



Issue 17

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The U.S. Department of Labor's Civil Rights Center Announces Final Rule of Section 188 WIOA Nondiscrimination and Equal Opportunity Regulations (29 CFR Part 38)

The Workforce Innovation and Opportunity Act (WIOA) is the first legislative reform of the public workforce development system in more than 15 years. Section 188 of WIOA prohibits discrimination against individuals who apply to, participate in, work for, or come into contact with programs and activities of the workforce development system, including partners that are part of the American Job Center (AJC) delivery system. Section 188 prohibits discrimination on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, among other bases.

Effective January 3, 2017, the U.S. Department of Labor's Civil Rights Center (CRC) announced the publication of the Final Rule of Section 188 WIOA Nondiscrimination and Equal Opportunity Regulations (29 CFR Part 38). While the Rule has resulted in many substantive changes since 1999, the Final Rule does not impose any significant new obligations on recipients. The update ensures that the entire workforce system is aware of current equal opportunity rights and responsibilities of beneficiaries and recipients, while increasing equal opportunity for millions of job seekers, training participants, program beneficiaries, and recipients' employees in diversified programs and activities free from discrimination. The Final Rule upholds and protects access to the system in particular for people with disabilities by bringing the regulations in line with the Americans with Disabilities Act Amendments Act of 2008 and the implementing regulations and guidance issued by the Department of Justice and the Equal Employment Opportunity Commission. The Rule's updated language affirms that the definition of "disability" will be interpreted broadly, allowing more individuals with disabilities to be effectively served within the workforce development system. The Rule also addresses accessibility requirements.

Read the entire policy brief: [Section 188 of the Workforce Innovation and Opportunity Act \(Nondiscrimination and Equal Opportunity\): Summary Review of the DOL Final Rule, from a Disability Perspective.](#)

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LEAD Center Hosts National Dialogue on Promoting Inclusive Career Pathways

As part of National Disability Employment Awareness (NDEAM) month in October, the LEAD Center hosted a three-week [National Dialogue on Promoting Inclusive Career Pathways](#), in collaboration with the Department of Labor's Office of Disability Employment Policy (ODEP) and ePolicyWorks. The National Dialogue was designed to gather ideas to assist in the development of strategies and practices to promote the full inclusion of people with disabilities, and others who face barriers to employment, in career pathways initiatives. Nearly 300 people participated in the dialogue; 56 new ideas were generated on which people could comment and vote. The LEAD Center plans to include information from the dialogue in materials for an upcoming Policy Roundtable on this topic.

Inclusive career pathways are programs and approaches designed to support people whose career options have been limited because they lack the academic and/or technical skills necessary to complete the credentialing requirements of many key high-demand and high-growth career opportunities. Inclusive approaches bring together employers in key industries with community colleges, disability services partners, government agencies, community partners, and social service agencies to develop and implement strategies for overcoming the workforce barriers faced by people with disabilities, returning citizens, people without a high school diploma and/or little-to-no post-secondary education, English language learners, and others who might require additional support.

The results of this dialogue will support the career and economic advancement of people with disabilities, which will also enable the LEAD Center to disseminate information to promote careers for people whose options may be otherwise limited. The great insights and practices provided by participants, through the LEAD Center National Dialogue, will be used as a foundation to collect additional ideas and develop materials to promote inclusive career pathways initiatives and full workplace inclusion.

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LEAD Center Hosts Multiple Webinars to Promote Employment and Economic Advancement

The LEAD Center continues to provide webinars that offer participants the opportunity to interface with national thought leaders, federal representatives, workforce professionals, and subject matter experts about important issues affecting the disability community. This fall, the LEAD Center hosted two webinars:

Customizing Employment: Success through Partnerships

This webinar was the first in the LEAD Center's new Customized Employment (CE) webinar series, which shares Customized Employment practices that are being successfully implemented in different parts of the country and provides resources to assist participants in replicating Customized Employment approaches. The webinar focused on opportunities and collaborations that enable youth and adults with disabilities, and others who experience barriers to employment, to benefit from Customized Employment strategies. The webinar also highlighted success stories and successful employer engagement strategies.

Competitive Integrated Employment as a Civil Right for People with Disabilities

This webinar featured a panel of presenters from the Department of Justice, Administration for Community Living (ACL), and APSE to present information on the links between competitive integrated employment, civil rights legislation, and law and policy focused on the inclusion of people with disabilities in their communities, including the Americans with Disabilities Act (ADA) and the Supreme Court's Olmstead decision. This webinar provides a thorough overview of the context in which current employment programs are being implemented.

