

TRAINING AND EMPLOYMENT NOTICE	NO. 20-16
	DATE December 2, 2016

TO: ALL ETA GRANTEES
STATE APPRENTICESHIP AGENCIES
STATE LABOR COMMISSIONERS
STATE LABOR MARKET INFORMATION DIRECTORS
STATE MONITOR ADVOCATES
STATE UNEMPLOYMENT INSURANCE DIRECTORS
STATE DIRECTORS OF VETERANS EMPLOYMENT AND TRAINING
STATE VETERANS AFFAIRS AGENCY DIRECTORS
STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
STATE WORKFORCE INNOVATION AND OPPORTUNITY ACT LIAISONS
STATE WORKFORCE AGENCIES ADMINISTRATORS
STATE WORKFORCE AGENCY EQUAL OPPORTUNITY OFFICERS
STATE WORKFORCE ADMINISTRATORS UNEMPLOYMENT INSURANCE
STATE WORKFORCE ADMINISTRATORS WORKFORCE INNOVATION
AND OPPORTUNITY ACT
STATE WORKFORCE ADMINISTRATORS WAGNER-PEYSER
STATE WORKFORCE AGENCY VETERANS COORDINATORS
WORKFORCE DEVELOPMENT BOARD STATE CHAIRS
WORKFORCE DEVELOPMENT BOARD STATE EXECUTIVE DIRECTORS
WORKFORCE DEVELOPMENT BOARD LOCAL EXECUTIVE DIRECTORS
WORKFORCE DEVELOPMENT BOARD LOCAL CHAIRS
AFFILIATE AMERICAN JOB CENTER MANAGERS
COMPREHENSIVE AMERICAN JOB CENTER MANAGERS
NATIONAL FARMWORKER JOBS PROGRAM GRANTEES
INDIAN AND NATIVE AMERICAN GRANTEES
YOUTHBUILD GRANTEES
SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM GRANTEES
JOB CORPS CONTRACTORS
RAPID RESPONSE CONTACTS

FROM: NAOMI BARRY-PEREZ /s/
Director
Civil Rights Center

PORTIA WU /s/
Assistant Secretary
Employment and Training Administration

SUBJECT: Announcing the publication and effective date of the *Section 188 WIOA Nondiscrimination and Equal Opportunity Regulations (29 CFR Part 38) Final Rule* in the Federal Register

1. **Purpose.** To announce the publication and effective date of the *Section 188 WIOA Nondiscrimination and Equal Opportunity Regulations (29 CFR Part 38) Final Rule* in the Federal Register on December 2, 2016, effective January 3, 2017.
2. **References.**
 - Section 188 of the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113-128) and its implementing regulations at 29 CFR part 38.
3. **Background.** The U.S. Department of Labor’s Civil Rights Center (CRC) enforces Section 188 of WIOA. Signed by President Obama on July 22, 2014, WIOA superseded the Workforce Investment Act (WIA) as the Department’s primary mechanism for providing financial assistance for a comprehensive system of job training and placement services for adults and eligible youth. Section 188 prohibits discrimination against individuals in any program or activity that receives financial assistance under Title I of WIOA as well as by the one-stop partners listed in WIOA Section 121(b) that offer programs or activities through the one-stop/American Job Center system. Section 188 prohibits discrimination because of race, color, religion, sex, national origin, age, disability, political affiliation or belief, or, for beneficiaries, applicants, and participants only, citizenship status or because of an individual’s participation in a program or activity that receives financial assistance under Title I of WIOA.

In order to fulfill the statutory deadline to implement Section 188 of WIOA and avoid a gap in coverage, CRC issued a final rule creating 29 CFR part 38, on July 23, 2015, that contained only technical amendments to 29 CFR part 37 (changing references from “WIA” to “WIOA”). On January 26, 2016, CRC issued a Notice of Proposed Rulemaking (NPRM) to update the part 38 regulations (81 FR 4494). This Final Rule reflects changes made resulting from public comments on that NPRM.

4. **Section 188 Final Rule Publication and Effective Date.** WIOA requires the Department to issue regulations to implement Section 188, the provisions that require equal opportunity and nondiscrimination in the workforce system. The CRC administers these nondiscrimination provisions.

The final rule contains substantive changes necessary to address developments in equal opportunity and nondiscrimination law since 1999, when the part 37 regulations were issued originally. However, while the rule makes many substantive changes since 1999, the final rule does not impose significant new obligations on recipients. The rule’s updated provisions generally reflect obligations already imposed by changes to other nondiscrimination and equal opportunity laws that expanded, for example, protections against unlawful discrimination on the basis of disability, national origin (including limited English proficiency), and sex. This rule will ensure recipients understand how their obligations in this regard have changed over the past 17 years. The final rule also includes updates reflecting changes in the increased use of online service delivery models in the workforce development system since 1999.

The update ensures the entire workforce system is aware of current equal opportunity rights and responsibilities of beneficiaries and recipients. This regulation will also increase equality of opportunity for millions of job seekers, training participants, program beneficiaries, and recipients' employees by allowing them to participate or work in programs and activities free from unlawful discrimination. The final rule safeguards access to the system in particular for people with disabilities, people with limited English proficiency, transgender individuals who may face various forms of sex discrimination, and individuals who are pregnant, have had a child, or have related medical conditions.

The effective date of the final rule is January 3, 2017.

To view this final rule, please visit

<https://www.gpo.gov/fdsys/pkg/FR-2016-12-02/pdf/2016-27737.pdf>.

Other information, including Frequently Asked Questions, a fact sheet, and translations of these documents into 10 languages, can be found on the CRC's Web site at

<https://www.dol.gov/crc/188rule/>.

- 5. Technical Assistance.** CRC will continue to develop technical assistance to support the workforce system and all impacted entities as they work to meet the requirements of these regulations. Webinars for targeted audiences will be scheduled for December, 2016, as part of the initial roll-out. For more information and updates, please continue to visit CRC's Web site at <https://www.dol.gov/crc/188rule/>.

The Innovation Opportunity Network on WorkforceGPS (ION), which features technical assistance on strategies fundamental to WIOA implementation, will also host technical assistance materials specific to the Section 188 regulations as it is available. Visit the ION Community of Practice at <https://ion.workforcegps.org/> to find details on training events and materials for the Section 188 regulations.

- 6. Action Requested.** Please share this information with training providers and other interested stakeholders.
- 7. Inquiries.** Please direct questions to: Civil Rights Center at 202-693-6500, or civilrightscenter@dol.gov.