

PROMISING PRACTICES IN  
ACHIEVING NONDISCRIMINATION  
AND EQUAL OPPORTUNITY:  
A SECTION 188 DISABILITY  
REFERENCE GUIDE



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# PROMISING PRACTICES IN ACHIEVING NONDISCRIMINATION AND EQUAL OPPORTUNITY: A SECTION 188 DISABILITY REFERENCE GUIDE

## INTRODUCTION

On July 22, 2014, the bipartisan Workforce Innovation and Opportunity Act (WIOA) became law ([Public Law 113-128](#)). In general, WIOA took effect in July 2015 and superseded the Workforce Investment Act of 1998 (WIA), [Public Law 105-220](#).

Section 188 of WIOA<sup>1</sup> prohibits discrimination against individuals who apply to, participate in, work for, or come into contact with programs and activities that receive financial assistance under Title I of WIOA. This includes programs and activities operated by one-stop partners (both required partners and additional partners) to the extent that these programs and activities are being conducted as part of the one-stop delivery system. The one-stop delivery system is also referred to as the American Job Center (AJC) delivery system and the one-stop Career Center system.

Section 188 prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, among other bases. This Reference Guide focuses on promising practices in achieving nondiscrimination and equal opportunity for individuals with disabilities. For example, the regulations implementing Section 188 specifically require that reasonable accommodations be provided to qualified individuals with disabilities in certain circumstances. Moreover, both WIOA and the implementing regulations include obligations that all Title I of WIOA financially assisted programs and activities be physically and programmatically accessible.<sup>2</sup>

While Section 188 of WIOA contains provisions identical to those in Section 188 of WIA,<sup>3</sup> WIOA specifically incorporates the obligations of physical and programmatic accessibility throughout Title I of WIOA. Of particular note is that State Workforce Development Boards (SWDBs), in consultation with chief elected officials and Local Workforce Development Boards (LWDBs), must establish objective criteria and procedures for LWDBs to use when certifying AJCs, and one of the criteria is physical and programmatic accessibility.<sup>4</sup>

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<sup>1</sup> Section 188 of WIOA, [29 U.S.C. §3248](#).

<sup>2</sup> The term “programmatic accessibility” includes “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 persons with disabilities as effectively as with others, and providing appropriate auxiliary aids or services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of the program or activity,” [29 CFR 38.13\(b\)](#).

<sup>3</sup> Section 188 of WIA, [29 U.S.C. §2938](#).

<sup>4</sup> [20 CFR 678.800](#); TEGL No. 16-16, “[One-Stop Operations Guidance for the American Job Center Network](#),” (January 18, 2017).

Section 188's nondiscrimination and equal opportunity implementing regulations are set out at 29 CFR part 38.<sup>5</sup> That rule sets forth requirements for recipients of financial assistance,<sup>6</sup> including programs and activities operated by partners of the workforce development system that are covered by the Section 188 nondiscrimination and equal opportunity requirements of WIOA.

## PURPOSE

The U.S. Department of Labor (DOL) has developed this Reference Guide to assist AJC programs by providing promising practices that correlate with specific nondiscrimination and equal opportunity requirements in Section 188 of WIOA and the regulations implementing Section 188 of WIOA.

While this Reference Guide is focused on AJC programs, it also may be used as a resource document for anyone that desires to ensure nondiscrimination and equal opportunity<sup>7</sup> for individuals with disabilities in the workforce development system, including State Governors, State Administrators, State Workforce Agencies, Equal Opportunity Officers (EO Officers), SWDBs, and LWDBs.

For example, one requirement of Title I of WIOA relates to certification of AJCs. The regulations implementing Title I of WIOA [[20 CFR 678.800](#)] specify that the SWDB, in consultation with chief elected officials and LWDBs, must establish objective criteria and procedures for LWDBs to use when certifying AJCs.<sup>8</sup> The criteria must evaluate the AJCs for:

- Effectiveness, including customer satisfaction;
- Physical and programmatic accessibility; and
- Continuous improvement.

These evaluations must include criteria evaluating how well the AJCs take actions to comply with the disability-related provisions of the regulations implementing Section 188 of WIOA.

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<sup>5</sup> The rule was published in the [Federal Register](#) on December 2, 2016 (87130-87243). The effective date of the regulations was on January 3, 2017.

<sup>6</sup> The term "recipient" is defined in the regulations at [29 CFR 38.4\(zz\)](#).

<sup>7</sup> This Reference Guide does not address WIOA's other protected grounds of race, color, religion, sex, national origin, age, political affiliation or belief, and, for WIOA beneficiaries only, an individual's citizenship status, or participation in any WIOA Title I-financially assisted program or activity. See [29 CFR 38.1](#); [38.6](#).

<sup>8</sup> See also TEGL No. 16-16, "[One-Stop Operations Guidance for the American Job Center Network](#)," (January 18, 2017). The regulations implementing Title I of WIOA include additional references to Section 188 of WIOA, in general, and physical and programmatic accessibility, in particular. See, for example: [20 CFR 678.305](#) (Description of Comprehensive One-Stop Center); [20 CFR 679.360](#) (Establishment of Standing Committees by Local Board); [20 CFR 679.370](#) (Functions of Local Board); [20 CFR 679.550](#) and [20 CFR 679.560](#) (Development and Contents of Local Plan).

These promising practices are not necessarily mandatory requirements, though they may be in specific circumstances. The examples do not create new legal requirements or change current legal requirements. Descriptions of possible approaches in this Reference Guide should not be construed to preclude States and other recipients from devising alternative approaches to meeting their legal obligations. Adopting these possible approaches will not guarantee compliance with Section 188 of WIOA.

## DIVERSITY, EQUITY, INCLUSION, AND ACCESSIBILITY (DEIA) PROMISING PRACTICES



*Equal opportunity is the bedrock of American democracy, and our diversity is one of our country's greatest strengths. But for too many, the American Dream remains out of reach.*

– White House Executive Order 13985

In January 2021, the White House issued [Executive Order 13985: Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#),<sup>9</sup> to “pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.” The Executive Order promotes a government equity policy that addresses systemic barriers to opportunities and benefits offered by the Federal Government. Further, the Executive Order allows Federal agencies to prioritize existing efforts in the diversity, equity, and inclusion context, and added a new dimension to such efforts: accessibility. In 2023, the White House issued a second Executive Order on equity, building on Executive Order 13985.<sup>10</sup> Executive Order 14091, Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, continues “the work begun with Executive Order 13985 to combat discrimination and advance equal opportunity, including by redressing unfair disparities and removing barriers to Government programs and services.”<sup>11</sup>



*The Department of Labor is deeply committed to improving the well-being of underserved, marginalized, disadvantaged, and excluded communities.*

– DOL Equity Action Plan

<sup>9</sup> Executive Order No. 13985, 86 Fed Reg. 7009 (January 20, 2021), Available at: <https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government>.

<sup>10</sup> Executive Order No. 14091, 88 Fed Reg. 10825 (February 16, 2023). Available at: <https://www.federalregister.gov/documents/2023/02/22/2023-03779/further-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal>.

<sup>11</sup> Id.



In response to Executive Order 13985, the U.S. Department of Labor, as well as other Federal agencies, developed and are implementing equity action plans. The U.S. Department of Labor Equity Action Plan<sup>12</sup> summarizes the department’s efforts to identify barriers to more equitable access to programs and services for underserved, marginalized and historically excluded communities and outlines the next steps for expanding access to those communities.

DOL recognizes that an individual with a disability may have intersecting identities<sup>13</sup> that shape them as a person (e.g., a person with a disability that identifies as Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning (LGBTQ+), or who is Black, Latino, or a person of color, etc.). Over the past two years, DOL has become aware of successful and promising nondiscrimination and equal opportunity practices that promote inclusion of traditionally underserved populations, including individuals with disabilities.

In addition to Executive Order 13985, Executive Order 14091 and DOL’s Equity Action Plan, the amended content in this updated edition has been informed by the “Diversity & Inclusion: Employer Action Guide,”<sup>14</sup> which was developed by the Equity Committee of the Duluth (Minnesota) Workforce Development Board. This resource includes practical tools and tips related to recruiting, hiring, onboarding, and retaining diverse employees. This guide can serve as a practical example of how to implement DEIA practices for State and local workforce boards and others within the workforce development system. The guide can also be used by employers in the community.

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<sup>12</sup> U.S. Department of Labor Equity Executive Order Implementation. “Department of Labor Equity Action Plan,” April 14, 2022 (updated January 2024). Available at: <https://www.dol.gov/sites/dolgov/files/general/equity/DOL-Equity-Action-Plan.pdf>.

<sup>13</sup> “Intersectionality” is the “complex, cumulative way in which the effects of multiple forms of discrimination (such as racism, sexism, and classism) combine, overlap, or intersect especially in the experiences of marginalized individuals or groups.” Merriam-Webster. Available at: <https://www.merriam-webster.com/dictionary/intersectionality>

<sup>14</sup> The Equity Committee of the Duluth Workforce Development Board developed an action guide that was launched in January 2021, “Diversity & Inclusion Employer Action Guide.” Access this guide along with other resources on the Duluth Workforce Development Board Employer Services webpage. Available at: <https://duluthmn.gov/workforce-development/employer-services/>.



## Diversity & Inclusion: Duluth Best Practice

**The Challenge:** Help improve diversity, equity, and inclusion in the workplace.

**Background:** In 2019 and 2020, the Duluth Workforce Development Board in collaboration with the board's Equity Committee worked with area employers to determine how to improve diversity, equity, and inclusion in their community and region. A number of best practices were identified that employers of all sizes and across all industry sectors can implement to create a more diverse and inclusive workplace. This became the basis for the [Diversity & Inclusion: Employer Action Guide](#).

**Strategy:** The [Diversity & Inclusion: Employer Action Guide](#) was then created by the Duluth Workforce Development Board, with leadership by the board's Equity Committee. The guide is meant to be **practical** and offer **concrete actions** that can be taken in the workplace to improve DEIA in recruitment, hiring, onboarding, and retention.

**Outcome:** Since the launch of the guide, the board has continued to learn and collect equity actions employers are taking through their [Employer Champions Initiative](#). HR staff, hiring managers, supervisors, and other business and organization leaders are the primary audience for these sessions, led by a community cohort of champions.

### **Best practices:**<sup>15</sup>

- Business Services Teams within the AJC can share equity best practices, such as the ones found in the guide, with employers to improve DEIA in the local community.
- Grantees and contract organizations will also benefit from the practices and concrete actions listed in the guide in terms of customer service, service delivery, intake, etc.
- A peer-learning network, such as the Employer Champions Initiative, is an effective way to continuously evaluate and improve DEIA efforts.

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<sup>15</sup> This list of best practices was developed through consultation between the LEAD Center and the Director of Workforce Development for the City of Duluth in June and July 2022.

This Reference Guide has been updated to provide the workforce system with additional practices, ideas, and resources that consider the systemic barriers individuals with disabilities may face because of intersecting identities and increase cultural competence of service providers who serve them.<sup>16</sup>

Moreover, for the first time, the Reference Guide addresses strategies for nondiscriminatory use of newer technologies such as artificial intelligence (AI),<sup>17</sup> which is increasingly being used to perform tasks such as screening, hiring, and recruitment and promotes the workforce system's use of "Equitable AI," meaning AI that is intentionally designed, developed, and implemented to result in equitable outcomes for everyone, including people with disabilities.<sup>18</sup> Updates to the Reference Guide are consistent with language from both Executive Order 13985 and DOL's Equity Plan.

## ORGANIZATION

This Reference Guide is divided into two parts. PART I: PROMISING PRACTICES includes promising practices that promote nondiscrimination and equal opportunity for individuals with disabilities in AJC programs. It is divided into three sections:

**Section 1:** Describes promising practices related to the requirement that AJC programs and Workforce Boards take appropriate steps to ensure equal access to programs and

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<sup>16</sup> "Cultural competence requires that organizations: Have a defined set of values and principles, and demonstrate behaviors, attitudes, policies, and structures that enable them to work effectively cross-culturally; Have the capacity to (1) value diversity, (2) conduct self-assessment, (3) manage the dynamics of difference, (4) acquire and institutionalize cultural knowledge, and (5) adapt to diversity and the cultural contexts of communities they serve. Incorporate the above in all aspects of policy making, administration, practice and service delivery, systematically involve consumers, families and communities." "Definitions of Cultural Competence. National Center for Cultural Competence," 1998, modified from Cross, T., Bazron, B., Dennis, K., & Isaacs, M., (1989). "Towards A Culturally Competent System of Care," Volume I. Washington, DC: Georgetown University Child Development Center, CASSP Technical Assistance Center. Available at: <https://nccc.georgetown.edu/curricula/culturalcompetence.html>.

<sup>17</sup> According to the Partnership on Employment and Accessible Technology (PEAT), "Artificial intelligence (AI) refers to the use of computer systems to perform tasks that traditionally require human intelligence and senses. AI 'learns' through the use of statistical techniques that allow it to incrementally improve performance on a task. This process of 'machine learning' allows the machine to generate rules and predictions on its own by analyzing large quantities of raw data, rather than being explicitly programmed." AI tools attempt to perceive, learn, interact, problem solve, and be creative. For example, an AI tool can listen to human speech, translate it to written text, and deliver key insights from the content. Another AI tool could review large datasets, identify patterns, and use what it learned to classify new data in the future. AI tools can help people complete tasks more efficiently, but AI can also make mistakes. To address errors and bias in the use of AI systems, people should be involved in assessing the AI tool's function and results (see definition on "[Equitable AI](#)"). See PEAT website on Artificial Intelligence available at:

<https://www.peatworks.org/futureofwork/ai/#:~:text=The%20use%20of%20artificial%20intelligence,data%20volume%2C%20and%20computing%20power>.

<sup>18</sup> Access tools and resources to learn more about artificial intelligence and its use. [Partnership on Employment & Accessible Technology \(PEAT\) page listing Artificial Intelligence resources](#). Key resources include: [AI & Disability Inclusion Toolkit](#), [Equitable AI Playbook](#), & [Glossary of AI Terms](#). [Resource on Automated Surveillance Barriers](#). [Disability-Led Innovation Report](#). White House Office of Science & Technology Policy (OSTP) "[Blueprint for an AI Bill of Rights & Fact Sheet](#)." U.S. Equal Employment Opportunity Commission (EEOC) "[The Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence to Assess Job Applicants and Employees](#)."

activities, particularly customer services and services integration for all eligible individuals, including individuals with disabilities. In order to ensure equal access, an AJC program must pay particular attention to the various functions it performs related to customer services and services integration, including strategic planning; affirmative outreach;<sup>19</sup> consultation with community groups; operational collaboration among partners; training; intake, registration, and orientation; and service delivery.

**Section 2:** Describes promising practices related to the requirement that AJC programs ensure nondiscrimination and equal opportunity for individuals with disabilities in the administration of programs and activities. Nondiscrimination and equal opportunity policies, practices, and procedures include general prohibitions on discrimination; providing reasonable accommodations and reasonable modifications; administering programs in the most integrated setting appropriate; engaging in effective communication; providing accessible electronic and information technology (EIT), including AI; providing physical and programmatic accessibility; and prohibiting discrimination in employment practices.

**Section 3:** Describes promising practices related to additional affirmative obligations that are designed to ensure that an AJC's programs provide genuine nondiscrimination and equal opportunity, not mere paperwork compliance. These additional affirmative obligations include the designation of an EO Officer; assurances; notice and communication; data collection; monitoring and continuous improvement; complaint resolution; and corrective action.

Each section includes an introductory paragraph that describes the purpose and function of the disability-related requirements in the Section 188 WIOA regulations and links to the correlating section of PART II: SECTION 188 DISABILITY NONDISCRIMINATION AND EQUAL OPPORTUNITY REGULATIONS of the Reference Guide.

These promising practices include a continuum of examples ranging from practical steps, such as AJC program staff conducting affirmative outreach to community-based organizations serving individuals with disabilities, to structural and systemic steps, such as the LWDB developing payment mechanisms that reward providers that serve individuals with disabilities.

The promising practices provided in [PART I: PROMISING PRACTICES](#) of the Reference Guide highlight some ways AJC programs may meet their legal obligations.

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<sup>19</sup> See Affirmative outreach [29 CFR §38.40](#): "Recipients must take appropriate steps to ensure that they are providing equal access to their WIOA Title I-financially assisted programs and activities...Such efforts may include, but are not limited to: (a) Advertising the recipient's programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations; (b) Sending notices about openings in the recipient's programs and/or activities to schools or community service groups that serve various populations; and (c) Consulting with appropriate community service groups about ways in which the recipient may improve its outreach and service to various populations."

(Note: AJC programs may be required to take some of these steps depending on the specific circumstances presented, and their inclusion as promising practices should not be read to suggest otherwise.)

PART II: SECTION 188 DISABILITY NONDISCRIMINATION AND EQUAL OPPORTUNITY REGULATIONS of this Reference Guide contains language from the Section 188 WIOA regulations that form the basis of the requirements addressed by the promising practices in Part I. Part II also has links directly to the promising practices from Part I that correlate to the text of the Section 188 WIOA regulations.

In addition, the Reference Guide includes definitions of key terms [[Part II, 2.1](#)] and acronyms used throughout the Reference Guide [see APPENDIX].

## SCOPE

While this Reference Guide addresses the nondiscrimination and equal opportunity provisions of the Section 188 WIOA regulations for individuals with disabilities, AJC programs are also subject to the requirements of: (1) Section 504 of the Rehabilitation Act (Section 504) prohibiting discrimination against individuals with disabilities by recipients of Federal financial assistance,<sup>20</sup> (2) Title I of the Americans with Disabilities Act (ADA), as amended, prohibiting discrimination in employment based on disability, and (3) Title II of the ADA prohibiting public entities, including State and local governments and their departments, agencies, and instrumentalities, from discriminating on the basis of disability.<sup>21</sup> In addition, significant amendments were made to the ADA in 2008, which make it easier for an individual to establish that they have a disability, as defined under the statute.<sup>22</sup> These changes to the ADA also apply to Section 504.<sup>23</sup>

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<sup>20</sup> See [29 CFR part 32](#). A recipient's compliance with [29 CFR part 38](#) will satisfy any obligation of the recipient to comply with [Subparts A \(general provisions\)](#), [D \(procedures\)](#) and [E \(auxiliary matters\)](#) of DOL's Section 504 regulations. [29 CFR Part 32, Subparts B \(employment practices and employment-related training program participation\)](#), [C \(program accessibility\)](#) and [Appendix A \(examples of reasonable accommodations\)](#) are adopted by Part 38. Therefore, WIOA recipients must comply with the requirements set forth in those regulatory sections as well as the requirements listed in the current Section 188 regulations. [[29 CFR 38.3\(a\) and \(b\)](#)].

<sup>21</sup> Recipients that are also public entities or public accommodations, as defined by Titles II and III of the ADA, as amended, should be aware of obligations imposed by those Titles and their implementing regulations. [[42 USC 12131](#), et seq., and [42 USC 12181](#), et seq.; see also [29 CFR 38.3\(c\)\(1\)](#) and [38.18\(e\)\(2\)](#)]. Similarly, recipients that are also employers, employment agencies, or other entities covered by Title I of the ADA should be aware of obligations imposed by that Title and its implementing regulations. [[42 USC 12111](#), et seq., and [29 CFR 38.3\(c\)\(2\)](#) and [38.18\(e\)\(2\)](#)]. The term "employment agency" is defined as "any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person." [[42 USC 12111\(7\)](#) and [42 USC 2000e\(c\)](#)]

<sup>22</sup> See "Fact Sheet on the EEOC's Final Regulations Implementing the [Americans with Disabilities Act Amendments Act] ADAAMA" available at: [http://www.eeoc.gov/laws/regulations/adaaaa\\_fact\\_sheet.cfm](http://www.eeoc.gov/laws/regulations/adaaaa_fact_sheet.cfm).

<sup>23</sup> See "Questions and Answers on the Final Rule Implementing the ADA Amendments Act of 2008" Question #3 "Do all of the changes in the ADAAMA apply to other titles of the ADA and provisions of the Rehabilitation Act prohibiting disability discrimination by Federal agencies, Federal contractors, and recipients of Federal financial assistance?" available at: [http://www.eeoc.gov/laws/regulations/ada\\_qa\\_final\\_rule.cfm](http://www.eeoc.gov/laws/regulations/ada_qa_final_rule.cfm).