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Assisting Providers and State Systems in Implementing Employment First Practices

In November, LEAD Center posted a Provider Transformation Issue Brief, *Transforming Employment Services from Sheltered Work to Competitive, Integrated Employment for All Job Seekers with Disabilities*, a product of the Office of Disability Employment Policy's (ODEP's) Employment First State Leadership Mentoring Program (EFSLMP). This brief is a useful and

robust resource for providers and state systems on effective practices that have been implemented in different parts of the country to prioritize competitive integrated employment, over non-work and sheltered work options, as part of provider transformation.

This brief details the growing evidence that states such as Iowa and Tennessee, both supported by the EFSLMP, are making great strides in ensuring that any person who wants to work, no matter their disability, can do so.

All states are working to support provider transformation with goals of increasing the number of people with disabilities working in competitive integrated employment and reducing states' reliance on segregated, sub-minimum wage work and non-work activities. To support those efforts, ODEP has articulated criteria for achieving cross-systems change as a pillar of Provider Transformation in its [Criteria for Performance Excellence in Employment First State Systems Change & Provider Transformation](#). In order to achieve these results, top-down systems change strategies, combined with community-based, capacity-building activities, and initiated by key stakeholders, are necessary.

EFSLMP provides training and technical assistance that focuses on the facilitators of cross-systems change that are identified in the brief and that align with the [National Baldrige Model's Criteria for Performance Excellence](#). These include strengthened leadership; assistance in strategic planning; maintaining a focus on customers, the workforce, and operations aligned with the transformation goal; focusing on results; and engaging in ongoing measurement, analysis, and knowledge management.

Four related [Employment First Technical Briefs](#) are posted on the LEAD Center website, as are extensive [Customized Employment](#) and [Workforce Development](#) resources.

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U.S. Department of Justice Releases Further Clarification on How the ADA and Olmstead Apply to Employment Services and Settings

On October 31, the U.S. Department of Justice (DOJ) released further clarification on how the Integration Mandate of Title II of the Americans with Disabilities Act (ADA), and the subsequent *Olmstead v. L.C.* (Olmstead) decision, are to be applied to state and local governments' employment service systems for individual with disabilities.

The ADA and its Title II regulations require public entities to "administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities." The Olmstead decision clarified the intent of Title II by establishing the prohibition of unjustified segregation of individuals with disabilities. Since the signing of the ADA (Title II) and the establishment of the Olmstead decision, the language in both have been predominately applied to residential settings. However, more recently, DOJ, with support of many in the disability community, has begun to apply the ADA's integration mandate and the Olmstead decision to both publicly-funded employment services and settings, and facility-based day

programs.

In an effort to assist state and local governments in ensuring that the employment supports and services they provide to individuals with disabilities are in compliance with the ADA and Olmstead, the DOJ includes a series of answers to questions related to fulfilling their obligation.

These questions include:

- What is the ADA's Title II integration mandate, and how does it apply to state and local governments' employment service systems?
- What is the most integrated setting under the ADA and Olmstead in the context of a state and local government's employment service system?
- How can state and local governments' employment service systems ensure that people with disabilities have access to competitive integrated employment?
- What evidence may a person with a disability rely on to establish that an integrated setting is appropriate for him or her?
- What factors are relevant in determining whether an individual does not oppose receiving services in an integrated employment setting?
- Do the ADA and Olmstead apply to persons at serious risk of segregation in sheltered workshops?
- What remedies address violations of the ADA's integration mandate in the context of disability employment systems?
- What is an Olmstead Plan in the state and local government employment service system context?
- Is the ADA limited to segregation in employment settings when the same individuals are also subject to segregation in other settings during the day, such as facility-based day programs?

For more information, read the [full DOJ publication](#).

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Missouri Workforce Development to Launch New Assessment on Impact of Statewide Section 188 Training

By January 2017, Missouri's Division of Workforce Development staff and management will have participated in a new statewide training series highlighting disability under the Section 188 nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA). With the state's Equal Opportunity Unit as the lead trainer, State Vocational Rehabilitation and the LEAD Center are both providing support and best practices in achieving universal access and equal opportunity for individuals with disabilities.

Through the statewide training, Missouri workforce professionals are having the opportunity to gain a stronger understanding of Section 188 under WIOA, which prohibits discrimination against

individuals who apply to, participate in, work for, or come into contact with programs and activities that receive financial assistance from the U.S. Department of Labor (DOL), including partners of the American Job Centers (AJC) system. Workforce staff are encouraged to view the webinars in a group setting with other workforce professionals, local Equal Opportunity Officers (EOO), and partners, such as Vocational Rehabilitation employees. The training provides best practices that promote equal access for individuals with disabilities from the DOL's [Promising Practices in Achieving Universal Access and Equal Opportunity: A Section 188 Disability Reference Guide](#). The Guide was developed jointly by DOL's Office of Disability Employment Policy (ODEP), Employment and Training Administration (ETA), Civil Rights Center (CRC) and LEAD Center.

