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SOUTH FLORIDA WORKFORCE
7300 Corporate Center Drive
Suite 500
Miami, FL 33126
voice: 305-594-7615
TDD/TTY: 305-470-5529
http://www.southfloridaworkforce.com

Disabilities Services Coordinators

Frank Batista (x368) - EO Officer / Disability Services Coordinator
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INTRODUCTION

One in five Americans has a disability, and the unemployment rate for people with disabilities is the highest for any group of Americans. People with disabilities, particularly those with the most significant disabilities, represent an often-untapped group of educated, highly skilled, talented and qualified workers. (Rod Paige, Secretary of Education)

Finding and keeping good workers are among the greatest challenges facing businesses in the 21st century. Today, more than ever, businesses need access to a skilled and diverse workforce. They cannot stay competitive and increase profitability without qualified personnel.

People with disabilities are a source of qualified workers that is frequently overlooked. This pool of workers represents one of the largest groups seeking employment in today's market - some 9 million unemployed Americans with significant disabilities want to work.

Employers tell us that, once hired, this labor source provides some of the best employees within a corporation. They are generally dependable, dedicated, hardworking and productive. Employers report that the work ethic of disabled employees has a positive effect on the morale and production of their colleagues. Unfortunately, many employers are not aware of this pool of qualified workers. Even those who realize the potential of this labor pool do not know how to reach them and are concerned about the perceived cost and challenge of providing necessary accommodations. (Thomas J. Donohue, Chamber of Commerce of the United States of America)

Quick Facts:

- A March 2003 survey of employers found that the cost of accommodations was usually $500 or less. (Dixon, Kruse, & Van Horn, 2003)
- Seventy-three percent of employers report that their employees with disabilities did not require accommodations at all. (Dixon, Kruse, & Van Horn, 2003)
- Companies report that employees with disabilities have better retention rates, reducing the high cost of turnover. (Unger, 2002) (Quick Facts, page 1 of Disability Employment 101)

America’s economic success depends on the ability of businesses to recognize and use the valuable and diverse human resources available. Tapping into the talents and skills of people with disabilities will benefit companies and communities nationwide. (Thomas J. Donohue, Chamber of Commerce of the United States of America)

We know that we cannot achieve greater employment for people with disabilities without the continued and increased support of the private sector, including large corporations and small businesses. There is no single solution to the high unemployment rate of people with disabilities, but working together we can ensure that no American worker with a disability is left behind. (Rod Paige, Secretary of Education)
INTRODUCTORY COMMENTS

The attached booklet is a collection of presentations, resources, and concepts being refined and designed to offer support to the Career Center system. This will be a resource that will be ongoing in its structure and constantly being updated. Information will continue to be gathered from various sources such as: the Disability Services Advisory Council members, national and state disability navigators and various disability related committees and organizations. In addition, the booklet will address Career Center requests and share input that will address the needs in achieving full integration for people with disabilities.

- Any of this material will be made available in alternative formats when requested.
- Power Point presentations will be available for individual Career Centers or group training.

- Becoming Relay Friendly
- Business Leadership Network
- Disability Awareness and Etiquette
- Disability Navigator Initiative
- Disability Navigator Orientation
- Job Accommodation Network (JAN)
- Myths and Facts

If a telephone number does not have a corresponding TDD/TTY telephone number, please use the Florida Relay System 711 for communication assistance.
Workforce Investment Act (WIA)
Related Websites

- WIA Final Rule: www.doleta.gov/usworkforce/finalrule.htm
- WIA of 1998 power point presentation: www.vidol.gov/Units/Training/WIA.pdf
- Section 188 of the WIA: www.dol.gov/oasam/regs/statutes/sec188.htm
- Section 188 guidance: www.dlrp.org/html/guide_to/sect188_wia.html
- Civil Rights Center: www.dol.gov/oasam/programs/crc/crcwelcome.htm
- Civil Rights Center: www.dol.gov/oasam/programs/crc/statutes.htm
- Civil Rights Center Compliance Assistance: www.dol.gov/oasam/programs/crc/Compassis.htm#Disability
- U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management (OASAM): www.dol.gov/oasam/regs/statutes/sec188.htm
- National Collaborative on Workforce and Disability / Youth: www.ncwd-youth.info/resources_&_Publications/disability_Legislation/wia.shtml
- Rehabilitation Act of 1973, Section 508: www.dol.gov/oasam/regs/statutes/sec508.htm
### INTERNET RESOURCES

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<th>Resource</th>
<th>Website</th>
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<td>Abilities Magazine</td>
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<td>Ability Magazine</td>
<td><a href="http://www.abilitymagazine.com/">http://www.abilitymagazine.com/</a></td>
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<td>ADA Accessibility Guidelines</td>
<td><a href="http://www.access-board.gov/">http://www.access-board.gov/</a></td>
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<td>ADA Homepage</td>
<td><a href="http://www.ada.gov/">http://www.ada.gov/</a></td>
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<td>ADA Tax Incentives</td>
<td><a href="http://www.usdoj.gov/crt/ada/taxpack.htm">http://www.usdoj.gov/crt/ada/taxpack.htm</a></td>
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<tr>
<td>American Association of Persons with Disabilities</td>
<td><a href="http://www.aapd.com/">http://www.aapd.com/</a></td>
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<td>American Fact Finder - Census</td>
<td><a href="http://factfinder.census.gov/">http://factfinder.census.gov/</a></td>
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<td>Apprenticeship Program</td>
<td><a href="http://www.dol.gov/dol/topic/training/apprenticeship.htm">http://www.dol.gov/dol/topic/training/apprenticeship.htm</a></td>
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<td>Assistive Technology</td>
<td><a href="http://www.jobaccess.org/">http://www.jobaccess.org/</a></td>
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<tr>
<td>Association for Persons in Supported Employment</td>
<td><a href="http://www.apse.org/aboutapse.html">http://www.apse.org/aboutapse.html</a></td>
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<td>Beyond the AP Stylebook Guide for reporters &amp; editors</td>
<td><a href="http://www.raggededgemagazine.com/mediacircus/styleguide.htm">http://www.raggededgemagazine.com/mediacircus/styleguide.htm</a></td>
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<td>Book Publisher</td>
<td><a href="http://www.jist.com/index.shtml">http://www.jist.com/index.shtml</a></td>
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<td>Career One Stop</td>
<td><a href="http://www.careeronestop.org/">http://www.careeronestop.org/</a></td>
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<td>Career - Online Job Search</td>
<td><a href="http://www.careermag.com/">http://www.careermag.com/</a></td>
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<td>Career Voyages</td>
<td><a href="http://www.careervoyages.gov/">http://www.careervoyages.gov/</a></td>
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<td>Careers &amp; the disAbled</td>
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<td>Catalog of Federal Domestic Assistance</td>
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<tr>
<td>Center for Housing and New Community Economics</td>
<td><a href="http://chance.unh.edu/">http://chance.unh.edu/</a></td>
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<tr>
<td>Center for the Study and Advancement of Disability Policy</td>
<td><a href="http://www.disabilitypolicycenter.org/">http://www.disabilitypolicycenter.org/</a></td>
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<tr>
<td>Cerebral Palsy Research Foundation</td>
<td><a href="http://www.cprf.org/default.asp">http://www.cprf.org/default.asp</a></td>
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<td>Community Transportation Association</td>
<td><a href="http://www.ctaa.org/ntrc/directories/">http://www.ctaa.org/ntrc/directories/</a></td>
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<tr>
<td>Consortium for Citizens with Disabilities</td>
<td><a href="http://www.c-c-d.org/">http://www.c-c-d.org/</a></td>
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<tr>
<td>Coordinating Council on Access and Mobility;</td>
<td><a href="http://www.unitedweride.gov/">http://www.unitedweride.gov/</a></td>
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<td>Cornell University</td>
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<td>Developing Innovative Solutions for Rural Americans with Disabilities</td>
<td><a href="http://rtc.ruralinstitute.umt.edu/">http://rtc.ruralinstitute.umt.edu/</a></td>
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<tr>
<td>Disability Access Symbols</td>
<td><a href="http://www.gag.org/resources/das.php">http://www.gag.org/resources/das.php</a></td>
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<td>Disability Advocacy</td>
<td><a href="http://icanonline.net">http://icanonline.net</a></td>
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<td>Disability Employment 101</td>
<td><a href="http://www.ed.gov/about/offices/list/osers/products/employmentguide/index.html">http://www.ed.gov/about/offices/list/osers/products/employmentguide/index.html</a></td>
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<td>Disability Information for Journalists</td>
<td><a href="http://www.accessiblesociety.org/">http://www.accessiblesociety.org/</a></td>
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<td>Disability is Natural</td>
<td><a href="http://www.disabilityisnatural.com/">http://www.disabilityisnatural.com/</a></td>
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<td>Disability Online Newspaper</td>
<td><a href="http://www.disabilitygrapevine.com/">http://www.disabilitygrapevine.com/</a></td>
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<td>Resource</td>
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<td>Disability Program</td>
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<td>Disability Resources</td>
<td><a href="http://www.halftheplanet.org/">http://www.halftheplanet.org/</a></td>
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<td>Disability World (international disability news)</td>
<td><a href="http://www.disabilityworld.org/">http://www.disabilityworld.org/</a></td>
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<td>Discussion Board for DPN</td>
<td><a href="http://www.onestoptoolkit.org/login.cfm">http://www.onestoptoolkit.org/login.cfm</a></td>
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<td>DOJ, Title 2 Complaint Form</td>
<td><a href="http://www.usdoj.gov/crt/ada/t2cmpfrm.htm">http://www.usdoj.gov/crt/ada/t2cmpfrm.htm</a></td>
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<td>Employment Training</td>
<td><a href="http://www.motivation1.com">http://www.motivation1.com</a></td>
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<td>Independence for People with Disabilities</td>
<td><a href="http://www.paraquad.org">http://www.paraquad.org</a> (Recycled durable medical equipment program)</td>
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<td>Hearing Loss Association</td>
<td><a href="http://www.shhh.org">http://www.shhh.org</a></td>
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<td>ILR School of Employment and Disabilities Institute</td>
<td><a href="http://www.ilr.cornell.edu/edi/">http://www.ilr.cornell.edu/edi/</a></td>
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<td>Iowa Workforce Development</td>
<td><a href="http://www.iowaworkforce.org">http://www.iowaworkforce.org</a></td>
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<td>Job Accommodation Network</td>
<td><a href="http://jan.wvu.edu/">http://jan.wvu.edu/</a></td>
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<td>Job Search</td>
<td><a href="http://jobability.com/">http://jobability.com/</a></td>
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<td>Medicare Rights Center</td>
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<td>Monkey Helpers for the Disabled</td>
<td><a href="http://www.helpinghandsmonkeys.org/">http://www.helpinghandsmonkeys.org/</a></td>
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<td>National Arts and Disability Center</td>
<td><a href="http://nadc.ucla.edu/">http://nadc.ucla.edu/</a></td>
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<td>National Association of State Directors of Special Education</td>
<td><a href="http://www.nasdse.org/">http://www.nasdse.org/</a></td>
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<td>National Association of State Workforce Agencies</td>
<td><a href="http://www.workforceatm.org/">http://www.workforceatm.org/</a></td>
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<td>National Center for the Dissemination of Disability Research</td>
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<td>National Center on Workforce and Disability</td>
<td><a href="http://www.onestops.info/">http://www.onestops.info/</a></td>
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<td>National Council on Disability</td>
<td><a href="http://www.ncd.gov/">http://www.ncd.gov/</a></td>
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<td>National Disability Rights Network - Protection and Advocacy</td>
<td><a href="http://www.napas.org/">http://www.napas.org/</a></td>
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<td>National Organization on Disability</td>
<td><a href="http://www.nod.org/">http://www.nod.org/</a></td>
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<tr>
<td>Navigator Information</td>
<td>navigator_dpn_.htm</td>
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<td>New Mobility Magazine</td>
<td><a href="http://www.newmobility.com/">http://www.newmobility.com/</a></td>
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<td>Non-Profit Grantwriting Guides</td>
<td><a href="http://www.npguides.org/">http://www.npguides.org/</a></td>
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<td>One Stop Toolkit</td>
<td><a href="http://www.onestoptoolkit.org/">http://www.onestoptoolkit.org/</a></td>
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<td>Online Job Recruiting</td>
<td><a href="http://www.disabledperson.com/recruitability.asp">http://www.disabledperson.com/recruitability.asp</a></td>
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<tr>
<td>Online One Stop Manual - Access For All</td>
<td><a href="http://www.communityinclusion.org/onestop/onestopmanual.html">http://www.communityinclusion.org/onestop/onestopmanual.html</a></td>
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<tr>
<td>Online Telephone Directory</td>
<td><a href="http://www.switchboard.com/">http://www.switchboard.com/</a></td>
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<td>Physicians’ Disability Services</td>
<td><a href="http://www.disabledfacts.com/">http://www.disabledfacts.com/</a></td>
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<td>Programs with Impact in Assistive Technology</td>
<td><a href="http://www.necfoundation.org/">http://www.necfoundation.org/</a></td>
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<td>Rehabilitation Engineering Research Center on Wheelchair Transportation Safety</td>
<td><a href="http://www.rercwts.pitt.edu/index.html">http://www.rercwts.pitt.edu/index.html</a></td>
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<td>RRTC - Workplace Supports and Job Retention</td>
<td><a href="http://www.worksupport.com/">http://www.worksupport.com/</a></td>
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<td>Social Security Administration</td>
<td><a href="http://www.ssa.gov/">http://www.ssa.gov/</a></td>
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<td>Social Security Disability Benefits Law Information and Resources</td>
<td><a href="http://www.severe.net/">http://www.severe.net/</a></td>
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<td>Technical Assistance Collaborative</td>
<td><a href="http://www.tacinc.org/">http://www.tacinc.org/</a></td>
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<td>Technical Assistance Exchange</td>
<td><a href="http://www.adrc-tae.org/">http://www.adrc-tae.org/</a></td>
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<td>The ADA and City Governments Common Problems</td>
<td><a href="http://www.usdoj.gov/crt/ada/comprob.htm">http://www.usdoj.gov/crt/ada/comprob.htm</a></td>
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<td>The Association of Programs for Rural Independent Living</td>
<td><a href="http://www.april-rural.org/">http://www.april-rural.org/</a></td>
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<tr>
<td>The Dynamics of Disability: Measuring and Monitoring Disability for Social Security Programs</td>
<td><a href="http://www.nap.edu/books/0309084199/html/">http://www.nap.edu/books/0309084199/html/</a></td>
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<td>Resource</td>
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<td>Title 49 - Transportation</td>
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<td>Universal LifeStiles</td>
<td><a href="http://www.universallifetiles,com/">http://www.universallifetiles,com/</a></td>
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<td>University of Iowa School of Law; Law, Health Policy &amp; Disability Center</td>
<td><a href="http://disability.law.uiowa.edu/">http://disability.law.uiowa.edu/</a></td>
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<td>U.S. Access Board</td>
<td><a href="http://www.access-board.gov/">http://www.access-board.gov/</a></td>
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<td>U.S. Chamber of Commerce: Center for Workforce Preparation</td>
<td><a href="http://www.uschamber.com/cwp/default">http://www.uschamber.com/cwp/default</a></td>
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<td>U.S. Dept. of Labor, Civil Rights Center (Disability Employment Policy)</td>
<td><a href="http://www.dol.gov/oasam/programs/crc/Compassis.htm#Disability">www.dol.gov/oasam/programs/crc/Compassis.htm#Disability</a></td>
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<td>U.S. Techguide (a guide to wheelchairs &amp; assistive tech)</td>
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<td>Workforce Development Professionals Network</td>
<td><a href="http://www.wdpn.net/">http://www.wdpn.net/</a></td>
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<td>You’re Able: Information, products &amp; services for people with disabilities</td>
<td><a href="http://www.youreable.com/">http://www.youreable.com/</a></td>
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Section 188 of the Workforce Investment Act