## DEFINITIONS OF INDIVIDUAL WITH A DISABILITY AND REASONABLE ACCOMMODATION

The term “**individual with a disability**” is defined in the Section 188 WIOA regulations as an individual with “[a] physical or mental impairment that substantially limits one or more of the major life activities of such individual; [a] record of such an impairment; or [b]eing regarded as having such an impairment . . . .”<sup>24</sup> The Section 188 WIOA regulations reflect changes made by the ADA Amendments Act of 2008 (ADAAA)<sup>25</sup> and make the definition consistent with subsequent Equal Employment Opportunity Commission (EEOC) and Department of Justice (DOJ) regulations to implement the ADAAA.<sup>26</sup>

AJC programs are required to provide **reasonable accommodations** for individuals with disabilities to ensure equal access and opportunity.<sup>27</sup> The term “reasonable accommodation” is defined in the Section 188 WIOA regulations as “[m]odifications 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 or employment that the qualified applicant/registrant desires;” or “[m]odifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job, or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities;” or “[m]odifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated qualified individuals without disabilities.”<sup>28</sup>

## PART I: PROMISING PRACTICES

### INTRODUCTION AND OVERVIEW

American Job Centers (AJCs) around the country have adopted many effective strategies and practices to promote nondiscrimination and equal opportunity for all eligible individuals, including individuals with disabilities.

PART I: PROMISING PRACTICES of the Reference Guide shares lessons learned and promising practices that AJC programs could utilize to effectively serve individuals with

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<sup>24</sup> [29 CFR 38.4\(g\)](#); see also [29 CFR 38.4\(ff\)](#).

<sup>25</sup> 42 U.S.C. 12101 et seq., [Public Law 110-325](#), 122 Stat. 3553 (2008).

<sup>26</sup> See EEOC regulation [29 CFR part 1630](#). See also DOJ regulations [28 CFR part 35](#) and [28 CFR part 36](#) and accompanying explanations to the DOJ [Final Rule to Implement ADAAA](#). See also footnotes 24 and 25.

<sup>27</sup> Reasonable accommodations are not required for individuals who are solely regarded as having a disability without meeting one of the other definitions and, as such, do not need reasonable accommodations. [29 CFR 38.4\(yy\)\(4\)](#).

<sup>28</sup> [29 CFR 38.4\(yy\)\(1\)](#). For modifications to perform the essential functions of the job: “These modifications or adjustments may be made to: (A) The environment where work is performed or aid, benefits, services, or training are given; or (B) The customary manner in which, or circumstances under which, a job is performed or aid, benefits, services or training are given.” [29 CFR 38.4\(yy\)\(1\)\(ii\)](#).

disabilities. These promising practices include a continuum of examples, ranging from practical steps, such as AJC program staff conducting affirmative outreach<sup>29</sup> to community-based organizations serving individuals with disabilities, to structural and systemic steps such as the Local Workforce Development Board (LWDB) developing payment mechanisms that reward providers that serve individuals with disabilities.

These promising practices are not necessarily mandatory requirements, though they may be in specific circumstances. The purpose of providing them is not to create new legal requirements or change current legal requirements, but instead to illustrate how AJC programs might meet their obligations to ensure that individuals with disabilities have equal opportunity to receive those programs and services. Descriptions of possible approaches in this Reference Guide should not be construed to preclude AJCs from devising alternative approaches to meeting their legal obligations. Undertaking any or all of these examples also does not ensure compliance with equal opportunity obligations for AJC programs.

Part I is divided into three sections:

**Section 1:** Describes promising practices related to the requirement that AJC programs and Workforce Boards take appropriate steps to ensure equal access to programs and activities, particularly customer services and services integration for all eligible individuals, including individuals with disabilities. In order to ensure equal access, an AJC program must pay particular attention to the various functions it performs related to customer services and services integration, including strategic planning; affirmative outreach; consultation with community groups; operational collaboration among partners; training; intake, registration, and orientation; and service delivery.

**Section 2:** Describes promising practices related to the requirement that AJC programs ensure nondiscrimination and equal opportunity for individuals with disabilities in the administration of programs and activities. Nondiscrimination and equal opportunity policies, practices, and procedures include general prohibitions on discrimination; providing reasonable accommodations and reasonable modifications; administering programs in the most integrated setting appropriate; engaging in effective communication; providing accessible electronic and information technology, including artificial intelligence (AI); providing physical and programmatic accessibility; and prohibiting discrimination in employment practices.

**Section 3:** Describes promising practices related to additional affirmative obligations that are designed to ensure that an AJC's programs provide genuine nondiscrimination and equal opportunity, not mere paperwork compliance. These additional affirmative obligations include the designation of an Equal Opportunity (EO) Officer; assurances; notice and communication; data collection; monitoring and continuous improvement; complaint resolution; and corrective action.

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<sup>29</sup> See Footnote 21.



Each section includes an introductory paragraph that describes the purpose and function of the disability-related requirements in the Section 188 WIOA regulations and links to the correlating section of Part II of the Reference Guide. It should be noted that there have been no new changes in the applicable laws under Section 188 and part 38 since publication of the last Reference Guide issued in 2019.

## PART I, SECTION 1: EQUAL ACCESS TO PROGRAMS AND ACTIVITIES

Descriptions of and links to the text of the regulation requiring [equal access to programs and activities](#), particularly customer services and services integration, are included in Part II of the Reference Guide.

AJC programs are expected to meet the needs of their customers by ensuring equal access to their programs and activities for all eligible individuals. Equal access includes performance of the following functions related to customer services and services integration:

- Understanding local needs
- Affirmative outreach
- Involving community groups and schools
- Effecting collaboration, including partnerships and linkages
- Staff development
- Intake, registration, and orientation
- Assessments and screenings
- Service delivery

State Workforce Development Boards (SWDBs) and LWDBs and AJC programs are encouraged to consider the following promising practices for providing equal access to programs and activities, particularly customer services and services integration.

## 1.1 Understanding Local Needs

- The SWDB and LWDB, and AJC programs, assess and take into consideration the needs of the local population, including individuals from traditionally underserved communities in the design and delivery of services. This includes the development of appropriate intake procedures, screening devices and comprehensive assessments, if necessary; determining the nature and mix of services and supports provided; and analyzing training program needs for AJC programs personnel to accomplish program objectives.
- The SWDB and LWDB, with support from EO Officers and cross-agency partner committees, survey AJC programs to evaluate knowledge of and experience with the requirements of Section 188 and implementing regulations relating to individuals with disabilities. The surveys are disseminated to AJC program staff, partners, and customers and used to inform direction of policy, practice, and training, thereby improving access and employment of individuals with disabilities.
- The SWDB and LWDB, and AJC programs, have a process in place to provide supervisors with diversity training.
- The SWDB and LWDB, with support from EO Officers and cross-agency partners, develop a working group or task force to discuss challenges experienced by traditionally underserved communities in accessing workforce services, review existing policies and procedures, and make recommendations that are culturally competent. They also conduct affirmative outreach to engage members of traditionally underserved communities (e.g., community-based organizations with trusted relationships) to ask how the SWDB and LWDB can better communicate and connect with them.
- AJC program staff obtain and review strategic plans developed by the SWDB and LWDB and the section in the State's Nondiscrimination Plan<sup>30</sup> that describes how the AJC programs will address the employment and training-related needs of individuals with disabilities. They also ensure that policies, practices, and procedures adopted by the AJC programs are consistent with and facilitate achieving the outcomes contained in the strategic plans (if applicable) and the Nondiscrimination Plan.
- SWDB and partners consider developing an equity plan with recommendations and suggested actions to be taken at the State and/or local level. As examples, recommendations regarding inclusive and diverse approaches to organizational capacity, including professional development to ensure use of an equity lens in serving diverse populations, may include:

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<sup>30</sup> See [29 CFR 38.54\(v\)](#). "Nondiscrimination Plan means the written document and supporting documentation developed under [§ 38.54](#)." [29 CFR 38.4\(II\)](#).

- Build a culture of equity in the workforce system.
- Integrate an equity lens into the work of the SWDB.
- Invest in data analysis capacity, track disaggregated data and outcomes, and identify disparities and factors contributing to those disparities.
- Promote workforce system leadership and staff that reflect the diversity of the State/local area.
- Provide system-wide training on equity, cultural competence, and cultural awareness for those served by the system.
- Provide funding to, and partner with, organizations providing culturally specific services with a track record of success in serving target populations of the State/local area.
- Prioritize workforce services that include supportive services.

An example of an equity plan is the one developed by the Illinois Workforce Innovation Board (IWIB) Equity Task Force.<sup>31</sup>

- The LWDB creates an interagency Cultural Competence working group to advance and sustain cultural and linguistic competence and respond effectively to the broad cultural and linguistic diversity among people with disabilities within the community.<sup>32</sup> The working group leverages cross-agency resources and develops relationships with community-based organizations that are trusted by traditionally underserved groups.

Activities of the interagency Cultural Competence working group may include:

- Identify needs and barriers to accessing workforce services.
- Update policies and procedures across agencies.
- Provide cross-system training and resources.
- Develop a model for community engagement of traditionally underserved groups.

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<sup>31</sup> Illinois Workforce Innovation Board (IWIB) Equity Task Force. “[Advancing Equity in the Illinois Workforce System A Report From the Illinois Workforce Innovation Board Equity Task Force](#),” June 2022. The Illinois task force identified six broad areas of action, along with specific steps within those areas of action. For each area of action, it provides recommendations for the State workforce board. Because local workforce boards and service providers play an equally critical role in advancing equity, it also identifies opportunities in each area of action.

<sup>32</sup> For example, the District of Columbia established the Cross-system Cultural and Linguistic Competence working group, where they created partnerships across government agencies and with underserved communities that promote DEIA to enable people with disabilities to succeed in the workforce. The group created a community of practice to work on building trust with the underserved communities and integrated learning and principles into systems change and daily practices. DC continues this work through the [Bridging Aging and Disability Networks and Racial Equity Community of Practice](#). In addition, see [29 CFR 38.9](#) for the requirement to refrain from national origin discrimination, including limited English proficiency.

- AJC program staff affirmatively seek to include individuals with disabilities who represent the full spectrum of physical, mental, cognitive, and sensory disabilities in all development of policies, manuals, and guidance, etc.

## 1.2 Affirmative Outreach

### 1.2.1 Affirmative Outreach, In General

- The SWDB and LWDB include a statement of equity that outlines their commitment to DEIA in a prominent place on the State and AJC level websites and provide additional resources and information to support the workforce system and partners. One example of a statement of equity was developed by the Council of State Administrators of Vocational Rehabilitation (CSAVR).<sup>33</sup> Workforce systems at the State and AJC level can adopt a similar practice.
- General affirmative outreach and recruitment materials (including photos and advertisement copy) for the AJC programs highlight DEIA and provide language access that reflects the local population. Recruitment materials indicate a commitment to hire and/or effectively serve a diverse range of customers, including individuals with disabilities.

Some ways that AJC programs can highlight DEIA include:

- Ensure photos on websites represent diversity and inclusion, including of individuals with disabilities.
- Choose art to hang in the office that represents diverse artists and themes.
- Post a rainbow flag sticker on the front door/window and organization's website to signify a safe space for LGBTQ+ individuals.
- Use plain language at a reading level accessible to individuals with varying education levels.
- Make visually delivered materials accessible for individuals who are blind or low vision.<sup>34</sup>

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<sup>33</sup> For example, the Council of State Administrators of Vocational Rehabilitation (CSAVR), which is a national organization comprised of Directors of State Vocational Rehabilitation (VR) Agencies, includes a direct link to its [Statement of Equity](#) on the top menu bar that is visible wherever one navigates on the site. CSAVR indicates that: "This Statement on Diversity, Equity, and Inclusion leads to a commitment on the part of the leadership of CSAVR to assertively establish strategies and definable actions to foster equality of opportunity in the workplace by supporting initiatives to include underrepresented populations in our own ranks, at all levels. CSAVR and our member organization will promote initiatives that focus on the recruitment, hiring, training, and upward mobility of staff from minority communities. In order to serve our diverse customer base, it is essential to reflect that diversity in our own staff to address the cultural and access issues that individuals with disabilities face in their goal of competitive integrated employment and independence. For more resources and initiatives regarding CSAVR's Diversity, Equity, Inclusion, and Access please visit the DEIA website: [www.vrdeia.com](http://www.vrdeia.com)."

<sup>34</sup> See [29 CFR 38.15\(a\)\(2\)](#); [29 CFR 38.4\(h\)\(2\)](#).

- Make resources and materials available in the languages used by the populations served including the request for a spoken or sign language interpreter.
  - Provide audio recordings of written materials in local languages.
  - Provide information about how to request auxiliary aids and services for individuals with disabilities, such as sign language interpreters.
  - Avoid jargon and phrases that can create avoidable language barriers for individuals with limited English proficiency (LEP) and other groups.
  - Use gender-neutral language that avoids showing bias toward any sex or gender (e.g., firefighter vs. fireman) in a way that indicates a commitment not to discriminate on the basis of sexual orientation, gender, or gender identity.
- Affirmative outreach and recruitment materials mention that services are available to individuals representing the full range of physical, mental, cognitive, and sensory disabilities, and images show diversity in their portrayal of individuals with disabilities.
  - Informational resources are disseminated and advertisements are made through a broad range of media sources (e.g., social media, web-based education, billboards, newspaper outlets, television, radio, public service announcements, as well as other public information and community outlets) including, but not limited to, media targeted toward individuals with disabilities.
  - Presentations to community organizations, partner agencies, job seekers, and others explain that individuals with challenges to employment, including individuals with disabilities, are encouraged to take advantage of the programs and services offered at the AJC.
  - AJC programs, with support from EO Officers, SWDBs, LWDBs, and mandatory partners, particularly VR, develop strategic affirmative outreach plans that reach people across the spectrum of disabilities and other traditionally underserved populations. Community-based organizations can assist with affirmative outreach and engagement, creating bridges between workforce programs and communities that are traditionally underserved.
  - Workforce staff introduce and use affirmative outreach efforts to increase their understanding of the unique challenges faced by members of traditionally underserved communities in accessing programs, services, and benefits, and to achieve equitable outcomes. AJC programs can collaborate with partners that provide services to individuals across the spectrum of disabilities, including those that reach and serve individuals with disabilities who are members of traditionally underserved communities, and provide language access and effective communication (including auxiliary aids and services) that is inclusive of various segments of the disability community (such as individuals who are Deaf or hard

of hearing). They also access information and resources that can assist with such affirmative outreach efforts.<sup>35</sup>

- When AJC program staff conduct affirmative outreach to individuals with disabilities or organizations serving individuals with disabilities, the information given to those groups describes the types of reasonable accommodations; reasonable modifications; programmatic and architectural accessibility; and auxiliary aids and services it regularly provides.
- AJC program staff conduct tours of their facilities, in partnership with community organizations and schools that provide services and advocacy for specific groups of individuals with disabilities (including, for example, neurodiverse individuals, individuals who are Deaf or hard of hearing, or other individuals with disabilities traditionally underrepresented in AJC programs), to help job seekers and their family members become familiar with the facilities and the services offered.
- When conducting affirmative outreach, qualified speakers from diverse backgrounds (including, for example, individuals from the Deaf or hard of hearing communities) are recruited to present to entities in the community about programs and services available through AJC programs.
- When off-site presentations to the general public are made by AJC program staff, locations must be accessible to all customers, especially those in traditionally underserved communities, and usable by all prospective customers, including individuals with disabilities. AJC program staff work through trusted community-based organizations and reach into traditionally underserved populations to help identify appropriate spaces. Such spaces could include locations that are identified as trusted places where people already congregate (e.g., community centers). The location should be suitable for obtaining translator and interpreter services (language access) for individuals with LEP, as well as auxiliary aids and services (such as sign language interpreters) for individuals with disabilities.
- All job fairs and job recruiting events hosted by AJC programs include affirmative outreach to traditionally underserved communities, reaching all segments of the

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<sup>35</sup> Working with these partners, AJC programs can consider how and when to use either “people-first” language, such as “people with developmental disabilities” or “people with mental health disabilities,” or “identity-first” language, such as “disabled person” or “Deaf,” in addition to using gender-neutral language to avoid the perception of bias toward a particular sex or gender, or language to respect individuals who are nonbinary and/or to avoid making assumptions. Disability related symbols are also used to promote accessible events/programs, including the symbol for sign language interpreters or Communication Access Realtime Translation (CART) services (a professional service provided by a captioner who uses a court reporting stenography machine, a computer, and software to display everything that is being said, word-for-word), which sends a signal that auxiliary aids and services for equally effective communication will be made available. See resources such as the [U.S. Access Board Technical Guide on “Signs,”](#) and [“A Planning Guide for Making Temporary Events Accessible to People with Disabilities,”](#) developed by the ADA National Network, and [“Writing Respectfully: Person-First and Identity-First Language,”](#) developed by the National Institutes of Health.

population, including individuals with LEP. This can be done by working through trusted channels of communication, such as community-based organizations, to reach schools, agencies, and nonprofit organizations serving people with disabilities.

- Notices of AJC programs, benefits, and activities are sent to schools, universities, colleges or technical schools, and community service groups that serve individuals with disabilities through multiple communication vehicles (including various public and community outlets, media outlets, and accessible web portals) to ensure broad dissemination of information about AJC programs, services, and activities available through the AJC programs, as well as information to explain how customers can access these programs, services, and activities.

### **1.2.2 Affirmative Outreach, Businesses**

- Affirmative outreach and technical assistance efforts by AJC program staff and partners, particularly State VR programs, build connections with businesses and promote the inclusion of disability in DEIA initiatives as part of the business strategy.
- To improve equitable practices, the SWDB and LWDB develop a plan to engage employers more effectively with recruiting, hiring, onboarding, and retention of job seekers from traditionally underserved communities as an integrated strategy of the AJC's service delivery. One element of this strategy is to develop a guide to help employers with diversity and inclusion. An example of such a guide is the *Diversity & Inclusion Employer Action Guide* developed by the Equity Committee of the Duluth Workforce Development Board.<sup>36</sup>

Implementing equitable and inclusive practices in these four areas can support:

- Recruitment – writing and disseminating a job posting that reaches a diverse audience, and that is inclusive of the spectrum of gender, abilities, languages, and diverse races and cultures.
- Hiring – mitigating and preventing unconscious bias and attitudinal barriers in screening, interviewing, and hiring candidates.
- Onboarding – establishing two-way communication to fulfill the needs of new hires and employers and ensure new hires feel welcomed into an inclusive workplace.

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<sup>36</sup> The Equity Committee of the Duluth Workforce Development Board developed an action guide that was launched in January 2021, "Diversity & Inclusion Employer Action Guide," available at: <https://duluthmn.gov/media/12991/di-employer-action-guide-final.pdf>. This guide provides practical tools and offers concrete practices to build diverse, equitable, and inclusive workplaces in four focus areas: recruitment, hiring, onboarding, and retention of staff. Each focus area covers end results, suggested metrics, best practices, and tools/resources. This guide can serve as an example for State and local workforce boards and others within the workforce development system on DEIA promising practices for employers.

- Retention – retaining high quality and diverse staff and promoting diverse individuals into positions of leadership.<sup>37</sup>
- Providing employers with skilled workers by supporting job seekers to enroll in and complete training and apprenticeship programs to meet increasing business demands.<sup>38</sup>
- Providing quality engagement and other services to employers and sectors by establishing fruitful relationships and maintaining them over extended periods of time.<sup>39</sup>
- Providing quality business engagement services to all employers within a State and local economy which can increase the probability of retaining business partnerships and new business referrals from other employers that are in need of business services.<sup>40</sup>
- AJC program staff use networking opportunities within the business sector to make the business case for hiring individuals with disabilities, including the benefits of incorporating DEIA practices into employment recruitment, hiring, and retention practices.
- Websites, other modes of communication, and the media are used to showcase business examples, highlighting benefits businesses have gained by hiring workers with disabilities in a variety of job categories.
- In collaboration with other partners, particularly VR, AJC program Business Service staff offer resources to businesses on inclusive best practices in disability employment and DEIA practices (including recruitment, hiring, retention, and advancement). They also provide targeted resources to employers, including resources describing effective reasonable accommodation policies, relevant tax and other financial incentives, and how to write and disseminate job postings to reach a diverse range of job seekers, including individuals with disabilities.
- As part of the business services strategy, the AJC programs work with businesses and business groups (such as the local Chamber of Commerce) to:
  - Learn about their unmet skill needs and challenges in the workplace.

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<sup>37</sup> Id.

<sup>38</sup> See [TEGL No. 10-16, “Performance Accountability Guidance for Workforce Innovation and Opportunity Act \(WIOA\) Title I, Title II, Title III, and Title IV Core Programs”](#) (December 19, 2016).

<sup>39</sup> Id.

<sup>40</sup> Id.



