


EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION OWI
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ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 05-23

TO: AMERICAN JOB CENTERS
STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
STATE AND LOCAL EQUAL OPPORTUNITY OFFICERS
STATE LABOR COMMISSIONERS
WORKFORCE INNOVATION AND OPPORTUNITY ACT SECTION 166
INDIAN AND NATIVE AMERICAN GRANTEES
WORKFORCE INNOVATION AND OPPORTUNITY ACT SECTION 167
MIGRANT AND SEASONAL FARMWORKER JOBS PROGRAM
GRANTEES
SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM GRANTEES
JOB CORPS CONTRACTORS
RECIPIENTS OF DEPARTMENT OF LABOR FINANCIAL ASSISTANCE
SUB-RECIPIENTS OF DEPARTMENT OF LABOR FINANCIAL
ASSISTANCE

FROM: BRENT PARTON 
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Employment and Training Administration
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NAOMI BARRY-PÉREZ
Director
Civil Rights Center

SUBJECT: Complying with Nondiscrimination Requirements: Discrimination Based on Actual or Perceived Religion, Shared Ancestry, or Ethnic Characteristics are Prohibited Forms of Discrimination in the Workforce Development System

- Purpose.** The purpose of this Training and Employment Guidance Letter (TEGL) is to provide information to the public workforce system and other entities that receive federal financial assistance under Title I of the Workforce Innovation and Opportunity Act (WIOA), as well as education and training programs or activities receiving Department of Labor (DOL) financial assistance, regarding the prohibition on discrimination based on actual or perceived religion, shared ancestry, or ethnic characteristics.
- Action Requested.** DOL is requesting that American Job Centers and other recipients of federal financial assistance in the public workforce system take the following actions:

RESCISSIONS None	EXPIRATION DATE Continuing
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- a. American Job Centers and other recipients of federal financial assistance in the public workforce system should use Attachment I when reviewing their existing policies and procedures and should make any changes necessary to implement protections from discrimination under Title VI of the Civil Rights Act of 1964 (Title VI), protections from discrimination under Section 188 of WIOA, and religious accommodations under Section 188 of WIOA.
- b. Equal Opportunity (EO) Officers should carefully investigate complaints by customers or employees alleging discrimination based on actual or perceived religion, shared ancestry, or ethnic characteristics to determine whether discrimination prohibited under Title VI or Section 188 of WIOA has occurred, as discussed in the Attachment.

3. Summary and Background.

- a. Summary – This TEG and the related attachment explain the legal authorities for the prohibitions, give some examples that may be prohibited discrimination, and suggest ways to prevent, identify and address discrimination.
- b. Background - The United States has recently experienced an alarming increase in acts of hatred based on religion. These incidents happen in public, at schools and in the workplace. It is important to ensure that all people, regardless of their race, color, religion, national origin, or other protected characteristics, have full access to the services provided by the public workforce system, to help overcome barriers they may encounter.

4. Nondiscrimination Requirements. The nondiscrimination provisions that apply to recipients of federal financial assistance, including recipients in the public workforce system, prohibit discrimination on the basis of religion, race, color, and national origin, among other bases.

- a. WIOA, 29 U.S.C. § 3101 *et seq.*, is the key source of federal financial assistance for state and local workforce development activities. Religion is an explicitly protected basis under WIOA. Section 188 of WIOA states that “[n]o individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity” on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, among other bases. 29 U.S.C. § 3248(a)(2). The regulations implementing this provision are administered and enforced by the Department of Labor’s Civil Rights Center (CRC). 29 C.F.R. § 38.20.

The WIOA nondiscrimination regulations prohibit recipients from using standards, procedures, criteria, or administrative methods that subject individuals to discrimination on a prohibited basis due to the recipient’s administration of programs or activities providing aid, benefits, services, training, or facilities. 29 C.F.R. § 38.6.

The WIOA regulations also provide that recipients must accommodate an individual's religious practices or beliefs unless doing so would result in "undue hardship" to the recipient. *See* 29 C.F.R. § 38.6(c)(2). *See also Groff v. DeJoy*, 600 U.S. 447 (2023).

These obligations apply to recipients of WIOA Title I funding and programs and activities that are part of the public workforce system and are operated by American Job Center partners, to the extent the programs are being conducted as part of the one-stop delivery system. 29 C.F.R. § 38.2(a)(2).