The information on Section 188 of the Workforce Investment Act was obtained from the U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management website:

Welcome to the Section 188 of the Workforce Investment Act Course

Welcome to the Section 188 of the Workforce Investment Act course. This course provides an overview of Section 188 and its implementing regulations. Lessons in this course will cover the following topics:

- Introduction to Section 188 of the Workforce Investment Act and its implementing regulations
- Definitions relative to these regulations
- Record keeping and other affirmative obligations
- Governor’s responsibilities

Workforce Investment Act

The Workforce Investment Act (WIA) offers a comprehensive approach to providing workforce investment activities through statewide and local systems.

The most important aspect of the Act is its focus on meeting the needs of businesses for skilled workers and the training, education, and employment needs of individuals. Key components of the Act are that it:

- Enables customers to easily access the information and services they need through the "One-Stop" system (a network of employment, education, and training services at the local, state, and national level).
- Empowers adults to obtain the training they find most appropriate through Individual Training Accounts, and ensures that all State and local programs meet customer expectations.

Section 188 of the WIA

Section 188 of the WIA prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, status as a citizen or individual lawfully admitted into the U.S or participation in a WIA Title I - financially assisted program or activity.

Section 188 protects individuals from being excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any Title I - funded program or activity.

Implementing Regulations

- 29 CFR Part 37 implements the Nondiscrimination and Equal Opportunity Provisions of Section 188 of the Workforce Investment Act (Department of Labor statute).
- The provisions presented in this course are those set forth in this Part.

Lesson 1: General Provisions of 29 CFR Part 37

This lesson presents information about the General provisions of 29 CFR Part 37.
Purpose of 29 CFR Part 37

- 29 CFR Part 37 sets forth the application of the nondiscrimination and equal opportunity provisions of WIA and provides uniform procedures for implementing them.

Scope of 29 CFR Part 37

This part applies to:

- Recipients of financial assistance under Title I of WIA
- Programs or activities that are part of the One-Stop delivery system
- The employment practices of a recipient and/or One-Stop partner

Scope of 29 CFR Part 37

This part does not apply to:

- Programs or activities financially assisted by DOL under laws other than Title I of WIA and that are not part of the One-Stop delivery system.
- Contracts or insurance of guaranty
- The ultimate beneficiary (i.e., end customer)
- Federal procurement contracts other than those related to Job Corps
- Federally-operated Job Corps Centers

Forms of discrimination prohibited

No individual in the United States may, on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in any WIA Title I-financially assisted program or activity:

- Be excluded from participation in,
- Denied the benefits of,
- Subjected to discrimination under, or
- Denied employment in the administration of or in connection with any WIA Title I-funded program or activity.

Specific discriminatory actions based on prohibited grounds other than disability

A recipient must not, directly or through contractual, licensing, or other arrangements, on a prohibited ground:

- Deny any individual aid, benefits, services, or training;
- Provide to an individual any aid, benefits, services, or training that is different, or is provided in a different manner, from that provided to others;
- Subject an individual to segregation or separate treatment;
- Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others;
- Treat an individual differently from others in determining whether he or she satisfies any requirement or condition for any aid, benefits, services or training provided;
Deny or limit an individual with respect to any opportunity to participate in a WIA Title I-funded program or activity, or afford him or her an opportunity to do so that is different from the opportunity afforded others;

Deny an individual the opportunity to participate as a member of a planning or advisory body that is an integral part of the WIA Title I-funded program or activity; or

Otherwise limit on a prohibited ground an individual in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others.

Aid or perpetuate discrimination by providing significant assistance to an agency, organization, or person that discriminates on a prohibited ground in providing any aid, benefits, services, or training to registrants, applicants, or participants in a WIA Title I-funded program or activity; or

Refuse to accommodate an individual’s religious practices or beliefs, unless to do so would result in an undue hardship.

This list is not exhaustive, for further discriminatory actions based on prohibited grounds other than disability; please review 29 CFR Part 37 Section 37.6.

Prohibited discriminatory actions based on disability

In providing any aid, benefits, services, or training under a WIA Title I-financially assisted program or activity, a recipient must not, directly or through contractual, licensing, or other arrangements, on the ground of disability:

Deny a qualified individual with a disability the opportunity to participate;

Afford a qualified individual with a disability an opportunity that is not equal to that afforded others;

Provide a qualified individual with a disability with an aid, benefit, service or training that is not as effective in affording equal opportunity to obtain the same end results as that provided to others;

Provide different, segregated, or separate aid, benefits, services, or training to people with disabilities, unless the program or activity providing services performs an individualized assessment of a particular individual with a disability and concludes that the individual needs special, segregated services.