- Identify areas in which the needs of businesses and candidates for employment can be matched or otherwise customized through negotiation (customized employment).<sup>41</sup>
- Explore the value of workplace flexibility and otherwise customized employment in recruiting and retaining a diverse workforce and its usefulness as a tool to maximize productivity.
- Develop customized training resources for the specific skills needed by employers.
- Promote work experiences (e.g., on-the-job training, internships, apprenticeships, etc.) for individuals with disabilities.

### 1.3 Involving Community Groups and Schools

- AJC program staff identify and, on an ongoing basis, collaborate with community or advocacy organizations, as well as agencies and schools, such as Deaf schools or Commissions for the Deaf and Hard of Hearing, or Community Mental Health Centers, that provide services and supports to individuals with disabilities to reach traditionally underserved populations to educate them about its programs.
- Cross training between staff of AJC programs and community organizations is provided to facilitate the exchange of up-to-date information on available services, supports, resources, and critical disability-related employment topics such as interacting with job seekers with disabilities, availability of language access services for individuals with LEP, provision of auxiliary aids and services for individuals with disabilities, disclosure issues, social security disability work incentives, the ADA and other disability employment laws, employer resources on hiring job seekers with disabilities, reasonable accommodations, and valuable community resources.
- AJC program staff join with VR and schools to identify employers that will provide summer work experiences to youth in order to develop career skills and soft skills, and cultivate self-employment interests.

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<sup>41</sup> “Customized Employment” is described and discussed at:

<http://www.dol.gov/odep/topics/CustomizedEmployment.htm>. The term “customized employment” is defined in the regulations implementing Section 7(7) of the Rehabilitation Act, as amended by Title IV of WIOA, to mean “competitive, integrated employment, for an individual with a significant disability that is- (i) Based on an individualized determination of the unique strengths, needs, and interests of the individual with a significant disability; (ii) Designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer; and (iii) Carried out through flexible strategies, such as- (A) Job exploration by the individual; and (B) Working with an employer to facilitate placement, including- (1) Customizing a job description based on current employer needs or on previously unidentified and unmet employer needs; (2) Developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review) and determining a job location; (3) Using a professional representative chosen by the individual, or if elected self-representation, to work with an employer to facilitate placement; and (4) Providing services and supports at the job location.” [34 CFR 361.5(c)(11)]

- AJC program staff reach out to local high school transition staff to offer information about services provided within the AJC and coordinate ongoing small group orientations of AJC programs.
- AJC program staff and LWDBs consult with, and elicit input from, individuals with disabilities and organizations that provide services to individuals with disabilities who are members of traditionally underserved communities (including, for example, the Deaf and hard of hearing communities) when developing and implementing policies that govern the operation of the AJC's programs and activities, including strategic plans and efforts to improve affirmative outreach and service delivery to individuals with disabilities, and those with intersecting identities.
- Representatives of individuals with disabilities and other diverse populations are provided opportunities to inform AJC programs or Local Boards of their communities' needs by actively participating on an ongoing basis in strategic planning, charter reviews, and similar processes.

#### **1.4 Effecting Collaboration Including Partnerships and Linkages**

- AJC programs take steps to improve operational collaboration and communication with entities that have experience working with individuals with disabilities and those with intersecting identities (e.g., community-based organizations that have trusted relationships with and reach traditionally underserved communities). For example, staff can conduct equity assessments to determine how entities can more effectively work together and establish partnerships and linkages through open and ongoing discussions, memoranda of understanding, or other mechanisms.

AJC staff and partners can assess and review whether members of traditionally underserved communities face systemic barriers in accessing benefits and opportunities available through AJC policies and programs. This could include identifying:

- Potential barriers to enrollment in and access to benefits and services, and to achieving successful outcomes on issues that traditionally underserved communities and individuals may face.
- Whether new policies, regulations, or guidance documents may be necessary to advance equity in AJC actions, activities, and programs.

Assessments can help AJC programs identify and address equity action areas to ensure equal opportunity and nondiscrimination in such areas as:

- Registration;
- Common data intake and sharing;
- Customer affirmative outreach;
- Service delivery and coordination;
- Cost sharing; and

- Performance measures and outcome data collection.
- The SWDB and LWDB set and align equity goals across agencies and projects, including tracking disaggregated data to improve affirmative outreach, services, and outcomes related to diversity, equity, inclusion, and accessibility.

With respect to **COST SHARING**, the LWDBs:

- Coordinate, using funds and in-kind resources available to/through AJC programs and other agencies, to improve common outcome measures related to career advancement, such as employment, job retention, and earnings. For example, when staff identify job opportunities that match the interests and skill sets of customers with disabilities, VR funds may pay for on-the-job assessments and training; Medicaid may pay for personal assistance services on and off the job site; and Temporary Assistance for Needy Families (TANF) funds may be used to pay for after-school child care support, if needed.
- Use cost-sharing arrangements to cover the cost of dedicated staff experts, such as a Disability Resource Coordinator, who can establish and/or formalize commitments from partner organizations as well as contribute to the overall development and/or implementation of efforts pertaining to individuals with disabilities within the AJC programs.
- In determining cost sharing arrangements, review extensive guidance jointly published by the U.S. Departments of Labor (DOL) and Education (ED), Training and Employment Guidance Letter [TEGL No. 17-16, “Infrastructure Funding of the One-Stop Delivery System”](#) (January 18, 2017).

With respect to **SERVICE DELIVERY AND COORDINATION**, the AJC programs:

- Incorporate dedicated staff, such as Disability Resource Coordinators (DRC), or other similar individuals with particular expertise as part of the staffing structure of the AJC programs to facilitate linkages across partner organizations. DRCs can also establish Integrated Resource Teams (IRTs) and convene a “disability and employment task force” or other partnership working group to address policy and systemic issues impacting the employment of individuals with disabilities, among other endeavors to improve successful employment outcomes.
- Convene an IRT to coordinate services and leverage funding to meet the employment needs of job seekers who may need access to multiple service providers and resources to reach training and employment goals. IRTs may involve a diverse range of supports to ensure job training, job search, and employment outcomes are successful for the individual, such as community transportation or housing coordinators, community college liaisons, special education transition assistance, or certified benefits planners, among others. The

IRT incorporates the individual with a disability as the primary contributor to the team.<sup>42</sup>

- Make any local [Work Incentives Planning and Assistance \(WIPA\)](#) project(s) for individuals with disabilities a part of the team service coordination process, as needed. WIPA counselors can help customers with disabilities consider how getting a job will affect any disability benefits they may receive. The counselors can also train AJC program staff or other workforce organizations about these benefits issues.
- Maintain a list of agencies and other local resources designed to assist individuals with disabilities (e.g., agencies providing interpreters for individuals who are Deaf or hard of hearing; financial capability services; information on applying to the State Medicaid Buy-in program; agencies providing services to individuals with mental health disabilities and individuals with intellectual/developmental disabilities, and information on how to access housing and transportation services), and make that information available to both staff and customers. This information should be regularly updated.

## 1.5 Staff Development

- Create a process to provide supervisors with diversity management training. Work with DEIA experts in the area to provide consultations and/or trainings.
- Based on regular and ongoing assessments of AJC program staff's knowledge and experience serving individuals who belong to traditionally underserved communities, AJC programs provide a range of training opportunities (basic, intermediate, advanced) to all line and supervisory staff, providing staff with tools to effectively and respectfully serve individuals with intersecting identities.

To ensure universal access to services and activities, with a focus on nondiscrimination and equal opportunity, workforce programs can include training on topics such as confidentiality, privacy, disclosure of disability, using gender-neutral language, cultural competence, language access, and the full range of topics described in the Reference Guide.

AJC programs create intentional opportunities for ongoing reflection and self-assessment through regular (i.e., at least annual) staff professional development DEIA training. For an example, see the self-paced online course and training created by the Colorado Workforce Development Programs and the Colorado Department of Education, Adult Education Initiatives Office in collaboration with

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<sup>42</sup> See [TEGL No. 31-10, "Increasing Enrollment and Improving Services to Youth with Disabilities"](#) (June 13, 2011).

the Rocky Mountain ADA Center, which was developed to increase knowledge around programmatic accessibility in the workforce system.<sup>43</sup>

- Develop staff training for AJC program staff and management to effectively serve LGBTQ+ customers through the workforce system. Collaborate with community groups, who work with the LGBTQ+ community to assist in the development and presentation of the training. For example:
  - Include identity-affirming and accepting service provision for individuals who identify as LGBTQ+.
  - Support understanding of issues faced by people who identify as LGBTQ+.
  - Use appropriate and gender inclusive language.

This training can help workforce staff understand the unique needs of people in the LGBTQ+ community with intersecting identifies and can assist in the following practices, including:

- Written personnel policies, including non-discrimination, diversity, and anti-harassment policies that explicitly address sexual orientation, gender identity and expression.
  - Affirmative outreach materials that include photos and/or text indicating AJC programs are LGBTQ+ inclusive.
  - Physical spaces that are welcoming to all gender identities (e.g., gender-neutral bathrooms).
  - Staff training to promote partnerships with culturally competent organizations and professionals serving LGBTQ+ customers and their families.
- Designate dedicated AJC program staff, such as a Disability Resource Coordinator, with training and expertise in providing services and supports to customers with disabilities to increase access to and participation of youth and working-age adults with disabilities into all levels of public workforce system services. The Dedicated AJC program staff:
    - Increase the capacity of AJC programs to help customers with disabilities navigate a pathway to higher skilled and higher-paying jobs and economic security;
    - Leverage funds and resources;
    - Provide training and support to workforce staff and partners; and
    - Conduct affirmative outreach to the disability community.

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<sup>43</sup> Colorado Workforce Development Programs and the Colorado Department of Education, Adult Education Initiatives Office, in collaboration with the Rocky Mountain ADA Center, developed a training series on disability-related topics to meet the requirements of the WIOA section 188 on programmatic accessibility. The training series uses the “[Programmatic Accessibility Course](#)” and “[Programmatic Accessibility Self-Evaluation Toolkit](#)” created with Disability Employment Initiative grant funds in 2020 as a training guide. Many of the topics in this series are technical in nature and come directly from the regulations contained in WIOA Section 188, and other implementing guidance from enforcing agencies. The 'disability etiquette' and 'implicit bias' courses touch on aspects of DEIA, including intersectionality.

- Conduct action-oriented cross-training by and for individuals in various roles, such as State VR counselors, job service personnel, job training staff, service coordinators (including case managers), local disability providers, etc., to promote relationship-building between various partner agencies in areas such as job search techniques, job development, and employer negotiation, and job support strategies related to individualized employment services.
- Conduct joint statewide training among AJC programs, VR, and other partners that models effective collaboration, increased alignment and systems coordination, consistent messaging, and relatable scenarios and common language.
- Ensure manuals, guidelines, resource directories, and other materials used by staff (and used to train staff) include examples of the types of services and supports for individuals with disabilities and other individuals facing challenges to employment.
- Train reception and service staff in “disability etiquette”—specific ways of being courteous, respectful and welcoming to individuals who may have disabilities (both visible and/or hidden). The self-paced eLearning module, [Serving Individuals with Disabilities – A Day in the Life of an American Job Center](#), includes strategies, tips, State examples, and scenarios gathered from practitioners across the country to support front line American Job Center staff effectively serve customers with a wide range of disabilities.<sup>44</sup>
- Train case managers and job developers about the range of approaches to workplace flexibility and job development, including creating employment positions for specific job seekers through negotiation with employers.<sup>45</sup> One such approach is known as “Customized Employment.”<sup>46</sup> Customized Employment involves a highly individualized process of job seeker exploration, discovery, development of descriptive profile documents, customized employment planning, innovative representation methods, employer needs analysis, and representation by a job developer. AJC program staff are trained to problem-solve and proactively offer assistance to customers who appear to be having difficulty accessing services (e.g., providing appropriate support to customers who are using self-directed services, including computers and other technology).

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<sup>44</sup> This [module](#) includes scenarios to increase organizational learning on strategies to help maximize a seamless customer service experience under WIOA. You can also access under “Related Content,” an “eLearning Module 1 Activity Sheet” to draw connections between the topics and examples presented and experiences on the job.

<sup>45</sup> Negotiation with employers is an essential element of “Customized Employment.”

<sup>46</sup> See footnote 41 for a description and discussion of “Customized Employment.”

- Ensure AJC program staff performance evaluations include requirements that staff have participated in disability-related training that emphasizes the need to effectively serve individuals with disabilities.
- Promote AJC program staff’s use of [workforcegps.org](http://workforcegps.org), [Disability and Employment Community](#), which is an online learning destination for public workforce system staff and partners, job seekers, community-based organizations, grantees, and the business sector. This online system provides a “one-stop-shop” venue for workforce practitioners to find and share high quality information about how to better provide integrated, seamless, and accessible services and programs to individuals with disabilities and/or other individuals facing challenges to employment.
- Have cross-agency partners located within the same local workforce area form an IRT with joint resources and goal setting. This action-oriented collaboration is used to build cross-agency partnerships and solidify concepts of the IRT. For example, AJC program staff are trained about the available resources and additional supports people with disabilities may need, (e.g., people living with HIV/AIDS may be interested in learning about the AIDS Drug Assistance Program).

## **1.6 Intake, Registration and Orientation, Disclosure of Disability**

### **1.6.1 Intake**

- AJC program staff use a common culturally competent intake process for new job seekers that helps establish eligibility for other public benefits and assistance from partners in the workforce development system (e.g., adult education and literacy authorized under Title II of WIOA, and dislocated workers and veterans workforce programs under Title I) and other service delivery systems including benefits and assistance provided by State VR, Medicaid, Mental Health, and Intellectual and Developmental Disabilities agencies.

Common intake processes take into consideration the needs of persons with disabilities at the intersection of LGBTQ+ by using gender-neutral language. AJC materials offer the opportunity for a job seeker to share their identified gender as well as preferred pronouns. AJC staff are encouraged to share pronouns when beginning to work with a job seeker regardless of whether they identify as members of the LGBTQ+ community.

- AJC programs develop and use a common release-of-information form across WIOA partners and other service delivery systems that allows the customer to agree to disclose personal information and identify the particular partner agencies that may receive the information in order to promote integrated service delivery strategies.

- AJC programs develop and implement data-sharing agreements among WIOA partners and other service delivery systems (Medicaid, Mental Health, Intellectual/ Developmental Disability services) that increase efficient and effective support of customers served by the workforce development system, consistent with legal requirements and privacy and confidentiality policies.

### **1.6.2 Registration**

- AJC program staff ask all registrants, including individuals with disabilities, whether they need assistance during the application/registration process.
- AJC program staff offer assistance to all individuals, including individuals with disabilities, in filling out forms and application materials. If a person needs assistance, this process is done one-on-one in a private room, where the individual's responses will not be overheard.
- All customers are routinely offered the option of meeting with staff in private offices.
- All customers are asked if they will need some type of accommodation or assistance to take full advantage of services and supports.
- Front desks are partially lowered, so job seekers with a lower line of sight (e.g., individuals using wheelchairs or small-statured individuals) are welcomed eye-to-eye.

### **1.6.3 Orientation**

- As required by regulation,<sup>47</sup> every orientation session hosted by AJC programs includes a presentation of customers' rights to equal opportunity, including the right to file a complaint if they believe their rights have been violated.
- A list of the immediately-available auxiliary aids and services for communication, assistive technology devices, and materials available in accessible formats is provided in writing and reviewed verbally during orientation.
- Orientation materials are available in formats that account for a variety of learning styles and language access needs, including for individuals with LEP, and are also accessible to individuals who have limited or no reading skills (e.g., pictures, videotapes, audio recordings) and in a variety of alternative formats for individuals with disabilities. Videos for customers are available in a variety of alternative formats for individuals with disabilities, including with open- and/or closed-captioned and with audio description. If information is generated or processed using AI programs, ensure that it is equitable and fully accessible.

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<sup>47</sup> [29 CFR 38.39](#), "communication of notice in orientations."



- A guided tour of the AJC highlighting the modifications, assistance, accommodations that are immediately available for customers who may have disabilities is considered part of the standard orientation to program services.
- Workshops are offered that highlight access to a wide range of commonly requested resources, such as transportation, housing, Supplemental Security Income (SSI)/Social Security Disability Insurance (SSDI), legal support, State benefits, and other needed resources. The sessions not only provide information about the resources, but also how to navigate the application process.

#### **1.6.4 Disclosure of Disability**

- The AJC programs develop written policies for staff regarding the legal requirements related to discussion and disclosure of a customer's disability and provide training to staff regarding the applicability of these requirements and policies. For example, the policy explains that intake workers inform individuals that, if they have a disability, they may disclose their disability and request and receive a reasonable accommodation, reasonable modification, and/or auxiliary aids and services. In addition, it is made clear that disclosure is voluntary and information regarding disability will be kept confidential and maintained in a separate file.
  - Staff working with individuals with disabilities must obtain permission from the individual before disclosing information about their disability with others.
  - All discussions between staff and customers are conducted in a manner that ensures the preservation of confidentiality.
- A packet of information is developed and given to customers that describes disability disclosure rights, considerations, and obligations by AJC programs including explaining when staff may ask medical or disability-related questions, how staff keep that information confidential, explanations of why an individual may not want to disclose, and why disclosure may be beneficial (e.g., entitlement to reasonable accommodations/modifications or auxiliary aids and services).
- If AJC programs have specific programs for customers with disabilities, information about these programs is provided to all customers so an individual customer does not have to disclose the fact that they have a disability in order to learn about these programs.
- To help promote disability disclosure and requests for reasonable accommodation, AJC staff share information with all customers that highlights access challenges and examples of how the challenges can be accommodated. Language access that reflects the local population should be provided, including for individuals with LEP. For example, Virginia created an accommodation flyer

and poster in both English and Spanish that highlights access challenges and examples of accommodations.<sup>48</sup>

## 1.7 Assessments and Screenings

- During the initial intake process, if it comes to the attention of the AJC program staff that an individual may have a functional impairment that could impact their ability to benefit from services, the individual should be provided with an opportunity for a more comprehensive assessment. This assessment should be conducted by qualified personnel to make a determination of eligibility for other services and/or for identifying appropriate accommodations and modifications.
- AJC program staff use a variety of assessment tools, approaches, and strategies for assessment, discovery, and exploration of individual strengths and abilities, and select those that are most appropriate for the specific job seeker.
- AJC program staff is allowed, where legal and appropriate, to use data that was previously collected about a particular customer, rather than asking customers repeatedly for the same information.
- AJC program staff are knowledgeable about:
  - The information that must be given to a customer before asking questions that may lead to disclosure of information about disability and the process of obtaining customers' informed consent before referring them for diagnostic assessment or further assessment of strengths and abilities.
  - Which funds may be used for conducting a comprehensive assessment, such as VR, education, TANF, and/or Medicaid funds. Staff are also provided training about how to access these funds and coordinate the process of referral for diagnostic assessment.<sup>49</sup>
- Working with all partners, AJC program staff establish an "expectation of success" attitude regarding customers with significant challenges to employment, including individuals with disabilities. This attitude includes a commitment by staff and all partners to serve a customer with a disability alongside other customers

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<sup>48</sup> To promote disability disclosure, Virginia developed an accommodation flyer and poster for American Job Centers, highlighting access challenges and examples of accommodations in both English and Spanish available at: [https://vcwnorthern.com/wp-content/uploads/SSG259\\_Accommodations\\_Poster\\_English\\_v1.pdf](https://vcwnorthern.com/wp-content/uploads/SSG259_Accommodations_Poster_English_v1.pdf) (English) and [https://vcwnorthern.com/wp-content/uploads/SSG259\\_Accommodations\\_Poster\\_Spanish\\_v1.pdf](https://vcwnorthern.com/wp-content/uploads/SSG259_Accommodations_Poster_Spanish_v1.pdf) (Spanish). Virginia's State-Level Cross-System Accessibility Taskforce is comprised of State level workforce agencies representing all four WIOA Titles. The Accessibility Taskforce designs and implements innovative cross system practices to promote equity and provide resources that support WIOA's Section 188, Equal Opportunity and Nondiscrimination requirements.

<sup>49</sup> See [TEGL No. 16-16, "One-Stop Operations Guidance for the American Job Center Network" \(January 18, 2017\)](#), [TEGL No. 16-16 Change 1 \(June 16, 2017\)](#). See also [TEGL No. 17-16, "Infrastructure Funding of the One-Stop Delivery System" \(January 18, 2017\)](#).

to the extent appropriate to the needs of the customer with a disability (providing appropriate supports such as reasonable accommodations), instead of automatically referring these customers to another specialized service agency (e.g., a State agency that exclusively serves individuals with mental health issues or intellectual/developmental disabilities).