As part of the training, workforce professionals and partners are asked to engage in activities to help them build their capacity in serving individuals with disabilities. 'Action Items' include reaching out to disability organizations to identify additional cross collaboration opportunities; exploring the effectiveness of the AJC's reasonable accommodation procedures; and learning more about key local, state, and national resources in disability and access that can be applied within the workforce system. In order to collect findings from both the statewide training and action items, the LEAD Center has supported Missouri's Division of Workforce Development to develop and disseminate a new survey and assessment, which will be administered in 2017. Using everyday language and real life scenarios from Missouri AJCs, the assessment will help to indicate areas of strength and growth for workforce professionals around Section 188 and disability, while also identifying ongoing challenges that need to be addressed.

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Update on LEAD Conference Presentations

The LEAD Center continued to have a presence at national, state, and regional conferences this fall. Presentations focused on sharing emerging best practices in disability policy, as well as tools and resources for workforce and disability service delivery with professionals in the field.

National Association of Workforce Development Professionals (NAWDP) 2016 Youth Development Symposium - October 31 - November 2, 2016 - Chicago, Ill.

LEAD Center staff held a pre-symposium workshop and exhibited at the 2016 Youth Development Symposium hosted by the National Association of Workforce Development Professionals (NAWDP). Dr. Rebecca Salon, LEAD Center Project Director, National Disability Institute; Brittany Taylor, Workforce Engagement Manager, National Disability Institute; Rose Sloan, Policy Advisor, Department of Labor's Office of Disability Employment Policy; and Janet Steveley, Senior Consultant, Griffin-Hammis Associates, facilitated a workshop called *Alternative Assessment Strategies to Open Doors to Employment for Youth: Self-Guided and Group Discovery*. The interactive workshop covered supports and services that are available from formal and informal sources that may support employment outcomes for youth and young

adults who face multiple barriers to employment, including disability.

Facilitators emphasized the areas within WIOA Title I and IV that focuses on working with youth who face barriers to employment. To meet new WIOA requirements, the workshop offered universally designed assessment approaches that guide youth and the people in their lives to identify their unique gifts and talents, discern vocational themes, and build support networks to create pathways to employment and career exploration. These strategies include engaging in Discovery, Guided Group Discovery, and Self-Guided Discovery with youth.

A panel from Medford, Oregon shared lessons learned while piloting the Guided Group Discovery curriculum for transition-aged youth and young adults in Southern Oregon. The panel included: Stephannie Kruglevich, Talent Development Professional, Worksource Rogue Valley; Kari Kingsolver, Vocational Rehabilitation Counselor, Office of Vocational Rehabilitation Services; and Cindy Cameron, Transition Network Facilitator, Southern Oregon Education Service District.

NAWDP is the premier association for workforce professionals from across the country. The 2016 Youth Symposium was the largest gathering of youth-focused workforce professionals to date, with approximately 620 registrants from 42 states, all engaging in networking, improving their skills, learning new strategies, and enhancing their programs.

Association of People Supporting Employment First (APSE) 2016 Regional Institute (November 1-2) - Sacramento, Calif.

On November 2, 2016, LEAD Center Public Policy Co-Chair and National Disability Institute Executive Director, Michael Morris, provided a keynote address and [conference session](#) at the 2016 APSE Regional Institute in Sacramento, Calif. The keynote address and session both focused on changing thinking and behavior and taking practical steps towards changing social and human service delivery models to support financial capability opportunities for people with disabilities.

The theme of the 2016 APSE Regional Institute was *From Workshops to Workplaces: Achieving the Goal of Employment First*. The APSE Regional Institute is designed to help disability service providers build their capacity for supported employment with the goal of enabling people to attain competitive integrated jobs in their communities. The Institute addresses such topics as funding, communicating change with individuals served and families, strategic business planning, staff development, employer outreach, job development, informed choice and employment, and wrap-around services.

Maryland Association of Community Services (MACS) Leadership Conference - November 3, 2016 - Cambridge, Md.