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.

A recipient must not deny a qualified individual with a disability the opportunity to participate in WIA Title I-financially assisted programs or activities despite the existence of permissibly separate or different programs or activities.

A recipient must administer WIA Title I-financially assisted programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

Nothing in WIA Section 188 regulations (29 CFR Part 37) prohibits a recipient from providing aid, benefits, services, training, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities, beyond those required by the regulations.

This list is not exhaustive, for further prohibited discriminatory actions based on disability please review 29 CFR Part 37 Section 37.7.
Recipient responsibilities regarding reasonable accommodation and reasonable modification for individuals with disabilities

**Reasonable accommodations** for a person with a known disability must be provided unless providing a requested accommodation would impose an undue hardship on the recipient. Recipients must make **reasonable modifications** to their policies, practices, and procedures when asked to do so by qualified people with disabilities, unless such modifications would cause a **fundamental alteration**.

**Undue hardship/fundamental alteration**

- The recipient bears the burden of proving undue hardship or fundamental alteration.
- The decision of undue hardship/fundamental alteration must be accompanied by a written statement of the reasons for reaching such a conclusion.
- The recipient is obligated to take other actions that would not cause undue hardship or fundamental alteration.

**Recipient responsibilities to communicate with individuals with disabilities**

Recipients must take appropriate steps to ensure that communications with beneficiaries, registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employees, and members of the public who are individuals with disabilities, are as effective as communications with others.

A recipient must provide appropriate auxiliary aids or services where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the WIA Title I--financially assisted program or activity.

In determining what type of auxiliary aid or service is appropriate, primary consideration should be given to the requests of the individual with a disability.

**Recipient responsibilities to communicate with individuals with disabilities**

- Where a recipient communicates by telephone, the recipient must use telecommunications devices for individuals with hearing impairments (TDDs/TTYs), or communications systems that are equally as effective, such as telephone relay services.
- 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.

**Employment practices**

Discrimination on the ground of race, color, religion, sex, national origin, age, disability, or political affiliation or belief is prohibited in employment practices in the administration of, or in connection with:

1. Any WIA Title I-financially assisted program or activity; and
2. Any program or activity that is part of the One-Stop delivery system and is operated by a One-Stop partner, to the extent that the program or activity is being conducted as part of the One-Stop delivery system.
Lesson 2: Definitions

This lesson defines important terms relative to 29 CFR Part 37, specifically many terms relative to the definition of a disability.

Disability

Disability-based discrimination takes three basic forms:

- Discrimination based on a person’s actual, current disability or disabilities;
- Discrimination based on the record of a person’s past disability (even though the person has recovered from the disability or no longer experiences its effects); and
- Discrimination based on the incorrect perception that a person has a disability.

Disability

In order to provide protection from all three of these types of discrimination, 29 CFR Part 37 uses the following three-part definition for the term “disability”:

- A physical or mental impairment that substantially limits one or more of a person’s major life activities;
- A record of such an impairment; or
- Being regarded [by a program, activity, training provider, employer, or other person or entity covered by the law] as having such an impairment.

So an “individual with a disability,” means someone who falls under one of these three categories.

Disability: Category One

CATEGORY ONE: IS THE INDIVIDUAL A PERSON WITH AN ACTUAL, CURRENT DISABILITY?

To determine if WIA Section 188 protects a particular person from discrimination under the first category (a person with an actual, current disability), ask the following three questions:

- Does the person have a physical or mental impairment?
- Does the impairment affect one or more of his/her major life activities?
- Is the effect a substantial limitation?

A full understanding of the meaning of the term disability requires an understanding of what is meant by physical or mental impairment, major life activities, and substantially limits. Let’s review each of these important terms.

PHYSICAL OR MENTAL IMPAIRMENT

The phrase physical or mental impairment means:

- Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine;

- Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
Examples of physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as:

- orthopedic, visual, speech and hearing impairments
- cerebral palsy
- epilepsy
- muscular dystrophy
- multiple sclerosis
- cancer
- heart disease
- diabetes
- mental retardation
- emotional illness
- specific learning disabilities
- HIV disease (whether symptomatic or asymptomatic)
- tuberculosis
- drug addiction
- alcoholism

This is not an exclusive list, and that other conditions may also be considered impairments. Homosexuality or bisexuality are not included as “physical or mental impairments.”

MAJOR LIFE ACTIVITIES

The term "major life activity" means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Note: The regulations include "working" as an example of a "major life activity." However, the Supreme Court has questioned whether "working" should be listed in this category. Until the Court issues a definitive ruling on the issue, it is best to look at other "major life activities" to determine whether a particular person has a disability.

SUBSTANTIAL LIMITATION

Not every impairment affects a person’s life so much that it (the impairment) is considered a disability under Section 188 of WIA. In order to qualify, an impairment (or combination of impairments) must substantially limit one or more of the person’s major life activities.

In general, substantially limits means that an impairment prevents the person who has the impairment from performing (or doing) a major life activity that the average person can perform (or do), or that it significantly restricts the person in performing such an activity, as compared with the average person.

For example, certain learning disabilities or psychiatric disorders may significantly affect the conditions under which a person can perform the major life activity of concentrating, by causing her to be easily distracted by noise or interruptions, and to need a quiet atmosphere in order to perform tasks that other people who do not have the same disability.

Generally, the determination whether a person with one or more impairments is substantially limited should be made on a case-by-case basis, by someone with expertise in the field.
There are three factors that should be considered in determining whether the limitations caused by an impairment are substantial. The factors are as follows:

- The nature and severity of the impairment;
- The duration or expected duration of the impairment; and
- The permanent or long term impact, or the expected permanent or long term impact, of or resulting from the impairment.

**Disability: Category Two**

**IS THE INDIVIDUAL A PERSON WITH A RECORD OF A DISABILITY?**

The second category of people who are protected from discrimination under WIA Section 188 are people who have a record of a past disability, but who have recovered from, or who no longer have, that disability. This aspect of the regulation protects people such as cancer survivors from the effects of unfounded fears and unfair stereotypes that may be associated with their past impairments (e.g. fear that the condition will reoccur and the person will require extended leave).

A person is considered to have a record of a disability, and therefore to fall within the second part of the definition of “disability,” if s/he either:

- Has a past history of a disability, or
- Has been misclassified as having a disability.

Keep in mind that in order for a person to be protected from discrimination under category two, the past impairment (or the impairment that the person has been misclassified as having) must meet the three-part definition of an actual disability:

- The impairment that has been recorded must fall within the legal definition of a physical or mental impairment.
- The recorded impairment must be one that affects one or more major life activities.
- The recorded impairment must have substantially limited the person’s major life activities (or, in the case of a misclassification, be an impairment that would have substantially limited those activities if the impairment had actually existed).

**Example 1**

Lynn has had colon cancer in the past, but has undergone treatment and is now perfectly healthy. Lynn has granted the training provider permission to retrieve her past training record, which reveals that she was unable to complete several classes because she was undergoing chemotherapy. If in the past her cancer substantially limited one or more of her major life activities, then she is a person with a past history of a disability. Lynn cannot be discriminated against on the basis of that past disability. The training provider cannot deny Lynn admittance into the training program because he/she perceives that the stress may be too much for Lynn.
Example 2

Suppose Lynn’s record accidentally gets mixed in with Erin’s application and a training manager refuses to let Erin take certain courses because she believes that Erin will need to be absent quite frequently for continuing medical evaluations. Assuming that colon cancer would have substantially limited Erin’s major life activities, Erin is also protected from discrimination because he has been misclassified as having had a disability in the past.

Disability: Category Three

CATEGORY THREE: IS THE INDIVIDUAL REGARDED AS A PERSON WITH A DISABILITY?

Being regarded as having a disability is part three of the definition of the term disability. It means that an individual:

- Has a physical or mental impairment that does not substantially limit major life activities, but is treated by a recipient as having such a limitation.

For example, Ken has a curvature of the spine. However, he may be capable of lifting heavy objects. His case manager at a One-Stop Center wrongly assumes that Ken is unable to lift and carry and thus fails to refer him to jobs that require lifting and carrying.

- Has a physical or mental impairment that substantially limits major life activities, but only as a result of the attitudes others have toward such impairment.

For example, Tom has a medical condition that disfigures his facial features, but that does not affect his physical functioning. Because of this disfiguring condition, he is regularly subjected to teasing and harassment on the street, and an employer has refused to hire him for a job that requires public contact because of her perception that Tom will scare customers away.

- Has none of the impairments in this section, but is treated by a recipient as having such an impairment.

For example, Gilda is denied program participation because a birthmark on her cheek leads a provider to incorrectly assume that she has Lupus and thus will be too sick to complete the program.

Disability: Equal opportunity and categories two and three

People who fall under any of the three categories in the definition of "disability" are protected from discrimination under WIA Section 188 and other Federal disability nondiscrimination laws. However, people in Categories Two and Three - those who have a record of a past disability, and those who are regarded as having a disability - are not entitled to benefit from the types of positive actions, such as reasonable accommodations / modifications, that are designed to provide equal opportunity for people with disabilities.

These positive actions are intended to help people with disabilities succeed in employment and training and to make the aid, benefits, services and training, readily accessible and usable by individuals with disabilities despite the barriers imposed by their substantially limiting impairments. Because people in Categories Two and Three do not have such substantially limiting impairments, they presumably do not need - and Federal disability nondiscrimination laws do not entitle them to - the additional assistance that reasonable accommodations/modifications are meant to provide.
Disability: Exceptions to the definition of individual with a disability

Federal laws barring discrimination on the basis of disability contain several exceptions to the definition of “individual with a disability.” These exceptions mean that people who have certain conditions, or who engage in certain activities, are not protected from adverse actions that are motivated by those conditions or activities, even if those actions would otherwise be considered discriminatory.

The WIA nondiscrimination regulations contain two types of exceptions to the definition of “individual with a disability”: exceptions that apply in all aspects of the One-Stop Career Center system, and exceptions that apply only in the employment context.