- AJC staff understand that using algorithmic decision-making tools, such as chatbots, may inappropriately screen out applicants with disabilities as part of that assessment. Algorithmic decision-making tools should only measure abilities or qualifications that are truly necessary for the job, and must take into account the possibility of reasonable accommodations. Any algorithmic decision-making tool should be evaluated prior to use, as well as in individual circumstances, to ensure that it does not discriminate against individuals with particular disabilities. For example, video interviewing software that analyzes applicants' speech patterns in order to reach conclusions about their ability to solve problems is not likely to score an applicant fairly if the applicant has a speech impediment that causes significant differences in speech patterns.
- To reduce the chances that a tool will inadvertently screen out someone with a disability and to provide individuals with an opportunity to decide whether a reasonable accommodation is necessary, AJC staff should inform people with disabilities about the availability of reasonable accommodations, including alternative formats and alternative tests; provide clear instructions for requesting accommodations; and provide all participants, job applicants, and employees who are undergoing assessment with an algorithmic decision-making tool with as much information about the tool as possible. This information should include how the tool could impact hiring practices, based on the skills it measures, the methods by which those skills will be measured and the disabilities, if any, that might potentially cause lower assessment results or cause applicants to be screened out. Algorithmic decision-making tools that include disability-related inquiries or seek information that could be used to identify an applicant's medical conditions may result in a violation of disability law.

## **1.8 Service Delivery**

### **1.8.1 In General**

- To the extent AJC programs provide services (e.g., education and training opportunities, labor market information, job listing and job-search assistance, resume and cover letter preparation) on a self-service basis, staff provide appropriate assistance to individuals with disabilities so they can effectively benefit from such services (including assistance in using computers and other technology) and assistance and training in how to navigate multiple systems of services.

- AJC program staff roles and responsibilities are flexible enough to allow employees to provide individualized services responsive to customers' unique needs.

### **1.8.2 Service Delivery, Funding**

- AJC program staff explore and use a range of funding sources that includes an exploration of building financial capability for customers with disabilities and improving financial stability.
- To advance equity, the SWDB and LWDB include in funding opportunities a requirement of an Equity and Employment plan that demonstrates an understanding of how race, ethnicity, sexual orientation, gender identity, disability, and other identities may impact individual access to employment and training services and provides outcomes for equal access and service delivery. An example of a State that has included an equity plan in their funding opportunities is Illinois.<sup>50</sup>
- AJC program staff conduct meetings of mandated and non-mandated AJC program partners to identify potential funding options, including both general resources available to all customers and specific program funds.
- AJC programs collaborate with other local organizations to assist job seekers who are eligible for other Federal or State programs, including benefits programs such as Social Security and disability insurance programs.
- AJC program front line and executive staff are aware of policies that apply when accessing and sharing funding from various agencies and provide examples of shared "blended" or "braided" funds<sup>51</sup> and other resources:

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<sup>50</sup> This sample language was included in Illinois State workforce funding opportunity announcements that requested specific criteria that needed to be considered within the scope of work and was included as a separate attachment in the application submission. This example was from a "[2021 Job Training and Economic Development](#)" funding opportunity. *"Each applicant must complete an Equity and Employment Plan. The plan must demonstrate an understanding of how race, ethnicity, and gender may impact individual access to employment and training services. The application must address how their model considers the experience of people of color and women in the industry, as well as how it will increase access, enrollment, and completion. Examples include changes in recruitment practices, intentional and inclusive marketing, completion and retention, adequate supportive services, including those identified as part of Barrier Reduction funding."*

<sup>51</sup> Federal Joint Communication to State and Local Governments. "[Resource Leveraging & Service Coordination to Increase Competitive Integrated Employment for Individuals with Disabilities](#)" (August 3, 2022). The U.S. Department of Labor's Office of Disability Employment Policy and Employment and Training Administration joined seven other Federal agencies in issuing this Federal joint communication. This joint communication, along with an accompanying [frequently asked questions](#) document, encourages State and local partners to proactively implement resource blending, braiding and sequencing across systems to improve Competitive Integrated Employment outcomes for youth and adults with disabilities.

- Blended funding occurs when dollars from multiple funding streams are combined to purchase one or more specific services; and
- Braided funding occurs when multiple funding streams are separately *but* simultaneously utilized to purchase and provide specific services.

### **1.8.3 Service Delivery and Career Services**<sup>52</sup>

#### 1.8.3.1 In General

##### **AJC programs:**

- Employ dedicated core staff with expertise in disability-related issues<sup>53</sup> and provide information on their availability to all job seekers.
- Advise customers that information on [Ticket to Work](#) (TTW) and [Employment Network](#) (EN) services authorized under the Social Security Act, including benefits planning, is available to customers who are SSI and SSDI beneficiaries.
- Make classes in “Guided Group Discovery”<sup>54</sup> available to all customers, especially customers with complex challenges to finding a job, such as individuals with disabilities. These classes are conducted by trained facilitators in small groups of 6-10 other job seekers. The Group Discovery process results in a profile of each job seeker which lists the job seeker’s interests, skills, needs, and conditions of employment that can be used to create a portfolio and employment plan.
- Inform Federal contractor customers about the nondiscrimination and affirmative action responsibilities that these employers have (because they are doing business with the Federal Government) to hire, retain, and advance in employment qualified individuals with disabilities under Section 503 of the Rehabilitation Act (Section 503).

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<sup>52</sup> Under WIOA, the term “career services” includes basic career services such as job search assistance and individualized career services such as intensive assessments and individual career counseling. [[20 CFR 680.150](#)]

<sup>53</sup> From 2001 to 2020, the U.S. Department of Labor’s Employment and Training Administration and Office of Disability Employment Policy jointly funded three disability employment initiatives ([Work Incentive Grants](#), the [Disability Program Navigator initiative](#), and the [Disability Employment Initiative](#)) to support and promote a universally designed workforce development system that can meet the needs of all job seekers, including those with disabilities. These initiatives included dedicated staff with expertise in disability-related issues (e.g., Disability Program Navigators and Disability Resource Coordinators) to help expand the capacity of the public workforce system to serve and accommodate a more diversified population of job seekers.

<sup>54</sup> The purpose of Guided Group Discovery is to lay the foundation for competitive integrated employment as a Universal Design that can benefit all job seekers. Guided Group Discovery can serve as the first step to Customized Employment. The process assists job seekers in identifying employment that would be a good fit both for them and an employer. Available at: [“Guided Group Discovery Resources: Introduction and Course, Participant Workbook, and Facilitator Guide.”](#)

- Provide workshops on interviewing and self-representation skills, including the ability to negotiate certain features of a job.
- Hold reverse job fairs that allow job seekers with disabilities to showcase their skills and strengths at the job seeker's individual booth, where employers learn about the job seeker's employment history, education skills, achievements, and volunteer experience.
- Provide resume writing workshops that include the option of alternative tools, such as portfolios, for job seekers to use (instead of or in addition to traditional resumes) when representing themselves to employers.
- Provide or make arrangements (including referral to other entities) to give benefits counseling for individuals with disabilities, particularly those individuals currently receiving/eligible for SSI or SSDI benefits and Medicaid or Medicare.
- Offer individuals with disabilities the opportunity to be linked to individuals who provide advice and help them navigate the new requirements about coverage provided under the Affordable Care Act, including links to resources to help with healthcare navigation to identify an appropriate plan as part of a healthcare exchange.
- Offer asset development and financial capability strategies to enhance long-term economic self-sufficiency, including financial literacy training, using individual development accounts, tax and work incentives, and other strategies for encouraging economic advancement.
- Offer counseling regarding the Social Security Administration's [Plan to Achieve Self Support \(PASS\)](#) and other work incentives, the [Earned Income Tax Credit \(EITC\)](#), and other tax provisions and self-directed benefit and resource accounts.
- Hold regular case conferencing sessions between AJC program, VR, and/or other cross-systems partners to provide an ongoing opportunity to share ideas and consider career solutions for individuals who have multiple resource challenges, while protecting the confidentiality of individual customers.

#### 1.8.3.2 Person-Centered Services

- In interacting with customers with disabilities, AJC program staff and partners assume that the customers are the experts in understanding their disability and specific needs based on that disability.
- AJC programs convene an IRT comprised of representatives from different agencies and service systems (both general workforce and disability-specific) that coordinates services and leverages funding to meet the employment needs of job seekers with disabilities to reach their training and employment goals. The

IRT may include a diverse range of supports to ensure job training, job search, and employment outcomes are successful for the individual, such as community transportation or housing coordinators, community college liaisons, special education transition assistance, or certified benefits planners, among others. The IRT also incorporates the individual with a disability as the primary and essential component of the team.<sup>55</sup>

#### 1.8.3.3 Career Exploration and Discovery

- Develop plans for employment based on individual strengths, needs, and interests. AJC program staff explore all facets of the individual's life in various contexts to identify a more expansive range of skills and competencies, as well as gain sufficient insight and information for possible customization of employment.
- Make labor market and career path information available to all job seekers, including individuals with disabilities, as essential components of the decision-making process when considering job training, education, and employment opportunities.
- Make a variety of strategies for career exploration available, including informational interviews, virtual jobsite tours (for individuals in rural areas that have limited access to resources, or individuals with limited mobility or who have limited access to transportation, or other needs based on disability), job shadowing opportunities, short-term job tryouts, Group Discovery classes, existing job seeker peer groups (such as job clubs and friendship groups), and education regarding barriers to employment and the impact of employment on benefits, life routines, and responsibilities.
- Consider a broad range of entities (including nontraditional partner agencies) for participation in the process of career exploration and obtaining employment for each job seeker, including those with disabilities. AJC program staff develop and implement a process to reach out to additional entities as customers' needs dictate.
- Identify lead AJC program staff members to compile a narrative profile report that captures the findings of the job seeker's exploration process, which includes areas of the job seeker's strengths, needs, and interests, as well as their life complexities that might need to be accommodated, negotiated, and/or supported.

#### 1.8.3.4 Employment Planning

- AJC program staff actively involve the job seeker in all elements of planning for employment included in the individual employment plan, recognizing that the

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<sup>55</sup> See [TEGL No. 31-10, "Increasing Enrollment and Improving Services to Youth with Disabilities"](#) (June 13, 2011).

customer with a disability is the decision-maker during the employment preparation process.

- AJC program staff work with the individual with a disability to develop an individual employment plan based on the individual's narrative profile report, which emphasizes what the individual can do to support their own job search. These action steps take advantage of the individual's strengths. Consistent with LWDB policy, the plan includes:
  - Recommendations of accommodations, including assistive technology, that may help the individual carry out the functions of a particular job, or participate in a particular program or activity;
  - An employer contact list with strategies for connecting with the listed employers through personal and professional networks;
  - Identification of negotiation areas with a particular employer based on both individual contributions and employer needs; and
  - The opportunity to prepare resource plans that include an explanation of available resources, including community resources.
- The individual plan for employment is consistent with and can be utilized to meet the Social Security Administration's (SSA) [Ticket to Work](#) requirements for an [Employment Network](#).
- Design a comprehensive process to help job seekers with disabilities reach their full potential. The focus of the process is to assess customers' strengths, match those strengths to the needs of employers, and provide the support and training necessary to prepare customers to navigate the process. The cornerstone of the process is to use state-of-the-art career assessments to help job seekers develop effective job search campaigns, enable career consultants to recognize the customer's full potential, and illustrate to prospective employers why the customer is a good match for their hiring needs.
- Advise job seekers with limited work history of internships, summer youth programs, and on-the-job training opportunities as valuable tools in identifying job preferences, personal skill sets, and improving resume and employment outcomes. Incorporate information on Individual Training Accounts, Pell Grants, and other training and educational opportunities in the employment planning process for all customers, including individuals with disabilities.
- Schedule regular planning meetings that include the customer, team members, family, friends, and selected AJC program staff in the development of a customized job.
- Provide job seekers with disabilities access to information regarding: financial capability assessments and resources; utilization of the [Ticket to Work](#) program authorized under the SSA; and new requirements about coverage provided



under the Affordable Care Act, including links to resources to help with healthcare navigation to identify an appropriate plan as part of a health exchange.

#### 1.8.3.5 Personal Representation Skills

- AJC program staff help job seekers create high-quality materials, which might include presentational portfolios for employers, resumes, letters of recommendations, and referrals.
- Provide training (including role-playing opportunities) to job seekers on strategies for representing themselves with employers. Training includes such areas as negotiation skills, conducting informational interviews with prospective employers to identify jobs and/or skills the job seeker can bring to an employer, and work expectations applicable to most workplaces, including soft skills. If requested, AJC programs or a partner agency provide a staff person to accompany and represent/assist the job seeker during negotiations with the employer, including ensuring that reasonable accommodations and supports necessary for the job seeker to succeed are provided.
- AJC program staff, after receiving training regarding disclosure of disability, notify all customers that staff will work with them on an individual basis to discuss whether they should disclose confidential information (e.g., disability) to an employer and upon request will also disclose the information on a particular customer's behalf. This process includes a discussion of the information the customer is considering disclosing, the pros and cons of disclosure, and, if disclosure is chosen, the way in which the information would most effectively be presented.

#### 1.8.3.6 Individualized Resource Mapping

Resource mapping is a process in which LWDBs work with AJC programs to develop and utilize partnerships to identify existing assets and resources (e.g., organizations, services, laws, policies, funding streams, and collaborations) that comprise a service-delivery system, elements of which may be leveraged on behalf of individual job seekers. Stakeholders analyze the information for gaps and overlaps to enhance coordination, collaboration, and cost-sharing among stakeholders and to develop new policies to enhance employment opportunities for individuals with disabilities.<sup>56</sup>

- AJC programs increase access to services to job seekers with disabilities and other challenges to employment by offering all job seekers the opportunity to “map” career goals with available partners and resources.

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<sup>56</sup> See [TEGL No. 17-16, “Infrastructure Funding of the One-Stop Delivery System”](#) (January 18, 2017).

- Job seekers are provided information on local labor-market conditions and their potential impact on the development of career goals and planning for implementing the requirements to achieve such goals.
- Resource mapping occurs in the context of an IRT (defined in Section 1.8.3.2 of this Part I of the Resource Guide) in a comprehensive manner that includes partner buy-in to the provision of resources.

#### **1.8.4 Service Delivery, Training Services**

- When providing training services for customers, AJC programs collaborate with other agencies with knowledge of promising practices to address the unique needs of individuals with disabilities (e.g., physical, mental/cognitive, and sensory impairments).
- LWDBs develop policies that make Individual Training Accounts (ITAs) more flexible to use for training options to address the individual needs of individuals with disabilities using a wide variety of services, including training providers and community colleges that provide individualized employment supports.
- AJC program staff utilize customized employment, or a series of flexible, individualized strategies, leading to a negotiated relationship with an employer that focuses on addressing unmet needs and other specific value-added benefits to employers rather than solely relying on open, demand-job positions. Customized employment involves a highly individualized process of job seeker exploration, discovery, development of descriptive profile documents, customized employment planning, innovative representation methods, employer needs analysis, and representation by a job developer.<sup>57</sup>
- AJC program staff offer training in self-employment strategies, including entrepreneurial training, to adult and dislocated workers with disabilities and entrepreneurial work experiences for youth with disabilities. National and local self-employment resources are identified for small business development.
- ITAs and other training and educational opportunities are available to all individuals with challenges to employment, including those with disabilities. These opportunities are available regardless of whether the job seeker’s ultimate goal is part-time or self-employment and such individuals are not “screened out” based on their preference.

#### **1.8.5 Service Delivery, Youth**

- AJC program staff use the [Guideposts for Success](#), which are a set of key educational and intervention strategies derived from both research and practice

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<sup>57</sup> For a description and discussion of “Customized Employment,” see footnote 41.

that can make a positive difference in the lives of all youth, including those with disabilities. The Guideposts are divided into the following five components:

- School-based preparatory experiences based on meaningful, accurate, and relevant indicators of student learning and skills. Examples include:
  - Access to curricular and program options based on universal design<sup>58</sup>
  - Access to individual learning accommodations
- Career preparation and work-based learning experiences that provide opportunities to form and develop aspirations and to make informed choices about careers. Examples include:
  - Participation in job-shadowing and internships that are coordinated with schools and businesses
  - Participation in service learning
  - Participation in programming that leverages the individualized service strategies and is aligned with career pathways
- Youth development and leadership activities that support self-identity, self-esteem, and self-advocacy skill building as well as exposure to peer and adult role models. Examples include:
  - Access to peer-to-peer mentoring activities and exposure to role models in a variety of contexts including work settings
  - Involvement in the decision-making processes of AJC programs
  - Clear information concerning relevant laws, and rights related to having a disability
- Connecting activities, including knowledge of transportation, health care, housing, and financial planning. Examples include:
  - Information about financial literacy and assessments that identify unmet needs regarding money management, benefits planning, debt reduction, and strategies to improve credit scores
  - Instruction on navigating public transportation systems available within their communities
  - Access to qualified individuals to provide advising and navigation of health care coverage provided under the Affordable Care Act,

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<sup>58</sup> “Universal design” is the concept or philosophy of designing products and services that are usable by people with the widest possible range of functional capabilities. This includes products and services that are directly usable (without requiring assistive technologies) and those that are made compatible with assistive technologies. “Assistive technologies” include any items, pieces of equipment or systems, whether acquired commercially, modified or customized, that are commonly used to increase, maintain, or improve functional capacities of individuals with disabilities.

including links to resources to help with health care navigation to identify an appropriate plan as part of a health exchange

- Family involvement and support, which encourages participation and involvement of parents, family members, and other caring adults. Examples include:
  - Providing families and caring adults with access to medical, professional, and peer support networks
  - Appointing parents and caring adults to advisory committees
  - Soliciting input from parents and other caring adults about the youth's strengths and interests related to career development
- AJC programs provide language access and make materials available that reflect all spoken languages in the home to assist in promoting family involvement and support.
- AJC programs create temporary internships within AJC programs to prepare youth for transitioning to employment, including interviewing and resume development. AJC programs gain experience working alongside individuals with various disabilities, including Autism, low vision, mental health disabilities, and learning disabilities.
- AJC programs offer workshops using a train-the-trainer model in which State transition coordinators for youth are trained in topics such as self-advocacy skills, self-identification of disability, and availability of benefits, services and supports.
- AJC programs create accessible, youth-friendly integrated youth "zones," areas where all youth, including youth with disabilities, can explore their interests and plan careers. Strategies include:
  - Offering tours and orientations to youth
  - Providing presentations about "zones" to community-based organizations that serve youth with disabilities
  - Providing youth services in satellite areas where youth naturally congregate such as community centers and malls

#### **1.8.6 Service Delivery, Provider Network (Adequacy and Payment)**

- Arrangements are made for an adequate supply of eligible training providers (including, but not limited to, specialized service providers) to partner with the AJC programs that have the requisite knowledge, expertise, and experience to address the needs of individuals with disabilities.
- The LWDB develops and uses payment mechanisms that incentivize eligible training providers to take into consideration the additional costs of providing the

individualized services and supports that customers with disabilities or other particular challenges to employment may need. This may include a combination of the following strategies:

- Reimbursement for the costs associated with providing reasonable accommodations, reasonable modifications, or specific auxiliary aids and services that a particular customer with a disability needs; and
  - The infusion of provider incentives and service delivery requirements into the contractual agreements between provider entities and the workforce development system.
- AJC programs consider becoming an [Employment Network](#) under the SSA [Ticket to Work](#) program or collaborating with the State VR agency through the [Partnership Plus](#) option under the Ticket to Work program to obtain resources that can benefit SSI and SSDI beneficiaries, as well as enhancing services to all customers as Ticket to Work reimbursements are received.
  - AJC programs provide for a wide range of individualized services to respond to customer needs, including services focused on financial capability, self-employment, supported employment, and customized employment. A clear set of qualifications should be established for the providers that will supply each type of service, including a requirement that all services be provided in the most integrated setting appropriate.
  - AJC programs recruit and assist traditional and nontraditional organizations that provide training within the local community to register and qualify as eligible training providers.
  - AJC programs are knowledgeable about training and service providers in their local area that have expertise in providing training services and supports for individuals with disabilities. These separate resources cannot be the only resources available or provided to persons with disabilities, but they can be listed in addition to other resources available to everyone, regardless of disability.