The LEAD Center's Project Director, Rebecca Salon, was invited to present a session on *Successful Employment: Partnering with the Workforce System to Achieve Employment Outcomes* at the MACS 2016 Fall Conference. In this session, participants learned about the partnership opportunities and resources that are available to them through the workforce

system. As Maryland engages in implementing the Workforce Innovation and Opportunity Act (WIOA), it is critical that providers, families, and people with disabilities learn about the many supports and services that are available through the workforce system's American Job Centers (AJCs) and from their partners. The LEAD Center highlighted its work in promoting competitive integrated employment and economic self-sufficiency for people with disabilities, including its Guided Group Discovery pilots. The presentation also discussed the common goals between WIOA and the HCBS Final Setting Rule as they related to employment and control of personal resources.

The Maryland Association of Community Services (MACS) is a private nonprofit organization dedicated to strengthening agencies to better support people with developmental disabilities and their families in their own communities. MACS accomplishes this through advocacy that promotes the highest standards of program excellence; fosters a climate that develops and nurtures a quality workforce; and results in an increased capacity within Maryland communities to support people in inclusive settings.

Maryland Works 9th Annual Employment Awards Program - November 15, 2016 - Baltimore, Md.

LEAD Center Project Director, Dr. Rebecca Salon, was invited to present at the Maryland Works 9th Annual Employment Awards Program on November 15. Dr. Salon presented on the *State of the State: Employment of People with Disabilities*, focusing on the importance of partnerships and leveraging resources across systems. This included a discussion of opportunities created by WIOA to support employment, focus on customized employment, and promote economic advancement outcomes for people with disabilities. Dr. Salon was joined on the panel by Suzanne Page, Assistant State Superintendent of the Division of Rehabilitation Services; Steven Reeder, MD Behavioral Health Administration; and Karen Lee, Executive Director of SEEC and Former MD DDA Fellow.

2016 TASH Annual Conference - November 30-December 2, 2016 - St. Louis, Mo.

For the fourth year, the LEAD Center participated in the national TASH Conference. The LEAD Center added to this professional development and networking event by providing four presentations on strategies to improve the employment and economic advancement of individuals across the spectrum of disability. Attendees reported the information they received from LEAD staff was compelling and timely. The sessions were designed to provide information and strategies to assist participants in building bridges among stakeholders and partners to promote employment, inclusion and economic self-sufficiency for people with significant disabilities. LEAD presentations included:

- *Partnering with the Workforce System: Achieving Employment Outcomes through WIOA* - This session focused on the opportunities created by the Workforce Innovation and Opportunity Act (WIOA) to support employment and economic advancement outcomes for

people with disabilities. The presentation also focused on ways that people with disabilities, providers, and advocates can become involved with WIOA implementation.

- *HCBS Final Rule Implementation Strategies: Control of Personal Resources* – In this session, participants learned about the roles that service providers, families, supporters, and self-advocates can play in strengthening a person’s financial capability. Participants explored opportunities to integrate financial education and empowerment into service planning and delivery, and improve collaboration with non-disability financial capability partners.
- *Creating a Vision for Your Life* – In this session, participants, including self-advocates, explored the important role money and financial planning plays in setting goals and making decisions about achieving personal goals. Participants identified individual goals they had for themselves and explored how to earn, manage, and save to meet those goals. Ricardo Thornton, a self-advocate and Board President of Project ACTION!, shared his success in achieving financial stability.
- *Poverty, Opportunity, and Upward Mobility from a Disability Perspective* – Working-age Americans with disabilities face significant barriers to economic success – low expectations, discrimination, and a complex public support system that often limits employment opportunities and upward mobility. This session explored the current financial state of many Americans with disabilities living in poverty and the avenues and programs that can lead to poverty reduction, financial stability, and upward mobility.

Additionally, the Office of Disability Employment Policy (ODEP) and the Administration for Community Living (ACL) partnered to conduct a collaborative Employment First pre-conference session, *Where the Rubber Hits the Road*, that focused on Person Centered Planning, technological modifications, building and retaining dynamic employment teams and applying knowledge learned in the field to ensure successful competitive integrated employment outcomes.

The TASH Annual Conference brought together over 800 stakeholders from every aspect of the disability community to learn, share, grow, and collaborate to advance inclusion and human rights for people with significant disabilities. This year’s conference theme, “Gateway to Equity,” explored inclusive communities, schools, and workplaces that support people with disabilities, including those with complex support needs, in living a fair, just, and balanced life.

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National Disability Employment Awareness Month 2016 - #InclusionWorks

To celebrate [National Disability Employment Awareness Month](#) (NDEAM) in October, the LEAD Center invited guest bloggers to reflect upon the issue of disability employment and this year's theme of “Inclusion Works.” The five guest bloggers focused on two main themes. One theme was the important role parents of individuals with disabilities can play in helping make workplaces inclusive; the other theme centered on different methods and resources people with

disabilities can use to succeed at work.