Under the Wagner-Peyser Act regulations, states are required to assure that "no individual be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration or in connection with any services or activities authorized under the Wagner-Peyser Act in violation of any applicable nondiscrimination law." 20 C.F.R. § 652.8(j)(1). In addition, the Wagner-Peyser Act regulations specifically require states to "[a]ssure that discriminatory job orders will not be accepted, except where the stated requirement is a bona fide occupational qualification (BFOQ)." 20 C.F.R. § 652.8(j)(2).

- b. Title VI, 42 U.S.C. § 2000d *et seq.*, applies to all programs or activities receiving federal financial assistance, including, but not limited to, the entities referred to in this TEGL that receive financial assistance under WIOA and/or the Wagner-Peyser Act. Title VI and its implementing regulations prohibit any program or activity receiving federal financial assistance from excluding from participation in or denying the benefits of the program, or otherwise subjecting anyone to discrimination, on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Though Title VI does not expressly protect individuals from discrimination based solely on religion (*i.e.*, religious beliefs, observances, or practices), its prohibition on discrimination based on race, color, or national origin includes discrimination (including harassment) based on actual or perceived: (i) shared ancestry or ethnic characteristics; or (ii) citizenship or residency in a country with a dominant religion or distinct religious identity.

As a condition of initiating or continuing federal financial assistance, under 29 C.F.R. § 31.6(a) and (b), recipients must provide assurances that "the program will be conducted or the facility operated in compliance with all requirements imposed by" the Department's Title VI regulations. In addition, under the Department's Title VI regulations, the "selection, and referral of individuals for job openings or training opportunities and all other activities performed by or through employment service offices" must be done without regard to race, color, or national origin. 29 C.F.R. § 31.3(d)(1)(i).

5. **Inquiries**. Inquiries about civil rights issues in the public workforce system should be addressed to CRC, by phone at 202-693-6502 (voice) or by e-mail at CivilRightsCenter@dol.gov. Individuals who are deaf, hard of hearing, or have a speech-related impairment may dial 7-1-1 to access telecommunications relay services.

Complaints alleging discrimination by entities in the system may be filed with CRC by postal mail, e-mail, or fax, addressed to Director, Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N4123, Washington, DC 20210, CRCEXternalComplaints@dol.gov, 202-693-6505 (fax). Further information about the discrimination complaint process is available on CRC's website at <http://www.dol.gov/oasam/programs/crc/external-enforc-complaints.htm>.

6. References.

- WIOA. 29 U.S.C. § 3248 *et seq.*
- WIOA nondiscrimination regulations. 29 C.F.R. § 38.6
- Wagner-Peyser Act regulations. 20 C.F.R. § 652.8(j)
- Title VI. 42 U.S.C. § 2000d *et seq.*
- Nondiscrimination in federally assisted programs of the Department of Labor—effectuation of Title VI. 29 C.F.R. Part 31
- *Groff v. DeJoy*,

7. Attachment.

- Fact sheet: *Protecting Individuals from Discrimination Based on Actual or Perceived Religion, Shared Ancestry, or Ethnic Characteristics*



FACT SHEET: Protecting Individuals from Discrimination Based on Actual or Perceived Religion, Shared Ancestry, or Ethnic Characteristics

The Department of Labor (DOL) Civil Rights Center's (CRC) Role:

CRC promotes equal opportunity by assessing, investigating, and adjudicating discrimination complaints and conducting compliance reviews to administer and enforce equal opportunity laws. CRC enforces several laws that protect individuals from discrimination, including Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, *et seq.*, and its implementing regulations at 29 C.F.R. Part 31; and Section 188 of the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. § 3248, and its implementing regulations at 29 C.F.R. Part 38. This fact sheet describes ways these protections cover individuals who are or are perceived to be Jewish, Christian, Muslim, Sikh, Hindu, Buddhist, or of another religious group.

Protection from Discrimination under Title VI:

Title VI applies to recipients of federal financial assistance, including grantees under programs administered by DOL agencies such as the Mine Safety and Health Administration (MSHA), the Occupational Safety and Health Administration (OSHA), the Veterans' Employment and Training Service (VETS), and the Employment & Training Administration (ETA).

Title VI prohibits discrimination based on race, color, or national origin, which includes discrimination (including harassment) based on actual or perceived: (i) shared ancestry or ethnic characteristics; and (ii) citizenship or residency in a country with a dominant religion or distinct religious identity. Although Title VI does not expressly protect individuals from discrimination based solely on

religion (*i.e.*, religious beliefs, observances, or practices), discrimination against individuals of any religion may constitute discrimination based on race, color, or national origin when it involves or is based on, for example:

- racial, ethnic, or ancestral slurs or stereotypes;
- a person's appearance, including their skin color, physical features, or style of dress that reflects both ethnic and religious traditions or heritage;
- a person's foreign accent or foreign name (including names commonly associated with particular shared ancestry or ethnic characteristics); or
- the fact that a person speaks a language other than English, such as Hebrew or Arabic.