### ***1.8.7 Service Delivery, Evacuation Procedures***

- Emergency evacuation procedures are reviewed to ensure that such procedures address the needs of individuals with disabilities, including individuals with mobility, sensory, cognitive, and mental health-related impairments. For detailed information, see ODEP's Emergency Preparedness resources at: <https://www.dol.gov/odep/topics/EmergencyPreparedness.htm>

## **PART 1, SECTION 2: NONDISCRIMINATION AND EQUAL OPPORTUNITY POLICIES, PRACTICES, AND PROCEDURES**

AJC programs are required to ensure that individuals with disabilities have equal opportunity to access their programs, benefits, and activities. AJC programs must provide individuals with disabilities the same opportunities to participate in programs, projects, and activities offered to individuals without disabilities. Individuals with disabilities should be served through the same channels as individuals without disabilities, receiving reasonable accommodations, modifications, and auxiliary aids and services, as appropriate. This includes access to employment opportunities and all functions performed by AJC programs, including: registration for and provision of aid, benefits, services, training, support services and any rights, privileges, advantages, or opportunities enjoyed by others.

AJC programs are prohibited not only from adopting policies that on their face treat individuals with disabilities differently than those without disabilities, but from taking actions that have the effect of limiting access and opportunity to benefit from AJC programs and activities, including by using tests, standards, procedures, or criteria that would tend to disproportionately impact individuals with disabilities.

In addition, AJC programs are required to:

- Provide reasonable accommodations and reasonable modifications of policies, practices, and procedures for individuals with disabilities, including modifications to permit the use of a service animal by an individual with a disability;
- Use the same processes for all customers, including individuals with disabilities for selecting participants for all programs, including training programs, ITAs, and auxiliary projects (e.g., grants, limited community resources);
- Administer programs in the most integrated setting appropriate to the needs of individuals with disabilities;
- Ensure effective communication, including by providing auxiliary aids and devices where necessary; providing qualified interpreters and/or video remote interpreting (VRI) in a timely manner; developing, procuring, maintaining, or using electronic and information technology, including the use of Equitable AI programs,<sup>59</sup> that is accessible to and usable by individuals with disabilities; providing effective telecommunication systems; and providing effective information and signage;
- Permit individuals with mobility disabilities to use wheelchairs and manually-powered mobility aids and make reasonable modifications to policies to permit the use of other power-driven mobility devices; and
- Provide physical accessibility.

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<sup>59</sup> See [Partnership on Employment & Accessible Technology's AI & Disability Inclusion Toolkit, Equitable AI in the Workplace](#).

In addition, AJC programs are required to make all WIOA Title I-financially assisted programs and activities “programmatically accessible,” a term specified in WIOA. Under WIOA, this includes 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 persons with disabilities as effectively as with others; and providing appropriate auxiliary aids and services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

This section highlights some practices that AJC programs may adopt to take steps to effectuate the above legal obligations. Note that while this is a list of promising practices, AJC programs may be required to take some of these steps depending on the specific circumstances of a situation, and their inclusion as Promising Practices in Part I of this Reference Guide should not be read to suggest otherwise.

## **2.1 Prohibit Discrimination Against Individuals With Disabilities**

Descriptions of and links to the text of the regulations related to the [general nondiscrimination prohibitions, including eligibility criteria](#), are included in Part II of the Reference Guide.

- AJC program staff reject all job orders from any employer that specifies that it will not accept applications from individuals with disabilities or from applicants with certain disabilities. Under the law, individuals with disabilities must be referred to employers and placed in the same range of positions as any other qualified customers.
- AJC program staff do not stereotype individuals with disabilities when evaluating their skills, abilities, interests, and needs, and do take into consideration the requirement to provide reasonable accommodations, reasonable modifications, and auxiliary aids and services.
- In considering a site for a comprehensive AJC program, the LWDB coordinates with the broader community, including transportation agencies and existing public and private-sector service providers, to ensure that the centers and services are accessible to their customers, including individuals with disabilities. The law requires that AJC program sites or locations be selected so that they do not have the effect of excluding individuals with disabilities.
- If an AJC program is located in a service delivery area with a public transportation system, the AJC program makes sure that the Center can be readily accessed by individuals with disabilities using public transportation.

- If an AJC program is located in a service delivery area without a public transportation system, the AJC takes steps to make all its programs and activities available to customers who do not drive or have cars. These steps may include providing information about alternative transportation options and resources or offering programs and activities in satellite locations such as shopping malls or other public facilities that are accessible by public transportation.
- AJC programs use assessment tools and tests and other processes that measure the ability of the individual to successfully participate in the program rather than the person's physical, mental/cognitive, or sensory impairment. The AJC programs must provide the legally required reasonable accommodations and reasonable modifications to tests or other protocols as necessary.
- The AJC program staff regularly review eligibility criteria for training and other services to eliminate criteria that screen out individuals with disabilities, unless such criteria are directly related to specific training or services and are essential. For example, AJC programs eliminate or modify:
  - Any requirement designating a driver's license as the only acceptable form of identification (unless the training program involves driving as an essential function for a job), because such a requirement would unnecessarily screen out individuals whose disabilities prevent them from obtaining drivers' licenses;
  - Any existing numeracy/literacy/reading level requirements that may unnecessarily prevent individuals with intellectual, cognitive, or developmental disabilities from accessing services available through the AJC programs;
  - Any existing numeracy and/or literacy requirements that are solely determined by norm-referenced tests that have not been standardized or normed for individuals with intellectual/cognitive/developmental disabilities; and
  - A requirement that a certain level of numeracy and/or literacy proficiency be achieved to participate in a program, if such level of proficiency has not been demonstrated to be necessary to effectively benefit from the program, as doing so will unnecessarily screen out individuals whose disabilities prevent them from obtaining such proficiency levels.
- The AJC programs review applications to determine whether applicants can perform the essential functions of the training or other services with or without reasonable accommodations. AJC program staff understand that essential functions are those that an applicant must be able to perform with or without a reasonable accommodation, and the AJC programs cannot refuse to select an applicant because disability prevents them from performing duties that are not essential to the training or other services.



## 2.2 Provide Reasonable Accommodations for Individuals With Disabilities<sup>60</sup>

Descriptions of and links to the text of the regulations requiring the provision of [reasonable accommodations](#) for individuals with disabilities are included in Part II of the Reference Guide.

One key aspect of ensuring equal opportunity for individuals with disabilities who are applicants, registrants, and participants, etc. with regard to aid, benefits, services, and training is the provision of reasonable accommodations. AJC programs are required to provide reasonable accommodations for individuals with disabilities to ensure equal access and opportunity. In general, a reasonable accommodation is a modification or adjustment in the way the program is administered that enables an individual with a disability to receive any aid, benefit, service, training, or employment equal to those provided to individuals without disabilities.

Many forms of reasonable accommodations are available, and the individual with a disability and AJC programs should work together to identify the most effective reasonable accommodation for each individual. This identification is achieved through informal discussions known as the “interactive process.”<sup>61</sup> During this process, the individual and the AJC program staff should identify the precise impact(s) resulting from the disability and potential reasonable accommodations that could help to mitigate those issues. The process of identifying and providing a reasonable accommodation should be done as quickly as possible to avoid delaying access to services. Establishing and implementing an effective process for requesting, identifying, and providing a reasonable accommodation effectively and efficiently is essential to ensuring equal opportunity for individuals with disabilities.

Medical information obtained in connection with the reasonable accommodation process must be kept confidential. This confidentiality requirement means that all medical information AJC programs obtain in connection with a request for a reasonable accommodation must be kept in a separate file from the individual’s service or personnel file. This includes the fact that a reasonable accommodation has been requested or approved, and information about functional limitations. It also means that AJC program staff who obtain this information must follow these confidentiality guidelines.

AJC programs must ensure that they have policies and procedures in place regarding the provision of reasonable accommodations, and that AJC program staff receives regular training about accommodations. Moreover, they should also ensure that their accommodations procedures and policy are publicized widely in the AJC programs and the broader community to ensure that individuals with disabilities are aware of them and know how to utilize them when seeking benefits, services, and training.

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<sup>60</sup> A mention of the applicability of the reasonable accommodation provision pertaining to employment practices is set out in Section 2.8 of this Guide.

<sup>61</sup> [29 CFR 38.4\(y\)\(3\)](#).

- AJC programs have written policies requiring that reasonable accommodations or modifications be made for the known physical and/or mental impairments of an otherwise qualified individual with a disability who is an applicant, registrant, eligible applicant/registrant, participant, employee, or applicant for employment. The policy:
  - Includes processes for handling requests for reasonable accommodations: e.g., the procedure provides for designation of a specific supervisory staff member to coordinate the identification and provision of the reasonable accommodation, including the process of determining which accommodation is most effective and whether an accommodation is reasonable;
  - Provides for training of AJC program staff to recognize that an individual does not need to use the term “reasonable accommodation” when seeking assistance; that the request does not have to be in writing; and that it may be made by a family member, friend, or other representative on their behalf;
  - Provides for training and information regarding the process of identifying and providing reasonable accommodations including a description of the “interactive process” between the AJC program staff and the individual with a disability. The “interactive process” helps identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations. The goal of this dialogue is to identify the most effective accommodations and facilitate the provision of an accommodation as quickly as possible;
  - Explains the circumstances when reasonable accommodations must be provided: e.g., application, career services, training, and support services;
  - Provides training and policies regarding maintenance of records of the types of accommodations provided, including requirements regarding confidentiality and separation of files containing any medical or disability-related information obtained as the result of a request for or the provision of a reasonable accommodation;
  - Includes the definition of and examples of reasonable accommodations;<sup>62</sup>
  - Explains that, in limited circumstances, the AJC programs may not be required to provide a specific reasonable accommodation if it can establish that doing so would cause undue hardship<sup>63</sup> for the AJC programs; and
  - Describes the appropriate process for reviewing a decision that a reasonable accommodation may cause an undue hardship. This process includes a review by senior AJC program staff and the EO Officer, who has expertise in the equal opportunity requirements under the law; an

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<sup>62</sup> See [29 CFR part 32, Appendix A](#) for examples of reasonable accommodations; see also [EEOC “Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the ADA \[Americans with Disabilities Act\].”](#)

<sup>63</sup> See [29 CFR 38.4 \(rrr\)\(1\)](#).

examination of alternative effective accommodations; and information about how an individual may request reconsideration.

- The policies and procedures for providing reasonable accommodations and modifications are posted on AJC programs' websites and in public areas of the AJC programs, including waiting areas and the resource library, and are included in written affirmative outreach materials.

### 2.3 Provide Reasonable Modifications in Policies, Practices, or Procedures<sup>64</sup>

Descriptions of and links to text of the regulations requiring the provision of [reasonable modifications in policies, practices, or procedures](#) are included in Part II of the Reference Guide.

- The AJC programs have written policies explaining their obligations to make reasonable modifications to their policies, practices, and procedures to ensure equal opportunity for individuals with disabilities, unless it can be demonstrated that making modifications would fundamentally alter<sup>65</sup> the nature of the service, program, or activity. The policy:
  - Describes the procedures for handling requests for modifications and determining whether a modification would fundamentally alter the nature of the program and the consequences of such a determination.
- Reflects the following aspects of the AJC program's:
  - Registration and orientation;
  - Initial screening, assessment, and testing; and
  - Service delivery.
- Manuals, guidelines, or other materials used by AJC program staff (and used to train staff) include examples of reasonable modifications to ensure that individuals with disabilities are provided effective opportunity to benefit from all WIOA services available.
- The AJC programs anticipate necessary alterations to factors such as the place, time, and physical environment for individuals with disabilities. For example, access to a quiet environment is available for individuals with disabilities who require such a quiet environment to read and comprehend materials.
- If the AJC programs have "no pets" language in policies, practices, and procedures, the language is amended to permit "service animals." This will permit

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<sup>64</sup> See [29 CFR 38.14\(b\)](#) and [Section 2.4 of Part 2](#) of this document for a discussion of the obligation to provide reasonable modifications in policies, practices, and procedures when necessary to avoid discrimination on the basis of disability.

<sup>65</sup> See [29 CFR 38.4\(z\)](#).

an individual with a disability to use their service animal in all areas of the facilities where the program is offered and where members of the public, AJC program participants in services, programs, or activities, or invitees are permitted to go.

## **2.4 Administer Programs and Activities In the Most Integrated Setting Appropriate**

Descriptions of and links to the text of the regulations requiring the [administration of programs and activities in the most integrated setting](#) are included in Part II of this document.

- AJC program staff communicates to individuals with disabilities that they are entitled to equal access to programs and services of the AJC program, but are not required to take advantage of all of the separate or different services for which they may be eligible.
- AJC program staff does not automatically refer job seekers with disabilities to State VR programs, and make referrals based on whether the individual would benefit from such services in addition to the other programs and services available in AJC programs.
- The AJC programs administer programs so that individuals with disabilities have access to the full range of services available to all customers.
- AJC program staff ensures that individuals with disabilities, including individuals with significant disabilities, are provided services that lead to competitive, integrated employment.
- AJC program staff provides assistance to customers with disabilities using an IRT and/or a DRC to improve access to a full range of career and training services that are responsive to their individual needs and goals related to employment and advancing economic self-sufficiency.
- AJC program staff identifies other resources that may help an individual with a disability achieve an employment outcome in the most integrated setting appropriate to the needs of that individual.

## **2.5 Effectively Communicate With Individuals With Disabilities**

Descriptions of and links to the text of the regulations requiring equally [effective communication](#) with individuals with disabilities are included in Part II of the Reference Guide.

### ***2.5.1 Effective Communication, In General***

- Technical assistance materials, guides, and training are provided to AJC program staff and staff of other entities participating in the AJC programs delivery system on topics such as:
  - FAQs on providing effective communication, including the information that primary consideration must be given to the communication method requested by an individual with a disability;
  - Adaptive equipment available and processes for obtaining, testing, and using such equipment (including partnering with VR agencies, Assistive Technology Centers, Centers for Independent Living, and other subject matters experts);
  - Information on making websites accessible;
  - Use of Equitable AI to improve the accessibility of products and services; and
  - Video Relay Services (VRS)<sup>66</sup> and Video Remote Interpreting (VRI).
- AJC program staff informs customers of the AJC programs' obligation to ensure effective communication and its obligation to provide appropriate auxiliary aids and services.
- Each AJC program has a list, in an accessible format, of all currently available assistive technology devices and services. For example, the list might indicate that DVD players and video/TV monitors have closed caption capability; that ZoomText has been installed in computers available in resource areas; and that Pocket Talker sound amplifiers are provided for hard of hearing customers.<sup>67</sup>
- AJC program staff receive training on how to use equipment, ensure equipment is in good working condition, maintain an inventory of equipment, and closely monitor and test equipment.

### ***2.5.2 Individuals Who Are Deaf or Hard of Hearing***

- For individuals who are Deaf or hard of hearing, effective communication may include the use of the following auxiliary aids, devices, and strategies:<sup>68</sup>

#### Auxiliary aids and services

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<sup>66</sup> “Video Relay Services (VRS)” is a form of Telecommunications Relay Service that enables persons with hearing disabilities who use American Sign Language to communicate with voice telephone users through video equipment, rather than through typed text. Video equipment links the VRS user with a communications assistant, or CA, so that the VRS user and the CA can see and communicate with each other in signed conversation. See [Federal Communications Commission](#) for more information on how VRS works.

<sup>67</sup> For descriptions of these and other assistive technology devices and other reasonable accommodations, see [www.askjan.org](http://www.askjan.org).

<sup>68</sup> See the Job Accommodation Network’s Accommodation and Compliance series on “[Deafness](#)” and “[Hearing Impairment](#)” for information and resources on how to accommodate individuals who are Deaf or hard of hearing, including questions to consider, accommodation ideas, and situations and solutions.

- Qualified interpreters on-site or through VRI services.
- Notetakers.
- Real-time computer-aided transcription services.
- Written materials and the exchange of written notes.
- Telephone handset amplifiers.
- Assistive listening systems.
- Telephones compatible with hearing aids.
- Closed caption decoders.
- Open and closed captioning, including real-time captioning.
- Voice, text and video-based telecommunications products and systems, including video relay services, text telephones (TTYs), videophones, and captioned telephones or equally effective telecommunications devices.
- Videotext displays.
- Videos are available in ASL especially for those who may not be able to read captions.
- Accessible electronic information and communication technology, including AI.
- Other effective means of making aurally delivered materials available to individuals with hearing impairments.

### Strategies

- The individual with a disability determines which communication method should be used.
- Designated AJC program staff receive training on how to work with an interpreter. For example, maintaining eye contact with the individual who is Deaf or hard of hearing, rather than with the interpreter.
- Designated AJC program staff receive training on how to accept a call and make a call from a VRS and a TTY; the TTYs are maintained in good working order; and test calls are made on a periodic basis to ensure that TTY calls are answered to the same extent as voice calls.
- If the AJC program has courtesy telephones that the public may use for outgoing calls, it considers making available captioned telephones, a portable TTY or texting device for public use (as currently required for some entities subject to Titles II and III of the ADA) and, if the AJC program does make such equipment available, it posts a notice at the location of each courtesy telephone advising the public on how the equipment may be obtained, and instructs staff on the location of the equipment and its use.

### ***2.5.3 Individuals Who Are Blind or Visually Impaired***

- For individuals who are blind or visually impaired, effective communication may include the use of the following auxiliary aids and devices and strategies:
  - Qualified readers
  - Taped texts
  - Audio recordings

- Braille materials and displays
- Screen reader software
- Magnification software
- Optical readers
- Secondary auditory programs (SAP)
- Large print materials
- Accessible electronic and information technology
- Other effective methods of making visually delivered materials available to individuals who are blind or low vision
- If the recipient has a video library for public use, the videos purchased are available with audio descriptions

#### ***2.5.4 Individuals with Intellectual and Developmental Disabilities***

- For individuals with intellectual and developmental disabilities, the following strategies are adopted to ensure effective communication:
  - AJC program staff offer assistance with and/or extra time for the completion of forms and written instructions.
  - AJC program staff repeat instructions, provide information in a slower voice, use simple sentences and words, and use graphics, e.g., symbols, pictures.
  - AJC program staff provide a quiet environment for individuals to read materials if the public area has distractions.

#### ***2.5.5 Individuals with Mobility Impairments***

- For individuals with mobility impairments, the following strategies are adopted to ensure effective communication:
  - AJC program staff put themselves at the wheelchair user's eye level (if possible, sit next to the customer when having a conversation).
  - AJC program staff provide a clipboard to use as a writing surface if counters or reception desks are too high, and come around to the customer's side of the desk/counter during interaction.
  - AJC program staff provide seating if long lines queue up and the person cannot stand for long periods of time.
  - AJC program staff ensures that the physical location of the program is accessible for individuals who use wheelchairs or other mobility devices, taking into consideration stairs, the grade of slopes, and the width of doors.
  - If the individual with a disability is unable to access the AJC program office, AJC program staff offers to meet them in offices that are accessible.

## **2.5.6 Individuals with Speech Impairments**

- For individuals with speech impairments, the following strategies are adopted to ensure effective communication:
  - If an AJC program staff member does not understand something the individual is communicating, they do not pretend to understand and instead asks the customer to repeat what they said and then repeats it back.
  - AJC program staff ask questions that require only short answers, or a nod of the head.
  - If an AJC program staff member has difficulty understanding the individual, they consider having the individual write or sit at a computer screen as an alternative, but first asks the individual if this is acceptable.

## **2.6 Provide Electronic and Information Technology Accessibility**

Descriptions of and links to the text of the regulations requiring the provision of [electronic and information technology \(EIT\) accessibility](#) for individuals with disabilities are included in Part II of the Reference Guide.

Accessible EIT (also sometimes referred to as “information and communication technologies” or ICT)<sup>69</sup> enables and enhances the opportunities of individuals with disabilities to fully participate in programs and services.

If algorithmic decision-making tools are used that may disadvantage participants with disabilities (including job applicants and employees) by making an assessment inaccessible, more difficult to take, or less accurate, an alternative accessible testing format should be provided as a reasonable accommodation that will give a more accurate assessment of the participant’s, applicant’s, or employee’s skills.

### **2.6.1 Leadership and Team Approach**

- Secure support from leadership at the highest levels of the AJC program to facilitate “buy-in” and establish and sustain organizational commitment.
- Establish a network of individuals responsible for implementation (e.g., an accessibility team composed of managers across divisions, including ICT, procurement, education and training, financial and affirmative outreach, Equal Opportunity compliance, and human resources).

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<sup>69</sup> See IT Accessibility Laws and Policies, U.S. General Services Administration Section508.gov website to learn about laws, policies, and other regulations requiring Federal agencies ensure employees and members of the public with disabilities have access to information comparable to the access available to others. Available at <https://www.section508.gov/manage/laws-and-policies/>.



