

TRAINING AND EMPLOYMENT NOTICE	NO. 1-15
	DATE July 6, 2015

TO: ONE-STOP CAREER 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

FROM: PORTIA WU /s/
Assistant Secretary
Employment and Training Administration

NAOMI BARRY-PEREZ /s/
Director
Civil Rights Center

JENNIFER SHEEHY by BRYAN BALLMANN /s/
Acting Assistant Secretary
Office of Disability Employment Policy

SUBJECT: Promising Practices in Achieving Universal Access and Equal Opportunity:
A Section 188 Disability Reference Guide

1. Purpose. To provide updated information and technical assistance to the public workforce investment system in meeting their nondiscrimination and universal access obligations for individuals with disabilities.

2. References.

- Workforce Investment Act of 1998, Section 188, 29 U.S.C. § 2938, and its relevant implementing regulations:
 - 29 CFR § 37.7 (discrimination against individuals with disabilities prohibited)
 - 29 CFR § 37.8 (recipient’s responsibilities regarding reasonable accommodation and reasonable modification for individuals with disabilities)
 - 29 CFR § 37.9 (recipient’s responsibilities to communicate with individuals with disabilities)
 - 29 CFR § 37.42 (recipient’s responsibility to provide universal access to WIA Title I-financially assisted programs and activities)
- Workforce Innovation and Opportunity Act, Section 188, 29 U.S.C. § 3248 (nondiscrimination by recipients of federal financial assistance under WIOA)

- Workforce Investment Act Notice, State Guidance for Developing Methods of Administration (MOA) Required by Regulations Implementing Section 188 of the Workforce Investment Act of 1998 [65 Fed. Reg. 51985-51989 (August 25, 2000)]
- WIA Section 188 Disability Checklist (July 22, 2003) available at <http://www.dol.gov/oasam/programs/crc/WIASection188DisabilityChecklist.htm>

3. Background. Section 188 of the Workforce Investment Act of 1998 (WIA) prohibits discrimination against individuals who apply to, participate in, work for, or come into contact with programs and activities that receive certain forms of financial assistance from DOL, or, under certain circumstances, from other Federal agencies. Section 188 prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, among other bases. Section 188 also requires that reasonable accommodations be provided to qualified individuals with disabilities in certain circumstances. 29 U.S.C. § 2938(a)(2). On July 22, 2014, President Obama signed the Workforce Innovation and Opportunity Act (WIOA) into law. In general, WIOA takes effect in July 2015, and supersedes WIA. Section 188 of WIOA contains provisions identical to those in Section 188 of WIA.

Section 188 of WIA and its implementing regulations, as well as Section 188 of WIOA, require, among other things, that the one-stop system (also known as the American Job Center network) ensure equal opportunity and access for individuals with disabilities. The relevant WIA regulations include:

- 29 CFR § 37.7 (prohibiting discriminatory actions based on disability)
- 29 CFR § 37.8 (requiring recipients to provide reasonable accommodations and reasonable modifications for individuals with disabilities)
- 29 CFR § 37.9 (recipient’s responsibilities to communicate with individuals with disabilities)
- 29 CFR § 37.42 (requiring recipients to take appropriate steps to ensure that they are providing universal access to their WIA Title I financially assisted programs and activities)

The Department anticipates issuing regulations for WIOA Title I financially assisted programs and activities implementing WIOA Section 188 in the near future. Until that time, the Section 188 regulations currently at 29 CFR part 37 continue to apply.

In 2003, the Civil Rights Center (CRC), the Employment and Training Administration (ETA), and the Office of Disability Employment Policy (ODEP) released the *WIA Section 188 Disability Checklist* (“Checklist”). The Checklist was designed to help ensure meaningful participation by individuals with disabilities in the one-stop system.

CRC, ETA and ODEP now are issuing *Promising Practices in Achieving Universal Access and Equal Opportunity: A Section 188 Disability Reference Guide* (Reference Guide) to provide updated information and technical assistance to the one-stop system in meeting their nondiscrimination and universal access obligations for individuals with disabilities. The

Reference Guide can be found at the CRC website at <http://www.dol.gov/oasam/programs/crc/188Guide.htm>.

4. The Promising Practices Guide. The Reference Guide provides promising practices that correlate with the nondiscrimination and universal access requirements of Section 188¹ and its implementing regulations for individuals with disabilities. While this document is focused on the One Stop system, anyone working to ensure universal access and equal opportunity for individuals with disabilities in the workforce development system may use it as a resource document, including Governors, State Administrators, State Workforce Agencies, Equal Opportunity Officers, and State and Local Workforce Development Agencies.

The Reference Guide does not create new legal requirements or change current legal requirements. Rather, it contains examples of policies, procedures and other steps that one-stop Career Centers/American Job Centers may implement to increase equal opportunity and universal access to programs and services under WIA/WIOA for individuals with disabilities. These promising practices are not necessarily mandatory in every case under Section 188 or the regulations. Moreover, descriptions of approaches in this document should not be construed to preclude states and WIA/WIOA Title I grant recipients from devising alternative approaches to meeting and even exceeding their legal obligations. Finally, adoption of the promising practices in the Reference Guide will not guarantee compliance.

CRC, ETA, and ODEP will continue to issue technical guidance to help one-stop centers comply with their obligations under Section 188.

5. Inquiries. For further information, contact the Civil Rights Center (<http://www.dol.gov/oasam/programs/crc/index.htm>) by calling (202) 693-6500, by fax (202) 693-6505, by relay (800) 877-8339, or by e-mailing CivilRightsCenter@dol.gov.

¹ While the Reference Guide provides citations to the current regulations issued pursuant to Section 188 of WIA, we anticipate that the promising practices contained in the Reference Guide will remain relevant and useful for the one-stop system under the forthcoming WIOA regulations.