Protection from Discrimination under Section 188 of WIOA:

Section 188 of WIOA applies to recipients of federal funds under WIOA Title I, including, for instance, state workforce agencies, one-stop operators or American Job Centers (AJC), On-the-Job Training employers, and Job Corps contractors and center operators. *See* 29 C.F.R. § 38.4(zz).

Like Title VI, Section 188 of WIOA prohibits discrimination based on race, color, or national origin. In addition, Section 188 prohibits discrimination based on religion in connection with WIOA Title I-funded programs and activities. In the context of covered programs or activities, this prohibition includes, for instance, denying or limiting an individual with respect to any opportunity to participate; subjecting an individual to segregation or separate treatment; treating an individual differently from others in determining whether they satisfy any eligibility or other requirements; or providing an individual with any aid, benefit, service, or training that is different or provided in a different manner from that provided to others. *See* 29 C.F.R. § 38.6(b).

WIOA regulations also explicitly prohibit harassment based on religion, including, in certain circumstances, offensive remarks about a person's religion or other unwelcome verbal or physical conduct based on religion. *See* 29 C.F.R. § 38.10.

Religious Accommodations under Section 188 of WIOA:

WIOA regulations provide that covered entities must not refuse to accommodate an individual's religious practices or beliefs unless doing so would result in "undue hardship." *See* 29 C.F.R. § 38.6(c)(2). Religious accommodation requests can involve, *e.g.*, schedule changes or leave for religious observances, exemptions from or modifications to uniform, dress, or grooming requirements that conflict with religious practices, or providing a quiet area for prayer during break time.

Who is protected?

As noted above, Title VI and WIOA Section 188 protect individuals (including, but not limited to beneficiaries, applicants, and participants) of all religions, including, but not limited to, Jewish, Christian, Muslim, Sikh, Hindu, and Buddhist individuals, from discrimination based on race, color, or national origin. Additionally, protection from religious discrimination under WIOA Section 188 extends not only to people who belong to traditional, organized religions, but also to others who have sincerely held religious, ethical or moral beliefs.

Examples of incidents that could, depending on the circumstances, raise Title VI and/or WIOA Section 188 concerns:

A Catholic employee requests a schedule change from his On-the-Job Training employer so that he can attend a church service on Good Friday. The employer refuses, even though there is another qualified employee available to cover the shift.

An Arabic-speaking woman calls her state workforce agency to request assistance, but the agency representative she speaks to ends the call abruptly because she assumes the woman is Muslim and believes the woman's Muslim faith and strong accent will make it impossible for her to find work.

A clerk working for a DOL grantee that provides services to veterans with disabilities refuses to process the application of a Jewish applicant because she believes Jewish people don't need financial help and preference should be given to other applicants.

A woman who practices Haitian Vodou tells her career counselor at a covered reentry program that she is interested in pursuing a career as a certified nurse assistant (CNA). The counselor discourages her and refuses to connect her with training resources, stating that since she "believes in magic," she is not suited for a career in medicine.

A participant in a covered job training program reports to her instructor that she heard another participant making jokes about the Holocaust during an orientation event, and later, saw him drawing swastikas and other antisemitic graffiti on the stalls of a shared bathroom. The job training program staff orders the graffiti removed but takes no further action.

A Rastafarian individual, who styles their hair in observance of their religious beliefs, is denied an opportunity to submit an application to enroll in a career training program. The admissions counselor impermissibly assumes that this applicant presents in an unprofessional manner which might discourage prospective employers from hiring them upon completion of the career training program.

A Sikh young adult participating in a covered career transition program is questioned at length by a staff member who does not recognize him and perceives him as a security threat due to his religiously mandated beard and turban. The staff member demands to

know where the young man is from and what his religious background is, refusing to allow him to begin the program until his supervisor intervenes.

What can a person do if they experience discrimination based on religion, shared ancestry, or ethnic characteristics?

Anyone who believes that discriminatory actions have been taken by a covered entity may file a complaint with CRC. For more information about filing a complaint, please visit www.dol.gov/oasam/programs/crc/external-enforc-complaints.htm.

For assistance and additional resources, please visit CRC's homepage at www.dol.gov/oasam/programs/crc/, or contact CRC by phone at 202-693-6502 or by email at CRCEXternalComplaints@dol.gov. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

Please note that this resource does not have the force and effect of law. CRC's enforcement of Title VI and WIOA stems from these statutes and their implementing regulations.