- Make the “business case” for ensuring that technology procured and used by your AJC program is accessible to the largest possible number of customers. The business case includes meeting legal requirements, improving efficiency by addressing the needs of all EIT users (including individuals with disabilities), supporting workforce diversity, and enhancing team collaboration and communication among all employees and customers with disabilities.

### **2.6.2 Needs Assessment and Priorities**

- Consider all of the EIT used or offered by the AJC programs and make a list of those platforms, devices, and applications.
- Hire a consultant or secure in-house expertise to evaluate accessibility by testing your EIT applications with automated accessibility testing tools and by considering the user experience of employees and customers with varying abilities.
- Establish a process and adopt criteria that can be used to facilitate the implementation of formal, written policies, practices, and procedures to enhance equal opportunity through accessible EIT, including AI.

### **2.6.3 Formal Policies and Procedures**

- Adopt specific technical EIT accessibility standards and functional performance criteria regarding websites, web-based Intranet and Internet information applications, software, computers, AI, telecommunication equipment, video and multimedia products, multi-function office machines (e.g., copiers and printers), and information kiosks and transaction machines. Consistent with the WIOA Section 188 regulations, adopt technical standards and functional performance criteria that incorporate accessibility features for individuals with disabilities that align with modern accessibility standards, such as Section 508 standards and the [World Wide Web Consortium's](#) (W3C's) Web Content Accessibility Guidelines (WCAG). In addition, follow relevant State guidance and criteria for certifying the physical and programmatic accessibility of AJCs.

### **2.6.4 Agency-Wide Infrastructure**

- Delineate the respective roles and responsibilities of key personnel within your AJC programs, including, where applicable, your chief acquisition officer, Chief Information Officer (CIO), Chief Accessibility Officer (CAO), and EO Officer.<sup>70</sup>
- In organizations that choose to appoint a CAO, the CAO role differs from that of the CIO in that it is specifically focused on accessibility. In a technology

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<sup>70</sup> See “[American Job Centers and Digital Access: A Guide to Accessible ICT.](#)” prepared by the Partnership on Employment & Accessible Technology (PEAT), which is funded by ODEP.

company, a CAO is focused on how users experience the company's products and services, ensuring that they are accessible when they go to market. In all workplaces, the CAO sets the tone for the organization's accessibility mindset, establishes accessibility goals, and ensures the organization builds and buys accessible EIT for its employees and other stakeholders. CAOs often report to CIOs, and the individuals should work collaboratively, as well as with EO Officers.

- Appoint an advisory or working group, which should include individuals with disabilities and their representatives, responsible for:
  - Making recommendations regarding the adoption of procurement protocols and procedures that are consistent with Federal and State policies;
  - Evaluating and certifying accessible and usable EIT and AI;
  - Outlining planning, training, and technical assistance; and
  - Monitoring, reporting, and enforcement.
- Conduct training for in-house staff, including program managers, contracting and procurement officers, and, where applicable, software developers, web developers, video-multimedia developers, and IT help desk staff.
- Provide outsourcing guidelines to suppliers, vendors, and partners, including copies of the EIT accessibility standards. Ensure contracts stipulate that suppliers will, where relevant, apply EIT accessibility standards.
- Establish clear procurement policies, including a solicitation policy indicating that EIT and AI must be accessible and equitable, the accessibility standards that apply, and that deliverables will be inspected based on those standards.

### ***2.6.5 Evaluation and Accountability***

- Appoint a CAO.
- Ensure that the CIO/CAO or EO Officer notifies managers and employees about the AJC's EIT accessibility policy.
- Adopt complaint resolution procedures<sup>71</sup> under which anyone may file a complaint alleging that the AJC has failed to comply with the EIT accessibility and usability requirements and standards, including denial of access for individuals with disabilities to EIT or denial of access to information and data.

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<sup>71</sup> These complaint resolution procedures must comply with the requirements of the WIOA nondiscrimination regulations. See [29 CFR 38.69 through 38.74](#).

- Design and implement an audit and reporting system that measures the effectiveness of your AJC program’s strategic EIT management plan with regard to accessibility, including:
  - Testing of EIT accessibility to determine the degree to which its goals, priorities, and objectives have been attained;
  - Any need for remedial action;
  - Where the strategic EIT management plan is found to be deficient; and
  - Necessary action to bring the program into compliance.
- Track issues and trends that could be used to assess and make informed decisions about the effectiveness of accessible EIT policies.
- Create an EIT Accessibility Checklist that may serve as a benchmarking tool and provide a framework to build into your AJC program’s self-assessment and strategic plans.
- Establish a continuous feedback mechanism that includes a state-of-the-department briefing to the CIO/CAO/EO Officer (or other staff responsible for accessible EIT) every six months with respect to the accessibility and usability of EIT. Report annually to your AJC’s director with respect to progress made in implementing accessible EIT policies, including reaching benchmarks.
- In strategic plans and related quarterly reports, identify completion dates, managers responsible for accessibility-related action items, and whether action items are completed in a timely manner.
- Terminate any contract or procurement for default if the contractor fails to cure a breach of the EIT accessibility policy within a reasonable time.

## 2.7 Provide Physical Accessibility

Descriptions of and links to the text of the regulations requiring the provision of [physical accessibility](#) for individuals with disabilities are included in Part II of the Reference Guide.

Under regulations implementing Section 188 of WIOA, no qualified individual with a disability may be subjected to discrimination because a recipient’s facilities are inaccessible to or unusable by individuals with disabilities. In addition, the regulations adopt the requirements of DOL’s Section 504 regulations related to physical accessibility.

The regulations implementing Section 504 and Title II of the ADA include the concepts of “program accessibility” to address accessibility in existing facilities.<sup>72</sup> “Program accessibility”<sup>73</sup> means that, when viewed in its entirety, the AJC program or activity is readily accessible to qualified individuals with disabilities. This requirement must be implemented even if there are no specific requests made by individuals.

Architectural accessibility, by contrast, relates to the construction and design of facilities and sets standards that are similar to building codes. AJC programs must comply with the appropriate architectural accessibility standards whether or not a particular individual with a disability has requested a reasonable accommodation. Also, note that the obligation to comply with the architectural accessibility standards is independent of the program accessibility obligations. For additional guidance on architectural accessibility, see the United States Access Board website: [www.access-board.gov](http://www.access-board.gov).

Here are some successful strategies that have been used to provide physical accessibility to customers with disabilities:

- Involving EO Officers from the beginning of any physical site planning (including moving, opening new sites, and modifying existing space) to ensure equal access and opportunity, including for individuals with disabilities.
- Involving AJC program staff in site planning and program development who are trained in the equal opportunity and access requirements of Section 188.
- Including individuals with disabilities and their representatives in advisory committees and/or review teams when conducting accessibility surveys or developing plans for new AJC programs and affiliate sites.
- Collaborating AJC program staff with VR agencies, Centers for Independent Living, Regional ADA Centers, and Mayor’s Offices on Disabilities to leverage their expertise and experience in assessing physical access for all types of facilities, including compliance with applicable accessibility standards.

## **2.8 Prohibit Discrimination in Employment Practices and Employment-Related Training**

Descriptions of and links to the text of the regulations related to [employment practices](#) are included in Part II of the Reference Guide.

Under regulations implementing Section 188 of WIOA, a recipient may not discriminate in its employment practices on the basis of disability, among other things. The recipient

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<sup>72</sup> See Department of Labor’s Section 504 regulation related to existing facilities at [29 CFR 32.27](#). See also the Department of Justice’s regulation implementing Title II of the ADA regarding existing facilities at [28 CFR subpart D “Program Accessibility](#).

<sup>73</sup> The reader should be careful to note that the terms “program accessibility” (discussed here) and “programmatically accessible” (discussed earlier) have very different meanings.

must provide reasonable accommodations for individuals with disabilities unless providing such accommodation would cause an undue hardship for the recipient. The recipient must also provide for and adhere to a schedule to evaluate job qualifications.

The regulations also limit medical and disability-related inquiries in the context of employment and employment-related training and require confidentiality regarding medical and disability-related information. Whether AJC program staff and employers may ask individuals a disability-related inquiry varies based on the context of the inquiry. A disability-related inquiry is one that elicits information about whether an individual has a disability and/or information about the nature and severity of a disability.

Employers, employment agencies, and AJC program staff acting in an employment agency role by doing things such as screening employees, making job referrals, recruiting employees on behalf of employers, or selecting job seekers for/providing employment-related training are most limited in their ability to make disability-related inquiries. In these contexts, the permissibility of disability-related inquiries depends on whether the questions are being asked in the pre-offer, post-offer, or employment/training stage.

### ***2.8.1 In the Pre-Offer Stage***

Employers, employment agencies, and AJC program staff serving as employment agencies may ask questions to evaluate whether applicants are qualified for specific jobs or job-training opportunities. For example, they may ask the following types of questions:

- Asking about the applicant's technical skills and qualifications;
- Asking about the applicant's ability to perform specific job functions; and
- Asking applicants to describe or demonstrate how they would perform job tasks, if the same questions are asked of all applicants.

In addition, employers, employment agencies, and AJC program staff serving as employment agencies may describe an application process and ask whether the job seeker will need accommodations for the application process.

However, employers, employment agencies, and AJC program staff serving as employment agencies may not ask disability-related inquiries or require medical examinations prior to an offer of employment or training.<sup>74</sup> AJC program staff must also advise AJC program partners to abide by these requirements to ensure equal opportunity for individuals with disabilities.

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<sup>74</sup> The term "employment-related training" is defined in [29 CFR 38.4\(t\)](#).

- Employers, employment agencies, and AJC program staff serving as employment agencies may not ask questions that elicit information about the following topics from applicants or customers during the pre-offer stage (unless an exception applies):
  - Health or physical condition;
  - Medical history;
  - Previous workers' compensation claims; and
  - Prior health insurance claims.
  
- Applicants for employment and/or training by the AJC programs and AJC program partners are not required to take any of the following tests as part of the application process:
  - Physical exam;
  - Alcohol test;
  - HIV test; and
  - Psychological tests that are designed to identify a mental impairment.
  
- Employers, employment agencies, and AJC program staff serving as employment agencies may not ask applicants or customers during the pre-offer stage whether they will need reasonable accommodations to perform the essential functions of the job, except if one of the following limited circumstances applies:
  - The job seeker has an obvious disability and there is a reasonable belief that the applicant will need reasonable accommodations because of that obvious disability.
  - The job seeker has voluntarily disclosed that they have a hidden disability, and there is a reasonable belief that the applicant will need reasonable accommodations because of that hidden disability.
  - The job seeker has voluntarily disclosed that they need reasonable accommodations to perform the job.

Under any of these limited circumstances, although employers, employment agencies, and AJC program staff serving as employment agencies may ask questions about the accommodations the job seeker will need, they may not ask questions about the job seeker's underlying medical condition.

### ***2.8.2 In the Post-Offer, Pre-Hire (or Pre-Training) Stage***

After the offer has been made, employers, employment agencies, and AJC program staff serving as employment agencies may ask disability-related questions and require medical exams, even if they are unrelated to the job or training, as long as two conditions are met:

- All entering employees/trainees in the same category must be subjected to the same questions/exams, regardless of disability; and
- All information obtained through these questions/exams must be kept confidential.

### ***2.8.3 After the Job Seeker Begins Work or Training***

The employer or training provider may ask disability-related questions and/or require medical exams if the questions/exams are job-related and consistent with business necessity. Any information obtained must be kept confidential.

### ***2.8.4 American Job Center (AJC) Program Staff Providing General Services for the Job Seeker May Make Disability-Related Inquiries***

Where AJC program staff do not act in an employment agency capacity and instead provide general services focused on the job seeker (such as assessing a customer's skills, prior work experience, or employability; creating a service strategy; or providing supportive services such as child care or transportation), they may make disability-related inquiries, which are legal and in fact may be helpful to the individual seeking effective service delivery. When AJC program staff provide these types of services, it may be appropriate for them to ask whether someone has a disability and to help the person determine whether a particular disability-related accommodation, auxiliary aid or service, assistive technology, or program modification would be helpful to the person. It may also be appropriate for AJC program staff to recognize previously undiscovered disabilities that are barriers to employment success, and to ask the customers whether they may want to consider a referral to experts that perform disability-related assessments or evaluations. However, it is ultimately up to the individual to decide whether or not they wish to (a) discuss whether they have a disability, and (b) whether they want to further pursue the issue.

In addition, the Section 188 WIOA regulations require that AJC programs and activities collect a variety of demographic information, including disability status, about the individuals who apply to and are served by the programs and activities. [\[29 CFR 38.41\]](#)

### ***2.8.5 Confidentiality and Non-Disclosure of Disability and Medical Information***

- To ensure the confidentiality of disability and medically related information, AJC programs have written policies regarding access to and storage of customer medical information. For example, all non-medical records must be kept separately from medical records. (Medical records include insurance application forms as well as health certificates, results from physical exams, etc.)
- Where possible, a clear firewall is instituted between AJC program staff who work with employers and AJC program staff who provide general services to job

seekers, to ensure that those who work with employers do not inappropriately receive information about a particular job seeker's disability status.

- AJC program staff may disclose disability-related or other medical information about a particular job seeker to an employer **only where all of the following circumstances are satisfied**: (1) the job seeker has made an independent decision to disclose such information to the employer; (2) the job seeker has specifically asked the AJC program or its staff to make the disclosure on their behalf; and (3) the request has been initiated by the job seeker, not by the AJC program.

## PART I, SECTION 3: ADDITIONAL AFFIRMATIVE OBLIGATIONS

The AJC programs must satisfy additional affirmative obligation requirements designed to ensure effective nondiscrimination and equal opportunity programs, not mere paperwork compliance. These affirmative obligations include the designation of an EO Officer, assurances, notice and communication, data collection, monitoring and continuous improvement, complaint resolution, and corrective action.

### 3.1 Designation of Qualified Equal Opportunity Officer

Descriptions of and links to the text of the regulations requiring the designation of a [qualified equal opportunity officer](#) are included in Part II of the Reference Guide.

An effective nondiscrimination and equal opportunity program includes an EO Officer and sufficient staff with the knowledge, skills, and abilities coupled with the authority, training, and resources to ensure nondiscrimination and equal opportunity with regard to individuals with disabilities accessing services, benefits, and programs offered by the AJC program.

- The EO Officer may also be the Section 504 Coordinator (required by DOL's regulations implementing Section 504). If not, a Section 504 Coordinator is appointed, who has the education, training, and experience to perform assigned duties and works closely with the EO Officer.<sup>75</sup>
- The EO Officer and all AJC program staff receive regular training regarding universal access, nondiscrimination, and equal opportunity for individuals with disabilities.

Note: Small recipients [as defined by [29 CFR 38.4\(hhh\)](#) and [29 CFR 32.3](#)] are not required to appoint an EO Officer [[29 CFR 38.28\(b\)](#) and [38.32](#)] or a Section 504 Coordinator. [[29 CFR 32.7](#)] Small recipients are required to "designate an individual who will be responsible for adopting and publishing complaint procedures, and process

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<sup>75</sup> See [29 CFR 32.7](#).



complaints." [29 CFR 38.32] Service providers [as defined by 29 CFR 38.4(ggg)] are not required to appoint an EO Officer. [29 CFR 38.28(b) and 38.33]

### 3.2 Notice and Communication

Descriptions of and links to the text of the regulations requiring [notice and communication](#) are included in Part II of the Reference Guide.

- The obligation to effectively communicate with individuals with disabilities rests with AJC programs, and AJC program staff must inform the public of this obligation and that auxiliary aids and services are provided to customers free of charge.
- AJC program staff must give everyone the **Equal Opportunity is the Law Notice** and post the notice prominently in the AJC program's facilities and on its website.<sup>76</sup>
- The Notice must be made available in alternate formats, such as Braille or large print, taped texts, or audio recordings.
- The Notice is routinely read or explained to individuals with intellectual impairments at intake or other regular points of interaction on request.
- When a telephone number is included in official AJC programs' stationery, business cards, civic newsletters, websites, social media, posters, and other materials, the materials must indicate a TTY number or an equally effective means of communication with individuals who are Deaf or hard of hearing (e.g., the number for the telephone relay service).
- AJC programs must include language indicating that the WIOA Title I-financially assisted program or activity in question is an "equal opportunity employer/program," and that "auxiliary aids and services are available upon request to individuals with disabilities," in any recruitment brochures or other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, customers, or the public at large.
- AJC programs that publish or broadcast program information in the news media must ensure that such publications and broadcasts state that the WIOA Title I-financially assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIOA Title I-financially assisted program or activity is prohibited by Federal law), and indicate that auxiliary aids and services are available upon request to individuals with disabilities.

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<sup>76</sup> The notice must contain the specific wording found at [29 CFR 38.35](#).

- During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title I-financially assisted program or activity, AJC programs must include a discussion of rights under the nondiscrimination and equal opportunity provisions of WIOA, including the right to file a complaint of discrimination with the recipient or the Director of the U.S. DOL Civil Rights Center.<sup>77</sup>

### 3.3 Assurances

Descriptions of and links to the text of the regulations requiring [assurances](#) are included in Part II of the Reference Guide.

As a contract clause, assurances are used to communicate the Section 188 equal opportunity obligations and legally bind recipients of WIOA Title I-financial assistance. AJC programs are required to include assurances in certain agreements with partners to ensure that the partner complies with the same equal opportunity obligations.

In addition to the general assurances listed in the regulation,<sup>78</sup> a specific assurance is included that specifies that the recipient, sub-recipients, and others are able to provide physical and programmatic accessibility for individuals with disabilities.

A specific assurance might include the following language:

We understand and agree that:

- As a condition of receiving financial assistance from the U.S. Department of Labor, compliance with the nondiscrimination and equal opportunity laws that apply to the grant program, including providing equal access and opportunity for individuals with disabilities, is required.
- All partners in the workforce system will ensure physical and programmatic accessibility of facilities, programs, services, technology, and materials for individuals with disabilities in AJC programs.
- We implement universal access to programs and activities to ensure equal opportunity to all individuals through a variety of methods, including recruitment, affirmative outreach, assessments, service delivery, partnership development, and numeric goals. We consider individuals for employment by looking at all available and qualified people, and do not discriminate based on disability, race, gender, or any other protected class.

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<sup>77</sup> Information for contacting the Civil Rights Center is available at: <https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/contact>.

<sup>78</sup> [29 CFR 38.25](#) and [38.27](#).

- We are responsible for covering the costs of taking these required actions. In preparing our grant application, we have taken those costs into consideration, and have accounted for them in our proposed budget and our funding request.
- We must inform any agencies, organizations, training providers, other types of contractors or service providers, or any other persons or entities, with which we work to carry out our proposed program that they are also responsible for complying with these legal requirements.

### **3.4 Data and Information Collection, Analysis, and Maintenance**

Descriptions of and links to the text of the regulations requiring [data and information collection, analyses, and maintenance](#) are included in Part II of the Reference Guide.

AJC programs are required to collect demographic data from participants; maintain the data so that the Governor and CRC can access the information; and analyze the data to identify potential discrimination. If an analysis identifies potential discrimination, AJC programs must further investigate to determine next steps with the process. To carry out these functions, it is important that:

- AJC programs have a written policy stating the requirements for notification to CRC of allegations of discrimination, and relevant AJC program staff is trained on the policy. The written policy states that such notification must be accomplished in a timely manner and outlines the specific information that must be sent to the CRC, including names of the parties and the location where the action was filed.
- AJC program staff collects and regularly analyzes data regarding job seeker satisfaction and success in meeting the objectives of collaborating partners and other entities providing financial assistance.
- AJC program staff analyze data on participant demographics and services to determine:
  - Whether individuals with disabilities participate in programs and activities, including whether they participate in available career and training services, to assess compliance with the requirement that equal access to WIOA Title I financially assisted programs and activities be provided to individuals with disabilities; and
  - Whether various diverse populations participated in programs and activities in a meaningful and effective fashion.
- Management information systems used by AJC program staff comply with legal requirements relating to storage and confidentiality of information, including information concerning disability.

- If an AJC program is an [Employment Network](#) under the SSA's Ticket to Work program, it collects data that tracks job seekers with disabilities who have assigned their Ticket to the AJC program to analyze employment outcomes and eligibility for milestone payments under the Ticket to Work program.

### **3.5. Monitor for Compliance and Continuous Improvement**

Descriptions of and links to the text of the regulations requiring [monitoring for compliance and continuous improvement](#) are included in Part II of the Reference Guide.

An AJC program, through its EO Officer, is responsible for verifying compliance with Section 188 WIOA nondiscrimination and equal opportunity requirements, including ensuring equal access and opportunity for individuals with disabilities by monitoring all AJC programs and activities, and consulting with interested parties such as individuals with disabilities and organizations representing individuals with disabilities.

