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LEAD CENTER



AJC Certification & Section 188: A Window of Opportunity to Impact Equal Opportunity Policy & Practice for People with Disabilities

Jointly Presented by the DEI & LEAD
Technical Assistance Projects

FACILITATOR

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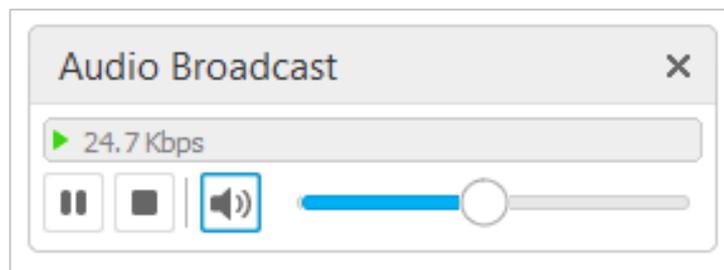
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The National Center on Leadership for the Employment and Economic Advancement of People with Disabilities (LEAD) is a collaborative of disability, workforce and economic empowerment organizations led by National Disability Institute with funding from the U.S. Department of Labor's Office of Disability Employment Policy, Grant No. #OD-23863-12-75-4-11.

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LEAD CENTER MISSION

- ▶ To advance sustainable individual and systems level change that results in improved, competitive integrated employment and economic self-sufficiency outcomes for individuals across the spectrum of disability.

www.leadcenter.org

PRESENTER - DEI

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DISABILITY EMPLOYMENT INITIATIVE (DEI)

- ▶ To expand the capacity of American Job Centers (AJC) to improve education, training and employment outcomes of individuals with disabilities through a career pathways framework in support of the Workforce Innovation and Opportunity Act (WIOA).
- ▶ DEI is administered by the U.S. Department of Labor's Employment and Training Administration and jointly funded with the Office of Disability Employment Policy.

<https://dei.workforcegps.org/>

WELCOME

Christopher Button, Ph.D.

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U.S. Department of Labor

Office of Disability Employment Policy

THE CONNECTION BETWEEN SECTION 188 & AJC CERTIFICATION

- ▶ LEAD and DEI have been engaged in WIOA implementation with a focus on disability in multiple states nationwide.
- ▶ Both TA centers provide support to states as they operationalize State WIOA plans.
- ▶ Section 188 and AJC Certification both require AJCs to continuously evaluate and improve accessibility of AJC services and programs.
- ▶ Compliance with Section 188 and engagement in AJC Certification has broadened under WIOA to include services by all core partners.

WINDOW OF OPPORTUNITY TO EXPAND ACCESSIBILITY AND OUTCOMES

- ▶ WIOA Core Partners share responsibility for aspects of service delivery and Section 188.
- ▶ Section 188 is a part of the regulatory framework for AJC Certification criteria and processes.
- ▶ EOOs and VR agencies are engaged in AJC Certification as SMEs in compliance and accessibility.
- ▶ AJCs and partners need resources/strategies to effectively implement both Section 188 and AJC Certification.

OBJECTIVES FOR 3-PART WEBINAR SERIES

- ▶ **Increase** knowledge of WIOA disability-related provisions, Section 188 Equal Opportunity and Non-Discrimination provisions and AJC Certification.
- ▶ **Clarify** strategies that expand programmatic accessibility in both Section 188 compliance and AJC Certification.
- ▶ **Identify** the need to update State/local Section 188 compliance procedures and AJC Certification processes to reflect the expanded role of AJC Core Partners under WIOA.
- ▶ **Learn** replicable strategies and action steps from multiple States to operationalize effective AJC Certification processes, with Section 188 as the framework.
- ▶ **Identify** cross-system partners to engage in Section 188 and AJC Certification, including Equal Opportunity Officers and Vocational Rehabilitation.

WEBINAR PART I

WIOA from a Disability Perspective & Section 188: A Powerful Foundation for Access

WIOA & SECTION 188 PART I - OBJECTIVES

- ▶ **To increase understanding of key components in:**
 - ▶ WIOA & Core Programs
 - ▶ WIOA & Disability
 - ▶ WIOA & Section 188
- ▶ **To emphasize the critical opportunity that Section 188 and AJC Certification offer to impact equal opportunity policy and procedures in:**
 - ▶ Physical Access
 - ▶ Programmatic Access
 - ▶ Effective Communication

KEY FEATURES OF WIOA

- ▶ There are **four titles included under WIOA** (as opposed to two under WIA).
- ▶ Each state is required to develop a **four year plan** that includes and coordinates all four titles.
- ▶ WIOA requires establishment of a **common performance** accountability system for the four core programs.
- ▶ WIOA streamlines and strengthens strategic roles of **State and local workforce boards**.
- ▶ WIOA necessitates development of **integrated intake**, case management and reporting systems.
- ▶ WIOA extends **State-established certification** for One-Stops to include all four titles.