Exceptions that apply in all contexts

The regulations exclude persons with specific, listed sexual and psychological disorders. The list of sexual disorders includes transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, and other sexual behavior disorders. Listed psychological disorders include compulsive gambling, kleptomania, and pyromania.

This exclusion means that it is not against the law to take adverse action against a person - to exclude him or her from a program or activity, or otherwise give him or her less favorable treatment than others - because of one or more of the listed disorders. However, it is still unlawful to subject such a person to discrimination on the basis of a covered disability (such as a hearing impairment or learning disability), or on another prohibited basis, such as race or sex.

Current illegal use of drugs. The WIA nondiscrimination regulations also exclude from the definition of “individual with a disability” both persons who are “currently engaging in the illegal use of drugs,” and persons with “psychoactive substance use disorders resulting from current illegal use of drugs.” Recipients are permitted to take adverse actions against such people on the basis of their current illegal drug use.

Illegal use of drugs

"Illegal use of drugs" is not the same as "use of illegal drugs." Drugs that are lawful in some contexts, such as prescription drugs, may be used in an illegal or unlawful way. The term "illegal use of drugs" is intended to cover such use of otherwise-legal drugs, as well as use of drugs whose use is generally prohibited.

It is important to note that only people who are currently using drugs illegally are excluded from protection under WIA Section 188 and other relevant Federal laws. The following categories of persons are considered individuals with disabilities under those laws, and are therefore protected from discrimination on the basis of their past drug use (if that use qualified as a "disability" under the criteria described earlier in this training):

- Persons who have successfully completed a supervised drug rehabilitation program (an in-patient, out-patient, or employee assistance program), and who are no longer using drugs illegally;
- Persons who have been rehabilitated successfully in some other way (e.g., recognized self-help programs such as Narcotics Anonymous), and who are no longer using drugs illegally; and
- Persons who are currently participating in a supervised rehabilitation program, and who are no longer using drugs illegally.

Persons who are not using drugs illegally, but who are mistakenly believed to be doing so, are also protected from discrimination.
To ensure that a person’s past drug use is not recurring, a recipient may request evidence that the person is participating in a rehabilitation program or has been rehabilitated successfully in some other way, or may request the results of a drug test.

Alcoholics and Provision of Benefits/Services

In the context of provision of benefits and services (as opposed to that of employment), alcoholics (those whose use of alcohol constitutes an impairment that substantially limits one or more of their major life activities) are treated differently by WIA Section 188 than people who are currently using drugs illegally.

Alcoholics - even those who are currently using alcohol - are protected from discrimination in programs and activities that provide benefits or services through the One-Stop delivery system. An otherwise qualified alcoholic cannot lawfully be denied benefits or services because of the alcoholism itself. However taking adverse action against an individual because of the behavior that the alcoholism causes (i.e. violent behavior) is not considered discriminatory.

Exceptions that apply only in the employment context

In the employment context, a person is excluded from the definition of “individual with a disability” if that person either:

- is an alcoholic
  1. whose current use of alcohol prevents him/her from performing the duties of the job in question; or
  2. whose employment, by reason of such current alcohol abuse would constitute a direct threat to the prosperity or safety of others; or

- has a currently contagious disease or infection
  1. that prevents him/her from performing the duties of the job in question; or
  2. that makes his/her employment a direct threat to the health or safety of others.

Qualified individual with a disability

The civil rights protections discussed in this training do not apply to every person with a disability; only qualified individuals with disabilities are entitled to those protections.

In the context of provision of aid, benefits, and services, a "qualified individual with a disability" is someone who meets the essential eligibility requirements for the program or activity. In deciding whether a particular person meets these requirements, you must consider any reasonable accommodation or reasonable modification that can be made for the person’s disability. (Reasonable accommodations and reasonable modifications will be discussed later in this training.)

With respect to employment, a "qualified individual with a disability" is an individual with a disability who, with or without reasonable accommodation, is capable of performing the essential functions of the job in question.
Reasonable accommodation

Reasonable accommodations in the employment context include the changes that may be made to enable a qualified person with a disability to apply for the job, or to perform the essential functions of the job. Reasonable accommodations also include changes that will allow a qualified person with a disability to receive the same benefits and privileges of employment that people without disabilities receive.

Undue hardship

A recipient must provide reasonable accommodations for qualified persons with disabilities, unless the accommodations requested would impose an undue hardship on the recipient. In general, the term undue hardship means significant difficulty or expense.

The factors that a recipient must consider in deciding whether a particular accommodation would impose an undue hardship include:

- the type of accommodation that has been asked for;
- the net cost of the accommodation;
- the overall size of the recipient;
- the overall financial resources of the recipient as a whole and the individual facility or facilities that would be involved with the accommodation; and
- the effect that providing the accommodation would have on the recipient's or facility's ability to serve other customers, and the recipient's or facility's ability to carry out its mission.

Reasonable modification

The term reasonable modification is not used in the employment context under WIA nondiscrimination regulations.

This term is utilized only in the context of aid, benefits, services, and training. The term applies specifically to changes that are made to a recipient's policies, practices, or procedures - in other words, to the recipient's rules, and to the way it gets things done, whether those practices are formal or informal.

Such reasonable modifications must be provided wherever necessary to prevent discrimination on the basis of disability against applicants for or participants in the programs and activities that a recipient offers.

Fundamental alteration

Recipients must make reasonable modifications to their policies, practices, and procedures when asked to do so by qualified people with disabilities, unless such modifications would cause a fundamental alteration.

Section 37.4 of the WIA nondiscrimination regulations provides two alternate definitions for the term fundamental alteration:

- a change in the essential nature of a program or activity, or
- a cost that a recipient can demonstrate would result in an undue burden.
Fundamental alteration: change in essential nature

Section 37.4 specifies that a change in the essential nature of the aid, benefits, services, or training offered through a program or activity constitutes a change in the essential nature of the program or activity itself.

Whether a particular change satisfies the definition will vary from case to case, depending on the nature of the program or activity, and the type of change requested.

Fundamental alteration: Cost that would result in undue burden

To determine whether a particular modification would result in costs that would result in an undue burden, a recipient must consider the following factors:

- The nature and net cost of the modification needed;
- The overall financial resources of the facility or facilities involved;
- The number of persons aided, benefited, served, or trained by, or employed at the facility or facilities;
- The type of operation or operations of the recipient; and
- The impact of the modification upon the operation of the facility or facilities.

Items a recipient is not required to provide

A recipient is not required to provide the following to individuals with disabilities:

- Personal devices, such as wheelchairs;
- Individually prescribed devices, such as prescription eyeglasses or hearing aids;
- Readers for personal use or study; and
- Services of a personal nature, including assistance in eating, toileting, or dressing.

Recipient

Recipient means any entity to which financial assistance under WIA Title I is extended, either directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIA Title I-funded program or activity.

In instances in which a Governor operates a program or activity, either directly or through a State agency, using discretionary funds apportioned to him or her under WIA Title I (rather than disbursing the funds to another recipient), the Governor is also a recipient.

"Recipient" includes, but is not limited to:

- State-level agencies that administer, or are financed in whole or in part with, WIA Title I funds;
- State Employment Security Agencies;
- State and local Workforce Investment Boards;
- Local Workforce Investment Area (LWIA) grant recipients;
- On-the-Job Training (OJT) employers;
Job Corps contractors and center operators, excluding the operators of federally-operated Job Corps centers;
Job Corps national training contractors;
Outreach and admissions agencies, including Job Corps contractors that perform these functions;
Placement agencies, including Job Corps contractors that perform these functions; and
Other National Program recipients.

Definitions

Most of the definitions covered related to disability, but remember that WIA Section 188 and its implementing regulations prohibits discrimination on each of the following bases:

- race
- color
- religion
- sex
- national origin
- age
- disability
- political affiliation or belief
- For beneficiaries only: status as a citizen or individual lawfully admitted into the U.S. or participation in any WIA Title I - financially assisted program or activity

Lesson 3: Record keeping and other affirmative obligations

This lesson will present information on record keeping and other affirmative obligations including:

- Equal Opportunity Officer designation
- Notice and communication
- Data and information collection

EO Officer Designation

The first section of Lesson 3 presents information about designating an Equal Opportunity Officer, specifically:

- Who is eligible to serve
- Responsibilities of an EO Officer
- Recipient’s obligations to their EO Officer

Who is eligible to serve as an Equal Opportunity Officer?

A senior-level employee of the recipient should be appointed as the recipient’s Equal Opportunity Officer.

Depending upon the size of the recipient, the size of the recipient’s WIA Title I-financially assisted programs or activities, and the number of applicants, registrants, and participants served by the recipient, the EO Officer may, or may not, be assigned other duties.

However, he or she must not have other responsibilities or activities that create a conflict, or the appearance of a conflict, with the responsibilities of an EO Officer.
What are the responsibilities of an Equal Opportunity Officer?

An Equal Opportunity Officer is responsible for coordinating a recipient’s obligations under this part. Those responsibilities include, but are not limited to:

- Serving as the recipient’s liaison with the Department of Labor’s Civil Rights Center (CRC);
- Monitoring and investigating the recipient’s activities, and the activities of the entities that receive WIA Title I funds from the recipient, to make sure that the recipient and its subrecipients are not violating their nondiscrimination and equal opportunity obligations under WIA Title I and this part;
- Reviewing the recipient’s written policies to make sure that those policies are nondiscriminatory;
- Developing and publishing the recipient’s procedures for processing discrimination complaints, and making sure that those procedures are followed;
- Reporting directly to the appropriate official (including, but not limited to, the State WIA Director, Governor’s WIA Liaison, Job Corps Center Director, State Employment Security Agency (SESA) Administrator, or LWIA grant recipient) about equal opportunity matters;
- Undergoing training (at the recipient’s expense) to maintain competency, if the CRC Director requires him or her, and/or his or her staff, to do so; and
- If applicable, overseeing the development and implementation of the recipient’s Methods of Administration.

What are the recipient’s obligations to their EO Officer?

A recipient has the following obligations:

- Making the Equal Opportunity Officer’s name, and his or her position title, address, and telephone number (voice and TDD/TTY) public;
- Ensuring that the EO Officer’s identity and contact information appears on all internal and external communications about the recipient’s nondiscrimination and equal opportunity programs;
- Assigning sufficient staff and resources to the Equal Opportunity Officer, and providing him or her with the necessary support of top management, to ensure compliance with the nondiscrimination and equal opportunity provisions of WIA; and
- Ensuring that the EO Officer and his/her staff are afforded the opportunity to receive the training necessary and appropriate to maintain competency.