Two of the guest bloggers, [Gail Williamson](#), a talent agent for Kazarian/Measures/Ruskin & Associates, and [Scott Monette](#), founder of 100 Percent Wine, are both parents of people with disabilities. Williamson's interview with LEAD staff was turned into a blog article about her work as a talent agent for actors with disabilities. Williamson said that, through her work, she hopes to reduce the stigma around disability and help employers in and outside Hollywood view people with disabilities as talented potential employees. Monette wrote about how he and other entrepreneurial dads understand that the talents of people with disabilities can be beneficial to businesses in many industries. The blog by [Rose Sloan](#) partnered well with both Williamson's and Monette's reflections. Sloan is a Policy Advisor for the U.S. Department of Labor Office of Disability Employment Policy, and a person with a disability who believes her success can be attributed to the high expectations of her family, teachers, and employers regarding her abilities.

Blogs from [Larry Russock](#) and [Anne E. Hirsh](#) focused on how service providers and employers can help people with a variety of disabilities succeed at work. In his blog, Russock, who is the Program Director of Employment and Day Services at St. John's Community Services in Pennsylvania, points out that practices like Customized Employment and Guided Group Discovery have been used to help people with intellectual disabilities achieve employment. These same practices can also help others with different disabilities and barriers to work. Hirsh, who is the Co-Director of Job Accommodation Network (JAN), wrote that most employers find that providing a reasonable accommodation to employees with disabilities is both inexpensive and easy. Employers also report that providing reasonable accommodations to these employees results in benefits for their organizations.

To read these and other blogs, visit the [LEAD Center blog](#).

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LEAD PEOPLE: Dr. Heidi Silver-Pacuilla, Team Leader of the Applied Innovation and Improvement Division of Adult Education and Literacy, Office of Career, Technical, and Adult Education (OCTAE), Department of Education



Dr. Heidi Silver-Pacuilla is the Team Leader of the Applied Innovation and Improvement Division of Adult Education and Literacy within the Office of Career, Technical, and Adult Education (OCTAE) under the Department of Education. For more than 20 years, she has focused on increasing opportunities for low-income and low skilled workers to improve their foundation skills, obtain workplace competencies, and transition to post-secondary education and training. Her work has also included studying ways to help students with learning disabilities do well in school and on

the job. Dr. Silver-Pacuilla also manages technical assistance and professional development [projects](#) to improve the effectiveness of education for adults and programs that help students reach their goals. She has been particularly interested in the integration of technology to improve teaching and learning. As part of this effort, Dr. Silver-Pacuilla presents and publishes widely on policies and programmatic efforts to assist students with learning disabilities who struggle to succeed both academically and professionally.

Dr. Silver-Pacuilla promotes strong integration between the Department of Labor and the Department of Education as part of the interagency work to implement the Workforce Innovation and Opportunity Act (WIOA). This partnership facilitates efforts at the local level to enhance services to low-income and low skilled learners and workers. She also supports this work by emphasizing the importance of communicating effectively, through combining data collection and storytelling, and through the online resources the agencies' technical assistance providers have developed. Before joining OCTAE, Dr. Silver-Pacuilla was a senior research analyst at the American Institutes for Research. In 2010-2011, she served as the President of the National Coalition for Literacy.

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LEAD PARTNER: Office of Career, Technical, and Adult Education (OCTAE) at Dept. of Ed.

The Department of Education's Office of Career, Technical, and Adult Education (OCTAE) is responsible for administering and coordinating programs related to adult education and literacy, career and technical education, and community colleges. In this role, OCTAE is authorized under the Workforce Innovation and Opportunity Act (WIOA), Title II, to grant money to states for the support of high-quality adult education programs.

A key to supporting adult education is helping those who teach adults. OCTAE's [LINCS](#), a professional learning platform for adult educators, contains free, evidence-based online resources for adult educators. The site includes professional development opportunities, self-paced online courses, and free teaching materials. Educators can also discuss best practices and network with each other on the site. For more information, visit the [OCTAE webpages](#) on the Department of Education website.

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Important New Resources

- [Employment, Health Care and Disability Policy Update: November 2016](#)
- [U.S. Department of Justice Releases Further Clarification on How the ADA and Olmstead Apply to Employment Services and Settings](#)
- [Model Cooperative Agreements between VR Agency and Medicaid, Mental Health, and Intellectual and Developmental Disabilities Agencies](#)

- [Practical Steps to Change Social and Human Service Delivery](#)
- [Section 188 of the Workforce Innovation and Opportunity Act \(Nondiscrimination and Equal Opportunity\): Summary Review of the DOL Final Rule, from a Disability Perspective](#)

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