WIOA CORE PROGRAMS

- ▶ WIOA authorizes key employment and training programs and the American Job Center (referred to as One-Stop Center in law) service delivery system to help workers acquire tools and skills they need to be successful and connect employers to the skilled workers they need.

WIOA aligns “core” programs to provide coordinated, comprehensive services, including:

- I. Adult, Dislocated Worker & Youth formula programs administered by DOL
- II. Adult Education and Literacy programs administered by Department of Education (ED)
- III. Wagner-Peyser Employment Service program administered by DOL
- IV. Programs under Title I of the Rehabilitation Act as amended by WIOA Title I, that provide services to individuals with disabilities administered by ED

https://wdr.doleta.gov/directives/attach/TEN/WIOA_FAQs_Acc.pdf

WIOA AND DISABILITY

- ▶ **Individuals with disabilities** must be a part of State/Local Strategic Plans.
- ▶ **Performance outcomes** must be identified and reported, including disability.
- ▶ Criteria for certifying One-Stops must include assessing **physical and programmatic accessibility**, including effective communication of facilities, programs, services, technology and materials, and appropriate staff training.
- ▶ As a Core Partner of WIOA, **Vocational Rehabilitation (VR)**, receives guidance from State/local boards.

WIOA SECTION 188

- ▶ Section 188 implements the nondiscrimination and equal opportunity provisions of WIOA, which are contained in Section 188 of the statute.
- ▶ Section 188 prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, **disability**, political affiliation or belief, among other bases.
- ▶ Section 188 also requires that reasonable accommodations be provided to qualified PWD in certain circumstances.
- ▶ Section 188 of WIOA contains provisions identical to those in Section 188 of WIA.
- ▶ The regulations for Section 188 of WIOA can be found at 29 CFR Part 38.

WHO DOES SECTION 188 APPLY TO?

(29 CFR §38.2, 38.4)

▶ “Recipients” are defined as:

Any entity to which financial assistance under WIOA Title I is extended, including:

- ▶ State level agencies that administer or are financed by WIOA Title I funds,
- ▶ State Employment Security Agencies,
- ▶ State and local Workforce Investment/Development Boards,
- ▶ One-Stop Operators,
- ▶ **Service providers, including eligible training providers,**
- ▶ On-the-Job Training employers,
- ▶ Job Corps contractors and center operators (excluding federally-operated Job Corps centers, and
- ▶ **Programs and activities that are part of the One-Stop delivery system that are operated by One-Stop partners.**

DEFINITION OF DISABILITY

- ▶ Disability means, with respect to an individual:
 - ▶ A physical or mental impairment that substantially limits one or more major life activities of such individual;
 - ▶ A record of such an impairment; or
 - ▶ Being regarded as having such an impairment.
- ▶ “Substantially limits” is not meant to be a demanding standard.
- ▶ **This is the same definition of disability as the ADA.**
 - ▶ ADA Amendments Act of 2008 P.L. 110-325 Section 3

DEFINITION OF QUALIFIED INDIVIDUAL WITH A DISABILITY

- ▶ With respect to employment, an individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position, and who, with or without reasonable accommodation, can perform the essential functions of such position.
- ▶ With respect to aid, benefits, services, or training, an individual who -- with or without auxiliary aids and services, reasonable accommodations, and/or reasonable modifications in policies, practices, and procedures -- meets the essential eligibility requirements for such aid/benefit/service/training.

REASONABLE ACCOMMODATIONS

- ▶ With regard to any aid/benefit/service/training, and employment, workforce partners must provide **reasonable accommodations** to qualified individuals with disabilities unless it would cause undue hardship.
- ▶ **Reasonable accommodation** means:
 - ▶ Modifications or adjustments to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid/benefits/services/training/employment they desire; or
 - ▶ Modification or adjustments that enable a qualified individual with a disability to perform the essential functions of a job, or to receive aid/benefits/services/training equal to that provided to qualified individuals without disabilities.

DISABILITY DISCRIMINATION

Discrimination prohibited based on disability:

- ▶ Denying a qualified individual with a disability the opportunity to participate in or benefit from the aid/benefit/service/training.
- ▶ Providing a qualified individual with a disability with any aid/benefit/service/training that is not equal to what is offered to others or that is not as effective.
- ▶ Requiring a qualified individual with a disability to participate in separate or different programs or activities instead of mainstream programs/activities.
- ▶ Not administering programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.
- ▶ Not providing meaningful opportunities for seeking employment and work in competitive integrated settings.