Notice and Communication

The second section of Lesson 3 presents information regarding proper notice and communication, specifically:

- Specific wording that must be contained in the notice
- Types of notice that must be included in publications, broadcasts, and other communications
What specific wording must the notice contain?

The notice must contain the following specific wording:

**Equal Opportunity Is The Law**

**It is against the law for this recipient of Federal financial assistance to discriminate on the following bases:**

Against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and Against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in a WIA Title I-financially assisted program or activity.

**The recipient must not discriminate in any of the following areas:**

Deciding who will be admitted, or have access, to any WIA Title I-financially assisted program or activity; Providing opportunities in, or treating any person with regard to, such a program or activity; or Making employment decisions in the administration of, or in connection with, such a program or activity.

**What To Do If You Believe You Have Experienced Discrimination**

If you think that you have been subjected to discrimination under a WIA Title I-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either: The recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose); or The Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).

If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with CRC. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).

If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC, you must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

**What type of notice must a recipient include in publications, broadcasts, and other communications?**

With regard to materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public at large, to describe programs financially assisted under Title I of WIA or the requirements for participation by recipients and participants, recipients must indicate that:

- The WIA Title I-financially assisted program or activity in question is an "equal opportunity employer/program," and
- "Auxiliary aids and services are available upon request to individuals with disabilities."

Examples of auxiliary aids and services include qualified interpreters, note takers, transcription services, telephone handset amplifiers, etc.

In all communications indicating that the recipient may be reached by telephone, the telephone number of the TDD/TTY or relay services used by the recipient must be included.
Data and information collection

The final section of Lesson 3 presents information on data and information collection, specifically:

- Recipients’ responsibilities to collect and maintain data and information;
- Length of time that grant applicants and recipients must maintain records; and
- Responsibilities of grant applicants and recipients to maintain confidentiality of information collected.

What are a recipient’s responsibilities to collect and maintain data and other information? Each recipient must collect data and maintain records in accordance with procedures prescribed by the CRC Director.

Records must include, but are not limited to, records on:

- applicants
- registrants
- eligible applicants/registrants
- participants
- terminees
- employees
- applicants for employment

Information to be recorded

Each recipient must record the:

- race/ethnicity
- sex
- age
- disability status (where known) of every applicant, registrant, eligible applicant/registrant, participant, terminee, applicant for employment, and employee.

How to store information

Information must be stored in a manner that ensures confidentiality, and must be used only for the purposes of:

- record keeping and reporting;
- determining eligibility, where appropriate, for WIA Title I-financially assisted programs or activities;
- determining the extent to which the recipient is operating its WIA Title I-financially assisted program or activity in a nondiscriminatory manner; or
- other use authorized by law.
Log of complaints

Each recipient must maintain, and submit to CRC upon request, a log of complaints filed with it that alleged discrimination on the ground(s) of:

- Race
- Color
- Religion
- Sex
- National origin
- Age
- Disability
- Political affiliation or belief
- Citizenship
- Participation in a WIA Title I-financially assisted program or activity

Log of complaints

The log must include:

- the name and address of the complainant;
- the ground of the complaint;
- a description of the complaint;
- the date the complaint was filed;
- the disposition and date of disposition of the complaint; and
- other pertinent information.

How long must data be maintained?

The records of applicants, registrants, eligible applicants/registrants, participants, terminees, employee, applicants for employment, and other records that are required by the CRC Director, must be maintained for not less than three (3) years from the close of the applicable program year.

The Complaint Log, and actions taken regarding the complaints, must be maintained for three (3) years from the date of the resolution of the complaint.

Confidentiality of information collected

The identity of any individual who furnishes information relating to, or assists in, an investigation or a compliance review, including the identity of any individual who files a complaint, must be kept confidential to the extent possible, consistent with a fair determination of the issues. An individual whose identity it is necessary to disclose must be protected from retaliation.

In the recipient’s record collection system, information about race/ethnicity, sex, age, and where known disability status should be kept in a manner that ensures confidentiality.
Lesson 4: Governor’s responsibilities

This lesson will present information on a Governor’s responsibilities to implement the nondiscrimination and equal opportunity requirements of WIA.

What are a Governor’s oversight responsibilities?

The Governor is responsible for oversight of all WIA Title I-financially assisted State programs. This responsibility includes:

- ensuring compliance with the nondiscrimination and equal opportunity provisions of WIA and the corresponding implementing regulations, and
- negotiating, where appropriate, with a recipient to secure voluntary compliance when noncompliance is found.

To what extent may a Governor be liable for the actions of a recipient he or she has financially assisted under WIA Title I?

The Governor and the recipient are jointly and severally liable for all violations of the nondiscrimination and equal opportunity provisions of WIA and this part by the recipient, unless the Governor has:

- Established and adhered to a Methods of Administration, designed to give reasonable guarantee of the recipient’s compliance with such provisions;
- Entered into a written contract with the recipient that clearly establishes the recipient’s obligations regarding nondiscrimination and equal opportunity;
- Acted with due diligence to monitor the recipient’s compliance with these provisions; and
- Taken prompt and appropriate corrective action to effect compliance.

If the CRC Director determines that the Governor has demonstrated substantial compliance with the requirements listed above, he or she may recommend to the Secretary that sanctions against the Governor be waived and that sanctions be imposed only against the noncomplying recipient.

Methods of Administration

A Methods of Administration (MOA) includes equal opportunity policy, procedures, and systems which are designed to give reasonable guarantee of compliance with the nondiscrimination and equal opportunity requirements of WIA.

A Governor has obligations to develop and maintain a Methods of Administration.

What are a Governor’s obligations regarding a Methods of Administration?

Each Governor must establish and adhere to a Methods of Administration for State programs. In those States in which one agency contains both State Employment Security Agency (SESA) or unemployment insurance and WIA Title I-financially assisted programs, the Governor should develop a combined Methods of Administration.

Each Method of Administration must be designed to give a reasonable guarantee that all recipients will comply, and are complying, with the nondiscrimination and equal opportunity provisions of WIA and 29 CFR Part 37.
The MOA must also include a system for periodically monitoring the compliance of recipients with WIA section 188 and 29 CFR Part 37, including a determination as to whether each recipient is conducting its WIA Title I--financially assisted program or activity in a nondiscriminatory way.

Complaint processing
A Governor or Local Workforce Investment Area (LWIA) grant recipient must develop and publish complaint processing procedures.

Who may file a complaint concerning discrimination connected with WIA Title I?
Any person who believes that he or she, or any specific class of individuals, has been or is being subjected to discrimination prohibited under WIA has the option to file with the recipient or directly with CRC.

The complainant(s) may file a written complaint by him or herself, or through a representative with the recipient or the CRC.

Examples of who may file:
- Applicant/registrant for aid, benefits, services or training
- Eligible applicants/registrants
- Participants
- Employees
- Applicants for employment
- Service providers (the organization involved is one which may be attributed a racial, national origin or other characteristic entitled to protection under WIA)
- Eligible service providers (same definition as above applies)

Where may a complaint be filed?
A complainant may file a complaint with either the recipient or the CRC Director. Information regarding filing a complaint with the recipient must be posted along with information on how to file a complaint with CRC.

Complaints filed with the CRC Director should be sent to:
Director, Civil Rights Center
U.S. Department of Labor
200 Constitution Avenue NW, Room N-4123
Washington, DC 20210

When must a complaint be filed?
Generally, a complaint must be filed within 180 days of the alleged discrimination. However, for good cause shown, the CRC Director may extend the filing time.
What information must a complaint contain?

Each complaint must be filed in writing, and must contain the following information:

- The complainant’s name and address (or another means of contacting the complainant);
- The individual or entity that the complainant alleges is responsible for the discrimination;
- A description of the complainant’s allegations. This description must include enough detail to allow the CRC Director or the recipient, as applicable, to decide whether:
  - CRC or the recipient, as applicable, has jurisdiction over the complaint;
  - The complaint was filed in time; and
  - The complaint has apparent merit; in other words, whether the complainant’s allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIA Section 188 or 29 CFR Part 37; and
- The complainant’s signature or the signature of the complainant’s authorized representative.

Required elements of recipient’s discrimination complaint processing procedures

The regulations require that recipients’ processing procedures for discrimination complaints must include the following elements:

- Initial written notice
- Written statement of issues
- Process for fact-finding
- Alternative dispute resolution process (ADR)
- Written notice of final action

Initial written notice

The recipient must provide an initial written notice to the complainant that contains the following:

- Acknowledgement of the written complaint; and
- Notice to the complainant of his or her right to be represented in the complaint process.

Written statement of the issues

The recipient must provide, to the complainant, a written statement of the issues, to include the following information:

- A list of the issues raised in the complaint; and
- For each issue, a statement whether the recipient will accept the issue for investigation or reject the issue and the reasons for each rejection.

Process for fact-finding

- The recipient must develop a process for investigation or fact-finding.
- The choice to use this customary process rests with complainant.
Alternative dispute resolution process

The recipient must develop a procedure for resolving the complaint through alternative dispute resolution (ADR). The methods of ADR must include:

- A choice for the complainant to use ADR or the customary process; and
- A provision for any party to file a complaint with the CRC Director in the event an ADR agreement is breached.

Written notice of final action

The recipient must provide to the complainant a notice of final action within 90 days from the date when the complaint was filed. The notice must include the following information:

- The recipient’s decision on each issue and an explanation of the reason behind the decision (if investigation or fact-finding process used) or a description of the way the parties resolved the issues (if ADR process is used); and
- A notice stating that if the complainant is dissatisfied with the recipient’s resolution of the complaint, he or she has the right to file a complaint with CRC within 30 days from the date of issuance of the notice of final action.
This information is found at website:

http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200129
PART 37—IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY PROVISIONS OF THE WORKFORCE INVESTMENT ACT OF 1998 (WIA)

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Authority:


Source:
64 FR 61715, Nov. 12, 1999, unless otherwise noted.

Subpart A—General Provisions

§37.1 What is the purpose of this part?