#### **3.5.1 Monitoring**

The following strategies can be used to conduct requisite monitoring for compliance with legal requirements:

- Policies and procedures, instruments, surveys, checklists, and other processes are used for monitoring compliance with the nondiscrimination/equal opportunity provisions, including a review of policies, practices, and procedures to ensure equal opportunity for individuals with disabilities.
- AJC program staff recruits a team comprised of local stakeholders with specialized knowledge and expertise, including diverse community members, to assess implementation of policies and procedures related to effective and meaningful access to and use of programs, projects, activities, services and supports for individuals with disabilities (including physical and programmatic accessibility and the provision of auxiliary aids and services). Constructive recommendations are then implemented at the AJC that will help improve problem areas and achieve compliance.
- Efforts to broaden the composition of the applicant, registrant, and participant pools are evaluated. Any groups or populations that are traditionally underserved are identified and plans are developed to address significant findings with regard to universal access.

#### **3.5.2 Continuous Improvement**

Implementation of the following strategies can help promote continuous improvement:

- A process is in place for continuously reviewing the progress of individuals with disabilities through programs and activities at the AJC.

- Data and information submitted to the State by AJC programs are used to prepare annual performance reports of individuals served and outcomes, as well as demographic data to continuously improve the effectiveness of its programs of services and supports for individuals with disabilities.
- To the extent customer satisfaction surveys are used by AJC program staff, consideration is made to disaggregating the data to determine the satisfaction of individuals with disabilities who voluntarily disclose their disability.<sup>79</sup>
- To the extent customer satisfaction surveys are conducted by phone, the interviewers address the needs of customers who are Deaf or who have trouble speaking and follow the general requirements for providing effective communication (including auxiliary aids and services) for individuals who are Deaf or hard of hearing.<sup>80</sup>
- A process is in place for continuously reviewing the progress of certain populations of individuals with disabilities to ascertain whether individuals' disabilities or lack of appropriate accommodations and auxiliary aids and services is affecting progress.
- When a particular AJC program customer with significant challenges to competitive employment is not progressing, policies are adopted to determine whether that lack of progress is connected to a lack of individualized or other appropriate services (including but not limited to customized employment strategies), or a lack of supports or appropriate accommodations as needed.

### 3.6 Certification of AJCs

Descriptions of and links to the text of the regulations requiring [AJC certification](#) are included in Part II of the Reference Guide.

SWDBs, in consultation with Chief Elected Officials and LWDBs, must establish objective criteria and procedures to use when certifying AJCs. LWDBs must follow procedures and criteria established by SWDBs and certify their AJCs and the AJC delivery systems at least once every three years. The criteria must evaluate, among other things, physical and programmatic accessibility in accordance with Section 188. The following strategies are important considerations in the certification process:

- Evaluations of physical accessibility should take into account both external accessibility and internal accessibility. For example, evaluations of external accessibility could include a review of the availability of transportation to the AJC

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<sup>79</sup> See [29 CFR 38.41-38.45](#)

<sup>80</sup> Consider alternative approaches to surveys, such as digital/web-based complete with text and questions available in ASL (links, videos, etc.), and an option for respondents to submit answers via video recordings using ASL.

and access into the site location via ramps that comply with the applicable accessibility standards. An evaluation of internal accessibility could include a review of the AJC's bathrooms, adjustable workstations, and appropriate signage.

- In general, programmatic accessibility refers to the extent to which the full range of services is available to all AJC customers regardless of disability. Examples of customer service and service design principles and resources on accessibility are included in this Section 188 Disability Reference Guide.
- Accessibility subject matter experts can work in conjunction with AJC staff to assess physical and programmatic accessibility of workforce centers. Areas in need of improvement should then be reviewed with the AJC administrative staff, as well as recommendations and solutions to any barriers. An action plan and timeframe for corrective action should be put in place in conjunction with the AJC.
- Certification policies, practices, and procedures may include:
  - Articulation of principles that underlie AJC certification, such as integrated system, accountability, universal access, continuous improvement, partnership, and regional strategy.
  - Examination and assessment of how people with disabilities are gaining meaningful participation in workforce services as part of AJC Certification, including:
    - Policy Review to update all language pertaining to Section 188 and disability law to ensure level of consistency across programs.
    - Information Gathering to survey AJC staff, partners, and customers to reveal training needs, what is working around accessibility and service delivery and what areas are in need of improvement.
    - Training for Continuous Improvement – Information gathered by AJC staff and partners is analyzed to develop training and identify top level priorities and scenarios related to disability access and employment outcomes for people with disabilities.
  - Use of a checklist and documentation that includes minimum requirements needed for certification, minimum criteria to become certified, and indicators of compliance as well as best practices.
  - Use of a two-tier certification process, with Tier 1 consisting of satisfying minimum criteria using indicators of compliance and Tier 2 “Hallmark of Excellence” using characteristics of a high quality AJC.
  - Use of certifications teams responsible for making recommendations to the LWDB. The teams may be comprised of LWDB members and staff, representatives from VR and Education, and individuals representing local partners with specific expertise serving individuals with disabilities and

may utilize local experts who represent targeted populations but have no ties with the AJC.

- Consultation with State, regional, and national projects and experts focused on accessibility and effective service delivery in order to identify, adopt, and implement best disability-related strategies, including Equitable AI. For information about State Specific Policies and Data in each State, see: <https://leadcenter.org/workforce-development/state-specific-policies-and-data/>.

### **3.7 Complaint Processing Procedures**

Descriptions of and links to the text of the regulations requiring [complaint processing procedures](#) are included in Part II of the Reference Guide.

AJC programs' nondiscrimination and equal opportunity complaint process must be effectively communicated to all customers and all complaint investigations must be promptly conducted within timelines stated in the Section 188 WIOA regulations.

- A written policy for resolving discrimination complaints is in place at the AJC program setting forth procedures that comply with requirements prescribed by the WIOA Section 188 regulations. The policy includes the means by which complaint processing procedures are made available to individuals with disabilities (including individuals with visual and cognitive impairments). Any allegations of discrimination, or of violations of the requirements of Section 188 or its implementing regulations, must be resolved under these procedures.
- All customers of AJC programs are informed about the policies and procedures for filing program grievances and discrimination complaints. The contact information for the person(s) with whom such complaints and grievances may be filed, including voice and TTY or relay service phone number(s) and email address(es), is given to each new customer in a variety of formats.
- Logs are kept by AJC program staff of complaints alleging discrimination. There are written policies in place to ensure that these logs are kept secure in a confidential fashion.

### **3.8 Corrective Actions/Sanctions**

Descriptions of and links to the text of the regulations requiring [corrective actions/sanctions](#) are included in Part II of the Reference Guide.

AJC programs, one-stop partners, eligible training providers, and sub-recipients must comply with Section 188 WIOA nondiscrimination and equal opportunity requirements. If the AJC program staff identifies violations of these requirements, the AJC programs must take corrective action to ensure compliance, components of which could include the following:

- If, in the past, all or most individuals with disabilities were referred by AJC programs to other agencies such as VR without also considering and providing other AJC programs and services that could benefit the job seeker, this practice should cease. If the AJC program generally did not serve individuals with disabilities, it should take additional steps (such as the adoption of specific policies, practices, and procedures and training) to address former inadequacies and increase inclusive services to individuals with disabilities.
- AJC programs can implement corrective action that achieves system wide and sustainable change such as training, policy development, and communication to ensure that discrimination does not reoccur.
- Aspirational benchmarks can be adopted by AJC programs specifying a certain percentage increase in the enrollment of customers with disclosed disabilities in career and training services by the end of a specified time period.



## PART II: SECTION 188 DISABILITY NONDISCRIMINATION AND EQUAL OPPORTUNITY REGULATIONS

The foundation for the promising practices described in Part I is the equal access, nondiscrimination and equal opportunity, and affirmative obligation requirements set forth in Section 188 of WIOA. This part, Part II of the Reference Guide, is organized to show the relationship between the promising practices and the legal requirements applicable to WIOA Title I-financially assisted programs and activities (recipients). Just like Part I, Part II describes and provides hyperlinks to the text of the Section 188 WIOA regulations that require equal access and nondiscrimination and equal opportunity for individuals with disabilities and satisfaction of affirmative obligations. The WIOA Section 188 regulatory requirements are organized into three Sections:

- Equal Access to Programs and Activities [\[PART II, SECTION 1\]](#)
- Nondiscrimination and Equal Opportunity [\[PART II, SECTION 2\]](#)
- Additional Affirmative Obligations [\[PART II, SECTION 3\]](#)

### PART II, SECTION 1: EQUAL ACCESS TO PROGRAMS AND ACTIVITIES

#### **EQUAL ACCESS TO PROGRAMS AND ACTIVITIES**

Recipients must take appropriate steps to ensure that they are providing equal access to their WIOA Title I-financially assisted programs and activities. These steps should involve reasonable efforts to include members of the various groups protected by these regulations, including individuals with disabilities and may include: advertising the recipient's programs and/or activities in media, such as newspapers or radio programs that specifically target various populations; sending notices about openings in the recipient's programs and/or activities to schools or community service groups that serve various populations; and consulting with appropriate community service groups about ways in which the recipient may improve its affirmative outreach and service to various populations. [\[29 CFR 38.40\]](#).

Examples of promising practices related to equal access to programs and activities, particularly customer services and services integration, are included in Part I of the Reference Guide.

### PART II, SECTION 2: NONDISCRIMINATION AND EQUAL OPPORTUNITY

#### **2.1 DEFINITIONS**

The following terms used in this Reference Guide are defined in the regulations implementing Section 188 of WIOA:

- *Aid, benefit, service or training* is defined at [29 CFR 38.4\(b\)](#)
- *Auxiliary aids or services* is defined at [29 CFR 38.4\(h\)](#)
- *Direct threat* is defined at [29 CFR 38.4\(p\)](#)
- *Disability* is defined at [29 CFR 38.4\(q\)](#). The definition includes rules of construction.
- *Facility* is defined at [29 CFR 38.4\(v\)](#)
- *Fundamental alteration* is defined at [29 CFR 38.4\(z\)](#)
- *Individual with a disability* is defined at [29 CFR 38.4\(ff\)](#)
- *Other power-driven mobility device* is defined at [29 CFR 38.4\(nn\)](#)
- *Programmatic accessibility* is defined at [29 CFR 38.4\(tt\)](#)
- *Qualified individual with a disability* is defined at [29 CFR 38.4\(ww\)](#)
- *Qualified interpreter for an individual with a disability* is defined at [29 CFR 38.4\(xx\)](#)
- *Reasonable accommodation* is defined at [29 CFR 38.4\(yy\)](#)
- *Recipient* is defined at [29 CFR 38.4\(zz\)](#)
- *Section 504* is defined at [29 CFR 38.4\(eee\)](#)
- *Service animal* is defined at [29 CFR 38.4\(fff\)](#)
- *Undue burden or undue hardship* is defined at [29 CFR 38.4\(rrr\)](#)
- *Video remote interpreting (VRI) service* is defined at [29 CFR 38.4\(sss\)](#)
- *Wheelchair* is defined at [29 CFR 38.4\(uuu\)](#)

## 2.2 GENERAL PROHIBITIONS

The recipient must prohibit discrimination on the basis of disability, including the specific discriminatory actions listed in [29 CFR 38.12](#).<sup>81</sup> The discriminatory actions listed in [29 CFR 38.12](#) are set out below.

- In providing any aid, benefit, service, or training under a WIOA Title I-financially assisted program or activity, a recipient must not, directly or through contractual, licensing, or other arrangements, on the basis of disability:
  - deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, service, or training, including meaningful opportunities to seek employment and work in competitive integrated settings;
  - afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefits, services, or training that is not equal to that afforded others;
  - provide a qualified individual with a disability with any aid, benefit, service, or training that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
  - provide different, segregated or separate aid, benefit, service, or training to individuals with disabilities, or to any class of individuals with disabilities, unless such action is necessary to provide qualified individuals with disabilities with any aid, benefit, service, or training that is as effective as those provided to others, and consistent with the requirements of the Rehabilitation Act as amended by WIOA, including those provisions that prioritize opportunities in competitive integrated employment;
  - deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards; or
  - otherwise limit a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service, or training.
- A recipient must not, directly or through contractual, licensing, or other arrangements, aid or perpetuate discrimination against qualified individuals with disabilities by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, service, or training to registrants, applicants, or participants.
- A recipient must not deny a qualified individual with a disability the opportunity to participate in WIOA Title I-financially assisted programs or activities despite the existence of permissibly separate or different programs or activities.

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<sup>81</sup> See also [29 CFR 32.12\(a\)](#) and [29 CFR 32.26](#).

- A recipient must administer WIOA Title I-financially assisted programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.<sup>82</sup>
- A recipient must not, directly or through contractual, licensing, or other arrangements, use standards, procedures, criteria, or administrative methods that have the purpose or effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability; that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of WIOA Title I-financially assisted program or activity with respect to individuals with disabilities; or that perpetuate the discrimination of another entity if both entities are subject to common administrative control or are agencies of the same State.
- In determining the site or location of facilities, a grant applicant or recipient must not make selections that have any of the following purposes or effects on the basis of disability: excluding qualified individuals from a WIOA Title I-financially assisted program or activity; denying qualified individuals the benefits of such a program or activity; or subjecting qualified individuals to discrimination; or defeating or substantially impairing the accomplishment of the disability-related objectives of either: the WIOA Title I-financially assisted program or activity; or the nondiscrimination and equal opportunity provisions of WIOA or [29 CFR part 38](#).
- A recipient, in the selection of contractors, must not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.
- A recipient must not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a recipient establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. The programs or activities of entities that are licensed or certified by a recipient are not, themselves, covered by [29 CFR part 38](#).
- A recipient must not impose or apply eligibility criteria that screen out or tend to screen out individuals with disabilities or any class of individuals with disabilities from fully and equally enjoying any aid, benefit, service, training, program, or activity, unless such criteria can be shown to be necessary for the provision of any aid, benefit, service, training, program, or activity being offered.
- Nothing in [29 CFR part 38](#) prohibits a recipient from providing any aid, benefit, service, training, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities, beyond those required by [29 CFR part 38](#).

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<sup>82</sup> The provisions related to "most integrated setting" are restated and specifically addressed in [Section 2.5](#) of the Reference Guide.

- A recipient must not place a surcharge on a particular individual with a disability, or any group of individuals with disabilities, to cover the costs of measures, such as provision of auxiliary aids or programmatic accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by WIOA Title I or [29 CFR part 38](#).
- A recipient must not exclude, or otherwise deny equal aid, benefits, services, training, programs, or activities to an individual or an entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or an association.
- The exclusion of an individual without a disability from the benefits of a program limited by Federal law to individuals with disabilities, or the exclusion of a specific class of individuals with disabilities from a program limited by Federal statute or Executive Order to a different class of individuals with disabilities, is not prohibited by [29 CFR part 38](#).
- [29 CFR part 38](#) does not require a recipient to provide any of the following to individuals with disabilities: personal devices, such as wheelchairs; individually prescribed devices, such as prescription eye glasses or hearing aids; readers for personal use or study; or services of a personal nature, including assistance in eating, toileting, or dressing.
- Nothing in [29 CFR part 38](#) requires an individual with a disability to accept any accommodation, aid, benefit, service, training, or opportunity provided under WIOA Title I or [29 CFR part 38](#) that such individual chooses not to accept.
- Nothing in [29 CFR part 38](#) authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.
- Nothing in [29 CFR part 38](#) provides the basis for a claim that an individual without a disability was subject to discrimination because of a lack of disability, including a claim that an individual with a disability was granted auxiliary aids or services, reasonable modifications, or reasonable accommodations that were denied to an individual without a disability.

Examples of promising practices related to [nondiscrimination prohibitions](#) on the basis of disability are included in Part I of the Reference Guide.

### **2.3 PROVIDE REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES<sup>83</sup>**

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<sup>83</sup> A discussion of the applicability of the reasonable accommodation provision pertaining to employment practices is set out in [Section 2.9](#) of the Reference Guide.

With regard to any aid, benefit, service, training, and employment, a recipient must provide reasonable accommodations to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship. [[29 CFR 38.14\(a\)](#); [29 CFR 38.4\(rrr\)\(1\)](#)]; see also Exceptions (Section 2.10 below). See also [29 CFR 32.13](#).]

Examples of promising practices related to the provision of [reasonable accommodations](#) for individuals with disabilities are included in Part I of the Reference Guide.

## **2.4 PROVIDE REASONABLE MODIFICATIONS IN POLICIES, PRACTICES, OR PROCEDURES, INCLUDING THOSE RELATED TO SERVICE ANIMALS AND MOBILITY AIDS AND DEVICES**

With regard to any aid, benefit, service, training, and employment, a recipient must provide reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity. [[29 CFR 38.14\(b\)](#) See the definition of “fundamental alteration” in [29 CFR 38.4\(z\)](#). See also Exceptions (2.10).]

Generally, a recipient shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability consistent with conditions and exceptions specified in the regulation. [[29 CFR 38.16](#)]

A recipient must permit individuals with mobility disabilities to use wheelchairs and manually-powered mobility aids designed for use by individuals with mobility disabilities, in any areas open to pedestrian use. A recipient must make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless the recipient can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the recipient has adopted. This assessment must be made based on consideration of factors specified in the regulations. [[29 CFR 38.17](#)] See also Exceptions (2.10).

Examples of promising practices related to the provision of [reasonable modifications](#) of policies, practices, and procedures are included in Part I of the Reference Guide.

## **2.5 ADMINISTER PROGRAMS AND ACTIVITIES IN THE MOST INTEGRATED SETTING APPROPRIATE**

- A recipient must administer WIOA Title I-financially assisted programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. [[29 CFR 38.12\(d\)](#)]

- A recipient must not provide different, segregated, or separate aid, benefits, services, or training to individuals with disabilities or any class of individuals with disabilities unless such action is necessary to provide qualified individuals with disabilities with any aid, benefits, services, or training that are as effective as those provided to others and consistent with the requirements of the Rehabilitation Act, as amended by WIOA, including those provisions that prioritize opportunities in competitive integrated employment. [[29 CFR 38.12\(a\)\(4\)](#)]
- A recipient must not deny a qualified individual with a disability the opportunity to participate in WIOA Title I-financially assisted programs or activities despite the existence of permissibly separate or different programs or activities. [[29 CFR 38.12\(c\)](#)]

Examples of promising practices related to the [administration of programs in the most integrated setting appropriate](#) are included in Part I of the Reference Guide.

## 2.6 EFFECTIVELY COMMUNICATE WITH INDIVIDUALS WITH DISABILITIES

- A recipient must take appropriate steps to ensure that communications with individuals with disabilities, including companions, are as effective as communications with others. For purposes of this section, “companion” means a family member, friend, or associate of an individual seeking access to an aid, benefit, service, training, program, or activity of a recipient, who, along with such individual, is an appropriate person with whom the recipient should communicate. [[29 CFR 38.15\(a\)\(1\)](#); see also [29 CFR 38.34\(b\)](#).]
- A recipient must furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, a WIOA Title I-financially assisted service, program, or activity of a recipient. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a recipient must give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. [[29 CFR 38.15\(a\)\(2\)](#)]
- A recipient must not require an individual with a disability to bring another individual to interpret. A recipient must not rely on an adult accompanying an individual with a disability to interpret or facilitate communication except in specified circumstances. A recipient must not rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to

the safety or welfare of an individual or the public, where there is no interpreter available. [\[29 CFR 38.15\(a\)\(3\)\]](#)

- A recipient that chooses to provide qualified interpreters via VRI services must ensure that the services meet specified criteria. [\[29 CFR 38.15\(a\)\(4\)\]](#)
- Where a recipient communicates by telephone with beneficiaries and others, text telephones (TTYs) or equally effective telecommunication systems must be used to communicate with individuals who are Deaf or hard of hearing or have speech impairments. When a recipient uses an automated-attendant system, including, but not limited to voicemail and messaging, or an interactive voice response system for receiving and directing incoming telephone calls, that system must provide effective real-time communication with individuals using auxiliary aids and services, including TTYs and all forms of FCC-approved telecommunication relay systems, including Internet-based relay systems. A recipient must respond to telephone calls from a relay service in the same manner that it responds to other telephone calls. [\[29 CFR 38.15\(b\)\]](#)
- A recipient must ensure that interested individuals, including individuals with visual or hearing impairments, can obtain information as to the existence and location of accessible services, activities, and facilities. [\[29 CFR 38.15\(c\)\(1\)\]](#) A recipient must provide signage at the public entrances to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities, consistent with ADA standards for accessible design or equivalents. [\[29 CFR 38.15\(c\)\(2\)\]](#)

Examples of promising practices related to [effective communication](#) are included in Part I of the Reference Guide.