SECTION 188 & AJC Certification:

A Window of Opportunity to Impact Equal Opportunity Policy & Procedures

SECTION 188 IS THE FRAMEWORK FOR AJC CERTIFICATION

- ▶ Under WIOA all four titles are responsible for:
 - ▶ Delivering center services
 - ▶ Providing center maintenance
 - ▶ ***Developing an AJC Certification process***
 - ▶ TEGL 16-16
- ▶ Section 188 is the required framework for this process and divides program accessibility into three areas of compliance:
 - ▶ Physical access
 - ▶ ***Programmatic access***
 - ▶ Effective Communication

PHYSICAL ACCESS: ASSESSMENT

- ▶ **ADA Accessibility Guidelines (ADAAG)** contains scoping and technical requirements for accessibility to buildings and facilities by individuals with disabilities under ADA of 1990.
- ▶ Requirements are to be applied during design, construction, and alteration of buildings and facilities covered by titles II and III of the ADA issued by Federal agencies, including Department of Justice and Department of Transportation.
- ▶ Common trusted resources for assessing physical access include:
 - ▶ State/local Centers for Independent Living (CILs)
 - ▶ Regional ADA Centers
 - ▶ Mayor's/Governor's Offices on Disabilities

PHYSICAL ACCESS: STRATEGY

- ▶ ADA Accessibility Guidelines (ADAAG) surveying and checklists facilitated by **ADA subject matter experts in conjunction with leadership** to assess physical access of One-Stop Centers in parking, entrances, building, bathrooms, internal space and other essential areas outlined in the guidelines.
- ▶ Accessibility requirements, solutions to barriers and **technical assistance** offered to One-Stop Centers at the conclusion of assessment.

PROGRAMMATIC ACCESS

- ▶ Under WIOA Section 188, Core Partners of One-Stops must assess **programmatic accessibility** in which:
 - ▶ *“policies, practices, and procedures must provide effective and meaningful opportunity for persons with disabilities to participate in or benefit from aid, benefit, service and training”.*
- ▶ This definition is different than the similar term “program accessibility” in ADA Title II, which refers to accessibility of facilities, programs, services, technology, and materials for individuals with disabilities.
- ▶ The 188 definition is more encompassing, requiring One-Stop Centers to ensure full participation of people with disabilities from policy to practice.

PROGRAMMATIC ACCESS OF PROGRAMS & ACTIVITIES

- ▶ All WIOA Title I-financially assisted programs and activities must be ***programmatically accessible***, including:
 - ▶ Providing reasonable accommodations for individuals with disabilities.
 - ▶ Making reasonable modifications to policies, practices, and procedures.
 - ▶ Administering programs in the most integrated setting appropriate.
 - ▶ Communicating with individuals with disabilities as effectively as with others, and providing appropriate auxiliary aids or services, including assistive technology to afford equal opportunity to participate in, and enjoy the benefits of, the program or activity.

PROGRAMMATIC ACCESS = OUTCOMES

“...to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.”

- ▶ ‘Benefits’ = Outcomes of program or activity.
- ▶ The overarching goal of equal access is that all individuals benefit equally from the full spectrum of services available in the One-Stop Center and ultimately have an equal opportunity to access the employment and training outcomes associated with all the services provided there.

EFFECTIVE COMMUNICATION

- ▶ **Effective Communication** is whatever is written or spoken must be as clear and understandable to all individuals, including those who are d/Deaf/Hard-of-Hearing (HoH) or other disabilities.
- ▶ It is required except when it would fundamentally alter the nature of the service or program or would result in an undue financial and administrative burden.
- ▶ Under WIOA Section 188, it is considered highly difficult to prove undue burden especially when ensuring effective communication access (e.g., AJCs paying for sign language interpreters).

EFFECTIVE COMMUNICATION: ASSESSMENT

- ▶ Review reasonable accommodation policies and **procedures**, including staff knowledge and experiences on implementing reasonable accommodations.
- ▶ Examples of surveying staff experience with Deaf/HoH customers:
 - ▶ Knowledge of which situations are appropriate for writing notes/ emailing/texting with customers vs. when to hire interpreters.
 - ▶ Filling requests for qualified sign language interpreters for Deaf/HoH customers.
 - ▶ Understanding and use of Video Relay calls with Deaf/HoH.
 - ▶ Use of video remote interpreting (VRI) as an option.
 - ▶ Captioned videos used within One-Stop Center, including workshops.

EFFECTIVE COMMUNICATION: STRATEGIES

- ▶ Workforce leadership coordinates with Deaf/Hard-of-Hearing (HoH) and other disability partners to:
 - ▶ Review/survey policies and procedures for ensuring communication access.
 - ▶ Review/survey assistive technology available and staff knowledge and use of the technology.
 - ▶ Survey One-Stop Center staff on experiences with customers with diverse communication needs.
 - ▶ Survey Deaf/HoH partners on experiences of constituents using workforce system.
 - ▶ Identify training needs to state-level on effective communication with customers across spectrum of disability.