The purpose of this part is to implement the nondiscrimination and equal opportunity provisions of the Workforce Investment Act of 1998 (WIA), which are contained in section 188 of WIA. Section 188 prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I-financially assisted program or activity. This part clarifies the application of the nondiscrimination and equal opportunity provisions of WIA and provides uniform procedures for implementing them.

§37.2 To whom does this part apply, and what is the scope of this part?

(a) This part applies to:

(1) Any recipient, as defined in §37.4;

(2) Programs and activities that are part of the One-Stop delivery system and that are operated by One-Stop partners listed in section 121(b) of WIA, to the extent that the programs and activities are being conducted as part of the One-Stop delivery system; and
(3) The employment practices of a recipient and/or One-Stop partner, as provided in §37.10.

(b) Limitation of Application. This part does not apply to:

(1) Programs or activities that are financially assisted by the Department exclusively under laws other than Title I of WIA, and that are not part of the One-Stop delivery system (including programs or activities implemented under, authorized by, and/or financially assisted by the Department under, JTPA);

(2) Contracts of insurance or guaranty;

(3) The ultimate beneficiary to this program of Federal financial assistance;

(4) Federal procurement contracts, with the exception of contracts to operate or provide services to Job Corps Centers; and

(5) Federally-operated Job Corps Centers. The operating Department is responsible for enforcing the nondiscrimination and equal opportunity laws to which such Centers are subject.

§37.3 How does this part affect a recipient’s other obligations?

(a) A recipient’s compliance with this part will satisfy any obligation of the recipient to comply with 29 CFR part 31, the Department of Labor’s regulations implementing Title VI of the Civil Rights Act of 1964, as amended (Title VI), and with Subparts A, D and E of 29 CFR part 32, the Department’s regulations implementing Section 504 of the Rehabilitation Act of 1973, as amended (Section 504).

(b) 29 CFR part 32, Subparts B and C and Appendix A, the Department’s regulations which implement the requirements of Section 504 pertaining to employment practices and employment-related training, program accessibility, and reasonable accommodation, are hereby incorporated into this part by reference. Therefore, recipients must comply with the requirements set forth in those regulatory sections as well as the requirements listed in this part.

(c) Recipients that are also public entities or public accommodations, as defined by Titles II and III of the Americans with Disabilities Act of 1990 (ADA), should be aware of obligations imposed by those titles.

(d) 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.

(e) Compliance with this part does not affect, in any way, any additional obligation that a recipient may have to comply with the following laws and their implementing regulations:

(1) Executive Order 11246, as amended;

(2) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793 and 794);

(3) The affirmative action provisions of the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212);
(4) The Equal Pay Act of 1963, as amended (29 U.S.C. 206d);

(5) Titles VI and VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq. and 2000e et seq.);

(6) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101);

(7) The Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 621);

(8) Title IX of the Education Amendments of 1972, as amended (Title IX) (20 U.S.C. 1681);

(9) The Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.); and


(f) This rule does not preempt consistent State and local requirements.

§37.4 What definitions apply to this part?

As used in this part, the term:
Administrative Law Judge means a person appointed as provided in 5 U.S.C. 3105 and 5 CFR 930.203, and qualified under 5 U.S.C. 557, to preside at hearings held under the nondiscrimination and equal opportunity provisions of WIA and this part.

Aid, benefits, services, or training means WIA Title I—financially assisted services, financial or other aid, or benefits provided by or through a recipient or its employees, or by others through contract or other arrangements with the recipient. “Aid, benefits, services, or training” includes, but is not limited to:

(1) Core and intensive services;

(2) Education or training;

(3) Health, welfare, housing, social service, rehabilitation, or other supportive services;

(4) Work opportunities; and

(5) Cash, loans, or other financial assistance to individuals.

As used in this part, the term includes any aid, benefits, services, or training provided in or through a facility that has been constructed, expanded, altered, leased, rented, or otherwise obtained, in whole or in part, with Federal financial assistance under Title I of WIA.

Applicant means an individual who is interested in being considered for WIA Title I—financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a request by the recipient. See also the definitions of “application for benefits,” “eligible applicant/registrant,” “participant,” “participation,” and “recipient” in this section.
Applicant for employment means a person or persons who make(s) application for employment with a recipient of Federal financial assistance under WIA Title I.

Application for assistance means the process by which required documentation is provided to the Governor, recipient, or Department before and as a condition of receiving WIA Title I financial assistance (including both new and continuing assistance).

Application for benefits means the process by which information, including but not limited to a completed application form, is provided by applicants or eligible applicants before and as a condition of receiving WIA Title I—financially assisted aid, benefits, services, or training from a recipient.

Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Assistant Secretary means the Assistant Secretary for Administration and Management, United States Department of Labor.

Auxiliary aids or services includes—

1. Qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDDs/TTYs), videotext displays, or other effective means of making aurally delivered materials available to individuals with hearing impairments;

2. Qualified readers, taped texts, audio recordings, brailled materials, large print materials, or other effective means of making visually delivered materials available to individuals with visual impairments;

3. Acquisition or modification of equipment or devices; and

4. Other similar services and actions.

Beneficiary means the individual or individuals intended by Congress to receive aid, benefits, services, or training from a recipient.

Citizenship See “Discrimination on the ground of citizenship” in this section.

CRC means the Civil Rights Center, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor.

Department means the U.S. Department of Labor (DOL), including its agencies and organizational units.

Departmental grantmaking agency means a grantmaking agency within the U.S. Department of Labor.

Director means the Director, Civil Rights Center (CRC), Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor, or a designee authorized to act for the Director.
Disability means, with respect to an individual, 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 being regarded as having such an impairment.

(1)(i) The phrase physical or mental impairment means—

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;

(B) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. The phrase “physical or mental impairment” does not include homosexuality or bisexuality.

(2) The phrase major life activities means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The phrase has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase is regarded as having an impairment means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by the recipient as being such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the recipient as having such an impairment.

Discrimination on the ground of citizenship means a denial of participation in programs or activities financially assisted in whole or in part under Title I of WIA to individuals on the basis of their status as citizens or nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, or other immigrants authorized by the Attorney General to work in the United States.

Eligible applicant/registrant means an individual who has been determined eligible to participate in one or more WIA Title I—financially assisted programs or activities.
Employment practices means a recipient’s practices related to employment, including but not limited to:

(1) Recruitment or recruitment advertising;
(2) Selection, placement, layoff or termination of employees;
(3) Upgrading, promotion, demotion or transfer of employees;
(4) Training, including employment-related training;
(5) Participation in upward mobility programs;
(6) Deciding rates of pay or other forms of compensation;
(7) Use of facilities; or
(8) Deciding other terms, conditions, benefits and/or privileges of employment.

Employment-related training means training that allows or enables an individual to obtain employment.

Entity means any person, corporation, partnership, joint venture, sole proprietorship, unincorporated association, consortium, Indian tribe or tribal organization, Native Hawaiian organization, and/or entity authorized by State or local law; any State or local government; and/or any agency, instrumentality or subdivision of such a government.

Facility means all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, rolling stock or other conveyances, or other real or personal property or interest in such property, including the site where the building, property, structure, or equipment is located. The phrase “real or personal property” in the preceding sentence includes indoor constructs that may or may not be permanently attached to a building or structure. Such constructs include, but are not limited to, office cubicles, computer kiosks, and similar constructs.

Federal grantmaking agency means a Federal agency that provides financial assistance under any Federal statute.

Financial assistance means any of the following:

(1) Any grant, subgrant, loan, or advance of funds, including funds extended to any entity for payment to or on behalf of participants admitted to that entity for training, or extended directly to such participants for payment to that entity;

(2) Provision of the services of grantmaking agency personnel, or of other personnel at the grantmaking agency’s expense;

(3) A grant or donation of real or personal property or any interest in or use of such property, including:

(a) Transfers or leases of property for less than fair market value or for reduced consideration;

(b) Proceeds from a subsequent sale, transfer, or lease of such property, if the grantmaking agency's share of the fair market value of the property is not returned to the grantmaking agency; and
(c) The sale, lease, or license of, and/or the permission to use (other than on a casual or transient basis), such property or any interest in such property, either:

(i) Without consideration,

(ii) At a nominal consideration, or

(iii) At a consideration that is reduced or waived either for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to or use by the recipient;

(4) Waiver of charges that would normally be made for the furnishing of services by the grantmaking agency; and

(5) Any other agreement, arrangement, contract or subcontract (other than a procurement contract or a contract of insurance or guaranty), or other instrument that has as one of its purposes the provision of assistance or benefits under the statute or policy that authorizes assistance by the grantmaking agency.

Financial assistance under Title I of WIA means any of the following, when authorized or extended under WIA Title I:

(1) Any grant, subgrant, loan, or advance of Federal funds, including funds extended to any entity for payment to or on behalf of participants admitted to that entity for training, or extended directly to such participants for payment to that entity;

(2) Provision of the services of Federal personnel, or of other personnel at Federal expense;

(3) A grant or donation of Federal real or personal property or any interest in or use of such property, including:

(a) Transfers or leases of property for less than fair market value or for reduced consideration;

(b) Proceeds from a subsequent sale, transfer, or lease of such property, if the Federal share of the fair market value of the property is not returned to the Federal Government; and

(c) The sale, lease, or license of, and/or the permission to use (other than on a casual or transient basis), such property or any interest in such property, either:

(i) Without consideration,

(ii) At a nominal consideration, or

(iii) At a consideration that is reduced or waived either for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to or use by the recipient;

(4) Waiver of charges that would normally be made for the furnishing of Government services; and

(5) Any other agreement, arrangement, contract or subcontract (other than a Federal procurement contract or a contract of insurance or guaranty), or other instrument that has as one of its purposes the provision of assistance or benefits under WIA Title I.
Fundamental alteration means:

(1) A change in the essential nature of a program or activity as defined in this part, including but not limited to an aid, service, benefit, or training; or

(2) A cost that a recipient can demonstrate would result in an undue burden. Factors to be considered in making the determination whether the cost of a modification would result in such a burden include:

(a) The nature and net cost of the modification needed, taking into consideration the availability of tax credits and deductions, and/or outside financial assistance, for the modification;

(b) The overall financial resources of the facility or facilities involved in the provision of the modification, including:

(i) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities; and

(ii) The effect the modification would have on the expenses and resources of the facility or facilities;

(c) The overall financial resources of the recipient, including:

(i) The overall size of the recipient;

(ii) The number of persons aided, benefited, served, trained, or employed by the recipient; and

(iii) The number, type and location of the recipient’s facilities;

(d) The type of operation or operations of the recipient, including:

(i) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient; and

(ii) Where the modification sought is employment-related, the composition, structure and functions of the recipient’s workforce; and

(e) The impact of the modification upon the operation of the facility or facilities, including:

(i) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties; and

(ii) The impact on the facility’s ability to carry out its mission.

