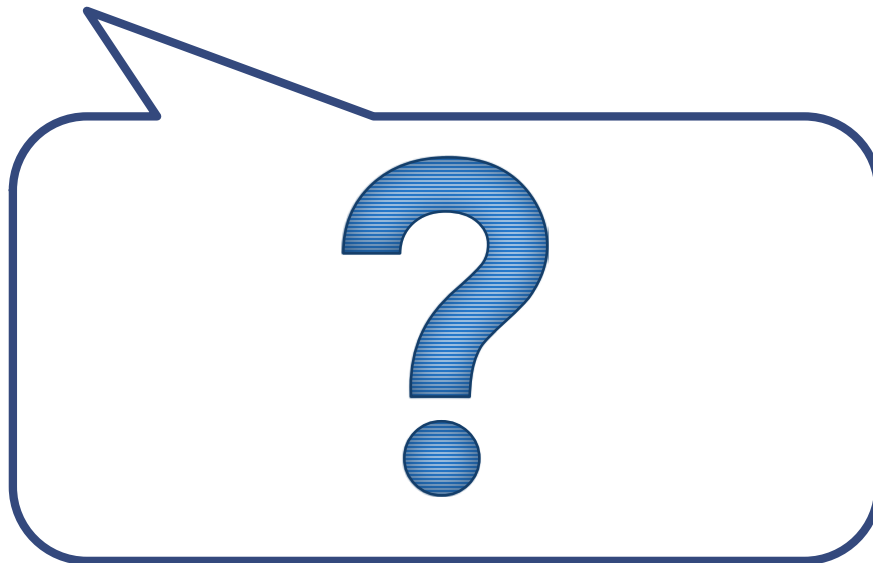
188 Guide:

NEW Promising Practices Involving EOO

➤ **Collaboration between EOOs, Workforce & Partners**

- Promote Local EOO engagement with AJCs/partners
- Strengthen partnership with VR in Section 188 activities
- Initiate cross training with diverse disability partners
- Partner with state/local disability-employment initiatives
- Assign hands-on activities for AJCs to learn by practice
- Participate in cross partner committees to ensure 188 alignment
 - Policy reviews
 - Training Development
 - AJC Certification procedures

Any Questions?



Implementing Section 188: Lessons Learned

- 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
 - LinkedIn: linkedin.com/groups/LEAD-Center-4828089
 - YouTube: <https://www.youtube.com/user/LEADCtr>
- Contact us:
 - Rebecca Salon, Project Director, rsalon@ndi-inc.org
 - Aramide Awosika, Project Coordinator, aawosika@ndi-inc.org

Contact Information

For questions regarding the information in presentation, send an email to*:

DOL.WIOA@dol.gov

*Please use *Special Session: What You Need to Know About Section 188: Individuals with Disabilities* as the subject line.



Thank you!