## **2.7 PROVIDE ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY**

- When developing, procuring, maintaining, or using electronic and information technology (EIT), a recipient must utilize EIT, applications, or adaptations which:
  - Incorporate accessibility features for individuals with disabilities;
  - Are consistent with modern accessibility standards, such as Section 508 Standards (36 CFR part 1194) and W3C Web Content Accessibility Guidelines (WCAG); and
  - Provide individuals with disabilities access to, and use of, information, resources, programs, and activities that are fully accessible, or ensure that the opportunities and benefits provided by the electronic and information technologies are provided to individuals with disabilities in an equally effective and equally integrated manner. [\[29 CFR 38.15\(a\)\(5\)\]](#)
- Also, other related requirements obligate AJCs to make their technology accessible (including the obligation to provide effective communication and the



obligation to provide programmatic accessibility).<sup>84</sup> Compliance with this obligation is required even without an accommodation request. For example, websites should be designed for screen readers. See the General Service Administration's materials at [www.Section508.gov](http://www.Section508.gov) and the United States Access Board's materials at [www.access-board.gov](http://www.access-board.gov).

Examples of promising practices related to [electronic and information technology](#) included in Part I of the Reference Guide.

## **2.8 PROVIDE PHYSICAL AND PROGRAMMATIC ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES**

### ***2.8.1 Physical Accessibility***

- No qualified individual with a disability may be excluded from participation in, or be denied the benefits of a recipient's service, program, or activity or be subjected to discrimination by any recipient because a recipient's facilities are inaccessible or unusable by individuals with disabilities. Recipients must also comply with physical accessibility standards specified in regulations implementing Title II and Title III of the ADA, if applicable, and Section 504 of the Rehabilitation Act. [[29 CFR 38.13\(a\)](#)]
- Under Section 504, with respect to existing facilities, a recipient must operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to individuals with disabilities. [[29 CFR 32.27\(a\)](#)] The recipient may comply with this obligation through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternative accessible sites, alteration of existing facilities and construction of new facilities in conformance with standards for new construction, or any other method that results in making its program or activity accessible to individuals with disabilities. In choosing among available methods, the recipient must give priority to those methods that offer programs and activities to individuals with disabilities in the most integrated setting appropriate. [[29 CFR 32.27\(c\)](#)]
- Under Section 504, each facility or part of a facility constructed by, on behalf of, or for the use of a recipient must be designed and constructed in such a manner that the facility or part of the facility is readily accessible to and usable by qualified individuals with disabilities, if the construction was commenced after November 6, 1980. [[29 CFR 32.28\(a\)](#)]
- Under Section 504, each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after November 6, 1980, in a manner that affects

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<sup>84</sup> Under Section 101(d)(7)(D) of Title I of WIOA, functions performed by SWDBs include technological improvements to ensure such technology is accessible to individuals with disabilities. A similar provision (Section 107(d)(7)) is applicable to LWDBs. [See [20 CFR 679.130](#) and [20 CFR 679.560](#)]

or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such a manner that the altered portion of the facility is readily accessible to and usable by qualified individuals with disabilities. [[29 CFR 32.28\(b\)](#)]

- With respect to Section 504, the design, construction, or alteration of facilities must meet the most current standards for physical accessibility prescribed by the General Services Administration under the Architectural Barriers Act or the recipient may adopt alternative standards when it is clearly evident that equivalent or greater access to the facility or part of the facility is thereby provided. [[29 CFR 32.28\(c\)](#)]

For additional guidance see United States Access Board website [www.access-board.gov](http://www.access-board.gov).

Examples of promising practices related to [physical accessibility](#) are included in Part I of the Reference Guide.

### **2.8.2 Programmatic Accessibility**

- All WIOA Title I financially assisted programs and activities must be programmatically accessible, which includes:
  - 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 persons with disabilities as effectively as with others; and
  - Providing appropriate auxiliary aids or services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity. [[29 CFR 38.13\(b\)](#)]

Examples of promising practices related to the provision of programmatic accessibility are included in Part I, Section 2 of the Reference Guide (2.2 Provide Reasonable Accommodations for Individuals With Disabilities)

## **2.9 EMPLOYMENT PRACTICES<sup>85</sup>**

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<sup>85</sup> 29 CFR part 32, [subparts B](#) and [C](#) and [Appendix A](#), which implement the requirements of Section 504 pertaining to employment practices and employment-related training, program accessibility, and reasonable accommodations, are adopted by [29 CFR part 38](#). Therefore, recipients must comply with the requirements set forth in those regulations, in addition to the specific requirements listed in 29 CFR part 38. See [29 CFR 38.3\(b\)](#) and [38.18\(d\)](#). In addition, recipients covered by Titles I and II of the ADA, including employers and programs engaged in employment placement and referrals or employment training, should be aware of obligations imposed by those Titles.; see also [29 CFR part 1630](#) and [28 CFR part 32](#)]

### **2.9.1 Ensure Equal Opportunity and Nondiscrimination**

- The recipient may not discriminate in its employment practices on the ground of disability, or on other prohibited grounds, including race, color, religion, sex, national origin, age, or political affiliation or belief. Where applicable, employee selection procedures must comply with the Uniform Guidelines on Employee Selection Procedures. [[29 CFR 38.18\(a\)–\(b\)](#)]

### **2.9.2 Provide Reasonable Accommodations for Individuals with Disabilities**

- The recipient must provide reasonable accommodations for individuals with disabilities unless providing such accommodation would cause an undue hardship for the recipient. [[29 CFR 38.14](#); [38.18\(d\)](#); [29 CFR 32.13](#)]

### **2.9.3 Provide for and Adhere to a Schedule to Evaluate Job Qualifications**

- The recipient must establish a regular review of the qualifications it uses for employment and training to ensure that standards, tests, algorithms or other selection criteria do not screen out or tend to screen out individuals with disabilities on the basis of their disabilities, unless the standards, tests, or other selection criteria, as used, are job-related for the position in question and consistent with business necessity and safe performance. [[29 CFR 38.18\(d\) and \(e\)](#) and [29 CFR 32.14](#)]
- For employment and employment-related training, the recipient must select and administer employment and training tests that, when administered to an individual with a disability that impairs sensory, manual, or speaking skills, accurately reflect the skills, aptitude, or other factors that the test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of the individual. [[29 CFR 38.18\(d\)](#) and [29 CFR part 32 Appendix A](#)]

### **2.9.4 Limit Pre-employment/Employment Medical Inquiries/Confidentiality**

- With limited exceptions, the recipient may not conduct pre-employment inquiries or medical examinations in order to determine whether an applicant is a person with a disability or the nature or severity of the disability. [[29 CFR 38.18\(d\) and \(e\)](#) and [29 CFR 32.15](#)]

Note: Pre-employment and pre-selection inquiries are permissible if they are required or necessitated by another Federal law or regulation. In addition, an employer may ask applicants to voluntarily self-identify as individuals with disabilities for purposes of the employer's affirmative action program that is being undertaken pursuant to Federal, State, or local law, if the individual is clearly informed that (a) the information requested is solely for purposes of the affirmative action effort and refusal to provide it will not subject the individual to any adverse treatment and (b) the information is being requested on a voluntary

basis and will be used in accordance with the provisions of Federal law governing the confidentiality of medical information. Furthermore, if the same notice is given that self-disclosure of a disability is voluntary, that refusal to disclose will not subject the individual to any adverse treatment, that medical information will be kept confidentially and will be used solely for remedial efforts, an employer may ask applicants to self-identify if it is voluntarily using the information to benefit individuals with disabilities by attempting to overcome the effects of conditions that resulted in limited participation in its Federally-assisted program or activity. [[29 CFR 38.18\(d\) and \(e\)](#)] and [[29 CFR 32.15\(b\)](#)]

In addition, employers may require medical examinations if they routinely require such examinations of *all* potential employees, provided the examinations comply with the requirements of [29 CFR 32.15\(c\)](#).

Examples of promising practices related to [employment](#) are included in Part I of the Reference Guide.

## **2.10 EXCEPTIONS (Undue Hardship/Fundamental Alteration/Direct Threat)**

- A recipient must provide a reasonable accommodation unless providing the proposed accommodation would cause undue hardship. The recipient has the burden of proving that the proposed accommodation would result in undue hardship. The regulations also specify the factors relating to the decision whether an accommodation would result in an undue hardship and the obligation to take other actions that would ensure that the individual with a disability receives the aid, benefits, services, training, or employment to the maximum extent possible, but would not result in an undue hardship, after consulting with the individual with a disability. [[29 CFR 38.14\(a\)](#)]
- A recipient must make reasonable modifications unless making the modification would fundamentally alter the nature of the service, program, or activity. The recipient has the burden of proving that the modifications would result in a fundamental alteration. The regulations also specify the factors relating to the decision whether a modification would result in a fundamental alteration and the obligation to take other actions that would not result in a fundamental alteration, but would ensure that the individual with a disability receives the aid, benefits, services, training, or employment to the maximum extent possible. [[29 CFR 38.14\(b\)](#)]
- A recipient must take appropriate steps to ensure effective communication (including the provision of auxiliary aids and services, interpreters, video remote interpreting, electronic and information technology, telecommunications, and information and signage), unless the recipient can demonstrate that a particular action would result in a fundamental alteration in the nature of the financially assisted service, program, or activity. The recipient has the burden of proving that the compliance would result in a fundamental alteration. The regulations also

specify the factors relating to the decision whether compliance would result in a fundamental alteration and the obligation to take other actions that would not result in a fundamental alteration, but would ensure that the individual with a disability receives the benefits or services to the maximum extent possible. [[29 CFR 38.15](#)]

- An employee, applicant, or beneficiary with a disability who needs to use a service animal in a food preparation area must be allowed to do so unless the employer recipient, after an individualized assessment, can demonstrate, that the presence of the service animal presents a direct threat to health or safety that cannot be eliminated or reduced by a reasonable accommodation to the applicant, employee, or beneficiary. [[29 CFR 38.16\(g\)\(2\)](#)]
- The recipient must make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with disabilities, unless the recipient can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the recipient has adopted. [[29 CFR 38.17\(b\)\(1\)](#)]

## PART II, SECTION 3: ADDITIONAL AFFIRMATIVE OBLIGATIONS

### 3.1 DESIGNATION OF QUALIFIED EQUAL OPPORTUNITY OFFICER

- The recipient must (except small recipients and service providers--see Note below) designate an EO Officer who meets the eligibility criteria and assumes prescribed responsibilities (such as monitoring, investigating, reviewing written policies, undergoing training) with regard to individuals with disabilities. ([29 CFR 38.28](#) and [38.33](#))

Note: Small recipients [as defined by [29 CFR 38.4\(hhh\)](#) and [29 CFR 32.3](#)] are not required to appoint an EO Officer [[29 CFR 38.28\(b\)](#) and [38.32](#)] or a Section 504 Coordinator. [[29 CFR 32.7](#)] Small recipients are required to "designate an individual who will be responsible for adopting and publishing complaint procedures, and process complaints." [[29 CFR 38.32](#)] Service providers [as defined by [29 CFR 38.4\(ggg\)](#)] are not required to appoint an EO Officer. [[29 CFR 38.28\(b\)](#) and [38.33](#)]

- The recipient must satisfy certain obligations relating to the EO Officer set forth in the regulations, including making public the EO Officer's TTY number, assigning sufficient staff and resources and ensuring training necessary and appropriate to maintain competency. [[29 CFR 38.29](#)]

Examples of promising practices related to 3.1 Designation of Qualified Equal Opportunity Officer are included in Part I of the Reference Guide.

## 3.2 NOTICE AND COMMUNICATION

- A recipient must provide initial and continuing notice that it does not discriminate on the basis of disability, among other bases. [\[29 CFR 38.34\(a\)\]](#).
- This notice must be provided to registrants, applicants, and eligible applicants/registrants; participants; applicants for employment and employees; unions or professional organizations that hold collective bargaining or professional agreements with the recipient; sub-recipients that receive WIOA Title I-financial assistance from the recipient; and members of the public, including those with impaired vision or hearing. [\[29 CFR 38.34\(a\)\]](#)
- The notice must meet the general posting and dissemination requirements [\[29 CFR 38.36\(a\)\]](#) and the notice must be provided in appropriate formats to individuals with visual impairments. Where the notice has been given in an alternate format to a participant with a visual impairment, a record that such notice has been given must be made a part of the participant's file. [\[29 CFR 38.36\(b\)\]](#)
- The recipient must take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others. [\[29 CFR 38.15](#) and [38.34\(b\)\]](#)<sup>86</sup>
- The recipient must indicate in recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public, that the WIOA Title I-financially assisted program or activity is an "equal opportunity employer/program" and that "auxiliary aids and services are available upon request to individuals with disabilities." [\[29 CFR 38.38\(a\)\]](#)
- Where such materials indicate that the recipient may be reached by telephone, the materials must state the telephone number of the TTY or relay service used by the recipient. [\[29 CFR 38.38\(a\)\]](#)
- A recipient that publishes or broadcasts program information in the news media must ensure that such publications and broadcasts state that the WIOA Title I-financially assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIOA Title I-financially assisted program or activity is prohibited by Federal law), and indicate that auxiliary aids and services are available upon request to individuals with disabilities. [\[29 CFR 38.38\(b\)\]](#)
- During each presentation (in person, over the internet, or using other technologies) to orient new participants, new employees, and the general public,

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<sup>86</sup> The recipient's responsibilities to ensure effective communications pursuant to [29 CFR 38.15](#) are set out under [Section 2.6](#).

a recipient must include a discussion of rights and responsibilities under the nondiscrimination and equal opportunity provisions of WIOA and 29 CFR part 38, including the right to file a complaint of discrimination. This information must be communicated in formats accessible for individuals with disabilities. [\[29 CFR 38.39\]](#)

Examples of promising practices related to 3.2 Notice and Communication are included in Part I of the Reference Guide.

### **3.3 ASSURANCES**

Each grant applicant's application for WIOA Title I-financial assistance must include the specific assurance not to discriminate on the basis of disability under Section 188 of WIOA and Section 504 of the Rehabilitation Act of 1973, and to comply with 29 CFR Part 38 and 29 CFR Part 32, as provided in [29 CFR 38.25](#). [\[29 CFR 38.25\]](#) and [38.27](#)<sup>87</sup>

Examples of promising practices related to [assurances](#) are included in Part I of the Reference Guide.

### **3.4 DATA AND INFORMATION COLLECTION, ANALYSIS, AND MAINTENANCE**

The recipient must comply with the requirements of [29 CFR 38.41 through 38.45](#) related to data and information collection and maintenance and confidentiality responsibilities. Each grant applicant and recipient must promptly notify the Director of the CRC when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the basis of disability, as well as information about any civil rights compliance review or complaint investigation by any other Federal agency that resulted in a finding of noncompliance. [\[29 CFR 38.42\]](#)

Note: [29 CFR 38.42](#) also requires grant applicants and recipients to notify the Director of the CRC when administrative enforcement actions or lawsuits are filed against it alleging discrimination on other bases, including race, color, religion, sex, national origin, age, and political affiliation or belief.

Examples of promising practices related to [data and information collection, analysis and maintenance](#) are included in Part I of the Reference Guide.

### **3.5 MONITORING FOR COMPLIANCE**

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<sup>87</sup> Note that the required assurance goes beyond discrimination on the basis of disability, and also covers discrimination on a variety of other bases under Section 188, Title VI of the Civil Rights Act of 1964, as amended, the Age Discrimination Act of 1975, as amended, and Title IX of the Education Amendments of 1972, as amended. [\[29 CFR 38.25\(a\)\(1\)\]](#) Note also that this assurance to comply with these nondiscrimination and equal opportunity laws is judicially enforceable [\[29 CFR 38.25\(a\)\(1\)\]](#) and is incorporated into any arrangement where Federal financial assistance is made available under Title I of WIOA, whether there is a physical agreement or not. [\[29 CFR 38.25\(a\)\(2\)\]](#).

- The EO Officer must monitor and investigate the recipient's activities and the activities of the entities that receive WIOA Title I-financial assistance from the recipient, to make sure that the recipient and its sub-recipients are not violating their nondiscrimination and equal opportunity obligations. [[29 CFR 38.31\(b\)](#)]; see also [38.12](#)]
- The recipient must conduct a self-evaluation in accordance with [29 CFR 32.6\(c\)](#) (i.e., evaluate current policies and practices and their effects on individuals with disabilities and take remedial steps to eliminate the effects of any discrimination, and consult with interested parties such as individuals with disabilities and organizations representing individuals with disabilities).

Examples of promising practices related to [monitoring and continuous improvement](#) are included in Part I of the Reference Guide.

### **3.6 CERTIFICATION OF AJCs**

The SWDB, in consultation with chief elected officials and LWDBs, must establish objective criteria and procedures for LWDBs to use when certifying AJCs. The criteria must evaluate AJCs and AJC delivery systems, for, among other things, physical and programmatic accessibility. [[20 CFR 678.800](#); TEGL No. 16-16, “[One-Stop Operations Guidance for the American Job Center Network](#)” (January 18, 2017)] All AJCs must comply with applicable physical and programmatic accessibility requirements as set forth in regulations implementing Section 188. [[29 CFR part 38](#)]

Examples of promising practices related to [certification of AJCs](#) are included in Part I of the Reference Guide.

### **3.7 COMPLAINT PROCESSING PROCEDURES**

The EO Officer must develop and publish the recipient's procedures for processing discrimination complaints and make sure that those procedures are followed. [[29 CFR 38.31\(d\)](#); [38.69](#) and [38.76](#)]

Examples of promising practices related to [complaint processing procedures](#) are included in Part I of the Reference Guide.

### **3.8 CORRECTIVE ACTIONS/SANCTIONS**

If monitoring or investigating the recipient’s activities and the activities of the entities that receive WIOA Title I-financial assistance from the recipient discloses violations of nondiscrimination and equal opportunity obligations, the EO Officer must ensure that the recipient and/or sub-recipient(s) take appropriate corrective actions. [[29 CFR 38.31\(b\)](#)]; see also [38.12](#)]



Examples of promising practices related to [corrective action and sanctions](#) are included in Part I of the Reference Guide.

## APPENDIX ACRONYMS

ADA: Americans with Disabilities Act of 1990, as amended  
ADAAA: ADA Amendments Act of 2008  
AI: Artificial Intelligence  
AJC: American Job Center  
CAO: Chief Accessibility Officer  
CIO: Chief Information Officer  
CFR: Code of Federal Regulations  
CRC: Civil Rights Center, Department of Labor  
DEIA: Diversity, Equity, Inclusion, and Accessibility  
DOJ: Department of Justice  
DOL: Department of Labor  
DRC: Disability Resource Coordinators  
EEOC: Equal Employment Opportunity Commission  
EIT: Electronic and Information Technology  
EITC: Earned Income Tax Credit  
EN: Employment Network  
EO Officer: Equal Opportunity Officer  
ETA: Employment and Training Administration, Department of Labor  
FAQs: Frequently Asked Questions  
FCC: Federal Communication Commission  
FR: Federal Register  
ICT: Information and Communication Technology  
IRT: Integrated Resource Team  
ITA: Individual Training Account  
LEP: Limited English Proficiency  
LGBTQ+: Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning  
LWDB: Local Workforce Development Board  
ODEP: Office of Disability Employment Policy, Department of Labor  
PASS: Plan for Achieving Self-Support  
SAP: Secondary Auditory Program  
Section 188: Section 188 of the Workforce Innovation and Opportunity Act  
Section 503: Section 503 of the Rehabilitation Act of 1973, as amended  
Section 504: Section 504 of the Rehabilitation Act of 1973, as amended  
Section 508: Section 508 of the Rehabilitation Act of 1973, as amended  
SSA: Social Security Act  
SSDI: Social Security Disability Insurance  
SSI: Supplemental Security Income  
SWDB: State Workforce Development Board  
TANF: Temporary Assistance for Needy Families  
TTW: Ticket to Work  
TTY: Teletypewriter, Text telephones  
U.S.C.: United States Code  
VR: Vocational Rehabilitation

VRI: Video Remote Interpreting  
VRS: Video Relay Service  
WCAG: Web Content Accessibility Guidelines  
W3C: World Wide Web Consortium  
WIA: Workforce Investment Act  
WIOA: Workforce Innovation and Opportunity Act  
WIPA: Work Incentives Planning and Assistance