Governor means the chief elected official of any State or his or her designee.

Grant applicant means an entity that submits the required documentation to the Governor, recipient, or Department, before and as a condition of receiving financial assistance under Title I of WIA.
Grantmaking agency means an entity that provides Federal financial assistance.

Guideline means written informational material supplementing an agency’s regulations and provided to grant applicants and recipients to provide program-specific interpretations of their responsibilities under the regulations.

Illegal use of drugs means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act, as amended (21 U.S.C. 812). “Illegal use of drugs” does not include the use of a drug taken under supervision of a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

Individual with a disability means a person who has a disability, as defined in this section.

(1) The term “individual with a disability” does not include an individual on the basis of:

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania; or

(iii) Psychoactive substance use disorders resulting from current illegal use of drugs.

(2) The term “individual with a disability” also does not include an individual who is currently engaging in the illegal use of drugs, when a recipient acts on the basis of such use. This limitation does not exclude as an individual with a disability an individual who:

(i) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(ii) Is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(iii) Is erroneously regarded as engaging in such use, but is not engaging in such use, except that it is not a violation of the nondiscrimination and equal opportunity provisions of WIA or this part for a recipient to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1)(i) or (1)(ii) of this definition is no longer engaging in the illegal use of drugs.

(2) With regard to employment, the term “individual with a disability” does not include any individual who:

(i) Is an alcoholic:

(A) Whose current use of alcohol prevents such individual from performing the duties of the job in question, or

(B) Whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others; or

(ii) Has a currently contagious disease or infection, if:
(A) That disease or infection prevents him or her from performing the duties of the job in question, or

(B) His or her employment, because of that disease or infection, would constitute a direct threat to the health and safety of others.

_Labor market area_ means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such an area must be identified in accordance with either criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas, or similar criteria established by a Governor.

_LWIA (Local Workforce Investment Area) grant recipient_ means the entity that receives WIA Title I financial assistance for a Local Workforce Investment Area directly from the Governor and disburses those funds for workforce investment activities.

_Methods of Administration_ means the written document and supporting documentation developed under §37.54.

_National Programs_ means:

(1) Job Corps; and

(2) Programs receiving Federal funds under Title I, Subtitle D of WIA directly from the Department. Such programs include, but are not limited to, the Migrant and Seasonal Workers Programs, Native American Programs, and Veterans’ Workforce Investment programs.

_Noncompliance_ means a failure of a grant applicant or recipient to comply with any of the applicable requirements of the nondiscrimination and equal opportunity provisions of WIA or this part.

_On-the-Job Training (OJT)_ means training by an employer that is provided to a paid participant while the participant is engaged in productive work that:

(1) Provides knowledge or skills essential to the full and adequate performance of the job;

(2) Provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and

(3) Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

_Participant_ means an individual who has been determined to be eligible to participate in, and who is receiving aid, benefits, services or training under, a program or activity funded in whole or in part under Title I of WIA. “Participant” includes, but is not limited to, applicants receiving any service(s) under state Employment Service programs, and claimants receiving any service(s) under state Unemployment Insurance programs.
Participation is considered to commence on the first day, following determination of eligibility, on which the participant began receiving subsidized aid, benefits, services, or training provided under Title I of WIA.

Parties to a hearing means the Department and the grant applicant(s), recipient(s), or Governor.

Population eligible to be served means the total population of adults and eligible youth who reside within the labor market area that is served by a particular recipient, and who are eligible to seek WIA Title I-financially assisted aid, benefits, services or training from that recipient. See the definition of “labor market area” in this section.

Program or activity: See “WIA Title I-financially assisted program or activity” in this section.

Prohibited ground means any basis upon which it is illegal to discriminate under the nondiscrimination and equal opportunity provisions of WIA or this part, i.e., race, color, religion, sex, national origin, age, disability, political affiliation or belief, and, for beneficiaries only, citizenship or participation in a WIA Title I-financially assisted program or activity.

Public entity means:

(1) Any State or local government; and

(2) Any department, agency, special purpose district, workforce investment board, or other instrumentality of a State or States or local government.

Qualified individual with a disability means:

(1) With respect to employment, an individual with a disability who, with or without reasonable accommodation, is capable of performing the essential functions of the job in question;

(2) With respect to aid, benefits, services, or training, an individual with a disability who, with or without reasonable accommodation and/or reasonable modification, meets the essential eligibility requirements for the receipt of such aid, benefits, services, or training.

Qualified interpreter means an interpreter who is able to interpret effectively, accurately, and impartially, either for individuals with disabilities or for individuals with limited English skills. The interpreter must be able to interpret both receptively and expressively, using any necessary specialized vocabulary.

Reasonable accommodation. (1) The term “reasonable accommodation” means:

(i) Modifications or adjustments to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, training, or employment that the qualified applicant/registrant desires; or

(ii) Modifications 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. 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; or

(iii) Modifications 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 individuals without disabilities.

(2) Reasonable accommodation includes, but is not limited to:

(i) Making existing facilities used by applicants, registrants, eligible applicants/registrants, participants, applicants for employment, and employees readily accessible to and usable by individuals with disabilities; and

(ii) Restructuring of a job or a service, or of the way in which aid, benefits, or training is/are provided; part-time or modified work or training schedules; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of readers or interpreters; and other similar accommodations for individuals with disabilities.

(3) To determine the appropriate reasonable accommodation, it may be necessary for the recipient to initiate an informal, interactive process with the qualified individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

Recipient means any entity to which financial assistance under WIA Title I is extended, either directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIA Title I-funded program or activity. In instances in which a Governor operates a program or activity, either directly or through a State agency, using discretionary funds apportioned to him or her under WIA Title I (rather than disbursing the funds to another recipient), the Governor is also a recipient. “Recipient” includes, but is not limited to:

(1) State-level agencies that administer, or are financed in whole or in part with, WIA Title I funds;

(2) State Employment Security Agencies;

(3) State and local Workforce Investment Boards;

(4) LWIA grant recipients;

(5) One-Stop operators;

(6) Service providers, including eligible training providers;

(7) On-the-Job Training (OJT) employers;
(8) Job Corps contractors and center operators, excluding the operators of federally-operated Job Corps centers;

(9) Job Corps national training contractors;

(10) Outreach and admissions agencies, including Job Corps contractors that perform these functions;

(11) Placement agencies, including Job Corps contractors that perform these functions; and

(12) Other National Program recipients.

In addition, for purposes of this part, One-Stop partners, as defined in section 121(b) of WIA, are treated as "recipients," and are subject to the nondiscrimination and equal opportunity requirements of this part, to the extent that they participate in the One-Stop delivery system.

Registrant means the same as "applicant" for purposes of this part. See also the definitions of "application for benefits," "eligible applicant/registrant," "participant," "participation," and "recipient" in this section.

Respondent means a grant applicant or recipient (including a Governor) against which a complaint has been filed under the nondiscrimination and equal opportunity provisions of WIA or this part.

Secretary means the Secretary of Labor, U.S. Department of Labor, or his or her designee.

Sectarian activities means religious worship or ceremony, or sectarian instruction.

Section 504 means Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, which forbids discrimination against qualified individuals with disabilities in federally-financed and conducted programs and activities.

Service provider means:

(1) Any operator of, or provider of aid, benefits, services, or training to:

(a) Any WIA Title I—funded program or activity that receives financial assistance from or through any State or LWIA grant recipient; or

(b) Any participant through that participant’s Individual Training Account (ITA); or

(2) Any entity that is selected and/or certified as an eligible provider of training services to participants.

Small recipient means a recipient who:

(a) Serves a total of fewer than 15 beneficiaries during the entire grant year, and

(b) Employs fewer than 15 employees on any given day during the grant year.

Solicitor means the Solicitor of Labor, U.S. Department of Labor, or his or her designee.
State means the individual states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

State Employment Security Agency (SESA) means the State agency that, under the State Administrator, contains both State agencies with responsibility for administering programs authorized under the Wagner-Peyser Act, and unemployment insurance programs authorized under Title III of the Social Security Act.

State Programs means programs financially assisted in whole or in part under Title I of WIA in which either:

(1) The Governor and/or State receives and disburses the grant to or through LWIA grant recipients; or

(2) The Governor retains the grant funds and operates the programs, either directly or through a State agency. “State programs” also includes State Employment Security Agencies, State Employment Service agencies, and/or State unemployment compensation agencies.

Supportive services means services, such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in WIA Title I-financially assisted programs and activities, as consistent with the provisions of WIA.

Terminée means a participant whose participation in the program terminates, voluntarily or involuntarily, during the applicable program year.

Title VI means Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., as amended, which forbids recipients of Federal financial assistance from discriminating on the basis of race, color, or national origin.

Transferee means a person or entity to whom real or personal property, or an interest in such property, is transferred. Ultimate beneficiary See the definition of “beneficiary” in this section.

Undue hardship This term has different meanings, depending upon whether it is used with regard to reasonable accommodation of individuals with disabilities, or with regard to religious accommodation.

(1) Reasonable accommodation of individuals with disabilities: (i) In general, “undue hardship” means significant difficulty or expense incurred by a recipient, when considered in light of the factors set forth in paragraph (ii).

(ii) Factors to be considered in determining whether an accommodation would impose an undue hardship on a recipient include:

(A) The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions, and/or outside funding, for the accommodation;

(B) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, including:

(1) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities, and
(2) The effect the accommodation would have on the expenses and resources of the facility or facilities;

(C) The overall financial resources of the recipient, including:

(1) The overall size of the recipient,
(2) The number of persons aided, benefited, served, trained, or employed by the recipient, and
(3) The number, type and location of the recipient’s facilities;

(D) The type of operation or operations of the recipient, including:

(1) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient, and

(2) Where the individual is seeking an employment-related accommodation, the composition, structure and functions of the recipient’s workforce; and

(E) The impact of the accommodation upon the operation of the facility or facilities, including:

(1) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties, and

(2) The impact on the facility’s ability to carry out its mission.