PROGRAMMATIC ACCESS: STATE-LEVEL STRATEGY

- ▶ State Level WIOA Cross-Partner Action Committee
 - ▶ WIOA Core Partners, Partners in Unified State Plan
 - ▶ Varied Roles and Perspectives
 - Policy Administrators
 - Leadership from WDB, One-Stops, VR, Core Partners
 - Disability Employment Initiative Leads
 - Equal Opportunity Officers
 - ▶ Diverse Disability Partners
 - Independent Living Centers
 - Agencies for the Blind
 - Commissions for the Deaf

PROGRAMMATIC ACCESS: STATE LEVEL ACTION

- ▶ Create definitions, standards and policies across core programs for physical and programmatic access, including effective communication.
- ▶ Develop cross partner procedures around Section 188 compliance as a part of AJC certification processes.
- ▶ Develop and implement cross partner strategies to assess AJC training needs around Section 188 accessibility.
- ▶ Identify cross partner roles in offering support, TA and monitoring for AJCs to continuously improve 188 compliance and accessibility.

PART I REFLECTION

1. Who is leading your State's AJC Certification Processes?

Is it one entity, such as the State WDB, or all core WIOA partners?

2. Is EOO and VR involved in the Certification process?

If so, how are they involved and what is their role?

3. Are State/local cross-systems with varied disability and community partners involved in the process?

If so, how are they involved and what is their role?

4. Has your State surveyed AJC managers, staff, customers and partners on Section 188 and accessibility?

5. Has your State provided training on Section 188?

6. Who will monitor your State's continuous improvement plans and provide technical assistance on compliance issues?

PART 2: AJC CERTIFICATION STATE STRATEGIES

OBJECTIVE To learn state strategies implementing effective AJC Certification processes, with Section 188 as framework.

▶ **SESSION 1: Missouri**

- ▶ Section 188 Disability Reference Guide
- ▶ Equal Opportunity Officers & Vocational Rehabilitation

▶ **SESSION 2: Virginia**

- ▶ State Cross Partner & Cross Title Taskforce
- ▶ Diverse Workforce & Disability Taskforce, Policy Administrator

▶ **SESSION 3: California**

- ▶ Continuous Improvement Matrix
- ▶ Levels of Certification: Baseline & Hallmarks of Excellence

SECTION 188 DISABILITY REFERENCE GUIDE

- ▶ [Promising Practices in Achieving Universal Access and Equal Opportunity: A Section 188 Disability Reference Guide](#)
- ▶ 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 correlate with the nondiscrimination (equal opportunity) and universal access requirements of Section 188 of the Workforce Investment Act (WIA):
 - ▶ Reference 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.

QUESTION & ANSWER

AJC Certification & Section 188: A Window of Opportunity to Impact Equal Opportunity Policy & Practice for Individuals with Disabilities

UPCOMING WEBINARS

WEBINAR SERIES

AJC Certification & Section 188:

A Window of Opportunity to Impact Equal Opportunity Policy & Practice for Individuals with Disabilities

- ▶ **2nd Webinar:** Wed, March 21 from 3:00-4:30pm (EST)
 - *State Workforce Systems that are Making Equal Opportunity a Priority: Missouri, Virginia, California*
- ▶ **3rd Webinar:** Wed, April 4 from 3:00-4:00pm (EST)
 - *Achieving 188 Compliance & AJC Certification: Key Strategies & Actions from Policy to Procedures*

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 - ▶ Aramide Awosika, Project Coordinator, aawosika@ndi-inc.org

CONNECT WITH DEI AND ETA DISABILITY EMPLOYMENT RESOURCES

- ▶ WorkforceGPS DEI Collection: <https://dei.workforcegps.org/>
 - ▶ Front Line DEI Resources: https://dei.workforcegps.org/resources/2017/11/17/13/18/Front_Line_DEI_Resources
 - ▶ DEI Best Practices Highlights: https://disability.workforcegps.org/resources/2017/09/14/13/01/Disability_Employment_Initiative_DEI_Best_Practice_Series
- ▶ WorkforceGPS Disability and Employment Community: <https://disability.workforcegps.org/>
 - ▶ Join “Connect the Pieces”: <https://www.workforcegps.org/register>

Online resource destination for the AJC network, people with disabilities, and employers and stakeholders who partner with the workforce system to provide services/programs to people with disabilities and other barriers to employment. Check the “Disability and Employment” box and other community memberships that can support your work.

NEXT STEPS

March 21, 2018

3:00-4:30pmEST

REGISTER HERE:

<http://leadcenter.org/webinars/state-workforce-systems-are-making-equal-opportunity-priority-missouri-virginia-california-series-2-3>

**State Workforce Systems that Are Making
Equal Opportunity a Priority: Missouri,
Virginia, California**