(2) Religious accommodation for purposes of religious accommodation only, “undue hardship” means any additional, unusual costs, other than the minimal costs, that a particular accommodation would impose upon a recipient. See Trans World Airlines, Inc. v. Hardison, 432 U.S. 63, 81, 84 (1977).

WIA Title I financial assistance See the definition of “Federal financial assistance under Title I of WIA” in this section.

WIA Title I-funded program or activity means:

(1) A program or activity, operated by a recipient and funded, in whole or in part, under Title I of WIA, that provides either:

(i) Any aid, benefits, services, or training to individuals; or

(ii) Facilities for furnishing any aid, benefits, services, or training to individuals;

(2) Aid, benefits, services, or training provided in facilities that are being or were constructed with the aid of Federal financial assistance under WIA Title I; or
(3) Aid, benefits, services, or training provided with the aid of any non-WIA Title I funds, property, or other resources that are required to be expended or made available in order for the program to meet matching requirements or other conditions which must be met in order to receive the WIA Title I financial assistance.

See the definition of “aid, benefits, services, or training” in this section.

§37.5 What forms of discrimination are prohibited by this part?

No individual in the United States may, on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in any WIA Title I—financially assisted program or activity, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any WIA Title I—funded program or activity.

§37.6 What specific discriminatory actions, based on prohibited grounds other than disability, are prohibited by this part?

(a) For the purposes of this section, “prohibited ground” means race, color, religion, sex, national origin, age, political affiliation or belief, and for beneficiaries only, citizenship or participation in any WIA Title I—financially assisted program or activity.

(b) A recipient must not, directly or through contractual, licensing, or other arrangements, on a prohibited ground:

(1) Deny an individual any aid, benefits, services, or training provided under a WIA Title I—funded program or activity;

(2) Provide to an individual any aid, benefits, services, or training that is different, or is provided in a different manner, from that provided to others under a WIA Title I—funded program or activity;

(3) Subject an individual to segregation or separate treatment in any matter related to his or her receipt of any aid, benefits, services, or training under a WIA Title I—funded program or activity;

(4) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any aid, benefits, services, or training under a WIA Title I—funded program or activity;

(5) Treat an individual differently from others in determining whether he or she satisfies any admission, enrollment, eligibility, membership, or other requirement or condition for any aid, benefits, services, or training provided under a WIA Title I—funded program or activity;

(6) Deny or limit an individual with respect to any opportunity to participate in a WIA Title I—funded program or activity, or afford him or her an opportunity to do so that is different from the opportunity afforded others under a WIA Title I—funded program or activity;

(7) Deny an individual the opportunity to participate as a member of a planning or advisory body that is an integral part of the WIA Title I—funded program or activity; or

(8) Otherwise limit on a prohibited ground an individual in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any WIA Title I—financially assisted aid, benefits, services, or training.
(c) A recipient must not, directly or through contractual, licensing, or other arrangements:

(1) Aid or perpetuate discrimination by providing significant assistance to an agency, organization, or person that discriminates on a prohibited ground in providing any aid, benefits, services, or training to registrants, applicants or participants in a WIA Title I—funded program or activity; or

(2) Refuse to accommodate an individual’s religious practices or beliefs, unless to do so would result in undue hardship, as defined in section 37.4.

(d) (1) In making any of the determinations listed in paragraph (d)(2) of this section, either directly or through contractual, licensing, or other arrangements, a recipient must not use standards, procedures, criteria, or administrative methods that have any of the following purposes or effects:

(i) Subjecting individuals to discrimination on a prohibited ground; or

(ii) Defeating or substantially impairing, on a prohibited ground, accomplishment of the objectives of either:

(A) The WIA Title I—funded program or activity; or

(B) the nondiscrimination and equal opportunity provisions of WIA or this part.

(2) The determinations to which this paragraph applies include, but are not limited to:

(i) The types of aid, benefits, services, training, or facilities that will be provided under any WIA Title I—funded program or activity;

(ii) The class of individuals to whom such aid, benefits, services, training, or facilities will be provided; or

(iii) The situations in which such aid, benefits, services, training, or facilities will be provided.

(3) Paragraph (d) of this section applies to the administration of WIA Title I—funded programs or activities providing aid, benefits, services, training, or facilities in any manner, including, but not limited to:

(i) Outreach and recruitment;

(ii) Registration;

(iii) Counseling and guidance;

(iv) Testing;

(v) Selection, placement, appointment, and referral;

(vi) Training; and

(vii) Promotion and retention.
(4) A recipient must not take any of the prohibited actions listed in paragraph (d) of this section either directly or through contractual, licensing, or other arrangements.

(e) 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:

(1) On a prohibited ground:

(i) Excluding individuals from a WIA Title I—financially assisted program or activity;

(ii) Denying them the benefits of such a program or activity; or

(iii) Subjecting them to discrimination; or

(2) Defeating or substantially impairing the accomplishment of the objectives of either:

(i) The WIA Title I—financially assisted program or activity; or

(ii) The nondiscrimination and equal opportunity provisions of WIA or this part.

(f) (1) A recipient must not permit participants to be employed or trained in sectarian activities.

(2) This paragraph applies to any facility that is, or will be, primarily used or inherently devoted either:

(A) For sectarian instruction; or

(B) As a place of worship,

(ii) A recipient must not permit participants to be employed or trained in any way to:

(A) Construct any part of such a facility,

(B) Operate any part of such a facility, or

(C) Maintain any part of that facility.

(3) If a facility is not primarily or inherently devoted to sectarian instruction or religious worship, a recipient may permit the use of WIA Title I funds to employ participants to maintain the facility, if the organization that operates the facility is part of a program or activity that provides services to participants.

(g) The exclusion of an individual from programs or activities limited by Federal statute or Executive Order to a certain class or classes of individuals of which the individual in question is not a member is not prohibited by this part.
§37.7 What specific discriminatory actions based on disability are prohibited by this part?

(a) In providing any aid, benefits, services, or training under a WIA Title I—financially assisted program or activity, a recipient must not, directly or through contractual, licensing, or other arrangements, on the ground of disability:

(1) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefits, services, or training;

(2) 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;

(3) Provide a qualified individual with a disability with an 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;

(4) Provide different, segregated, or separate aid, benefits, services, 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 aid, benefits, services or training that are as effective as those provided to others;

(5) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards; or

(6) 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.

(b) 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, benefits, services or training to registrants, applicants, or participants.

(c) A recipient must not deny a qualified individual with a disability the opportunity to participate in WIA Title I—financially assisted programs or activities despite the existence of permissibly separate or different programs or activities.

(d) A recipient must administer WIA Title I—financially assisted programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

(e) A recipient must not, directly or through contractual, licensing, or other arrangements, use standards, procedures, criteria, or administrative methods:

(1) That have the purpose or effect of subjecting qualified individuals with disabilities to discrimination on the ground of disability;

(2) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the WIA Title I—financially assisted program or activity with respect to individuals with disabilities; or
(3) That perpetuate the discrimination of another entity if both entities are subject to common administrative control or are agencies of the same state.

(f) 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:

(1) On the basis of disability:
   (i) Excluding qualified individuals from a WIA Title I-financially assisted program or activity;
   (ii) Denying them the benefits of such a program or activity; or
   (iii) Subjecting them to discrimination; or

(2) Defeating or substantially impairing the accomplishment of the disability-related objectives of either:
   (i) The WIA Title I-financially assisted program or activity; or
   (ii) The nondiscrimination and equal opportunity provisions of WIA or this part.

(g) A recipient, in the selection of contractors, must not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

(h) 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 this part.

(i) A recipient must not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability 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 the aid, benefit, service, training, program, or activity being offered.

(j) Nothing in this part prohibits a recipient from providing aid, benefits, services, training, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities, beyond those required by this part.

(k) 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 the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by WIA Title I or this part.

(l) A recipient must not exclude, or otherwise deny equal aid, benefits, services, training, programs, or activities to, an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.
(m) The exclusion of an individual without a disability from the benefits of a program limited by Federal statute or Executive Order 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 this part.

(n) This part does not require a recipient to provide any of the following to individuals with disabilities:

1. Personal devices, such as wheelchairs;

2. Individually prescribed devices, such as prescription eyeglasses or hearing aids;

3. Readers for personal use or study; or

4. Services of a personal nature, including assistance in eating, toileting, or dressing.

(o)(1) Nothing in this part requires an individual with a disability to accept an accommodation, aid, benefit, service, training, or opportunity provided under WIA Title I or this part that such individual chooses not to accept.

2. Nothing in this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

§37.8 What are a recipient's responsibilities regarding reasonable accommodation and reasonable modification for individuals with disabilities?

(a) With regard to aid, benefits, services, training, and employment, a recipient must provide reasonable accommodation 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. See the definitions of “reasonable accommodation” and “undue hardship” in §37.4 of this part.

1. In those circumstances where a recipient believes that the proposed accommodation would cause undue hardship, the recipient has the burden of proving that the accommodation would result in such hardship.

2. The recipient must make the decision that the accommodation would cause such hardship only after considering all factors listed in the definition of “undue hardship” in §37.4. The decision must be accompanied by a written statement of the recipient’s reasons for reaching that conclusion. The recipient must provide a copy of the statement of reasons to the individual or individuals who requested the accommodation.

3. If a requested accommodation would result in undue hardship, the recipient must take any other action that would not result in such hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefits, services, training, or employment provided by the recipient.

(b) A recipient must also make 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. See the definition of “fundamental alteration” in §37.4 of this part.
§37.9 What are a recipient’s responsibilities to communicate with individuals with disabilities?

(a) Recipients must take appropriate steps to ensure that communications with beneficiaries, registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employees, and members of the public who are individuals with disabilities, are as effective as communications with others.

(b) A recipient must furnish appropriate auxiliary aids or services where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the WIA Title I—financially assisted program or activity. In determining what type of auxiliary aid or service is appropriate and necessary, such recipient must give primary consideration to the requests of the individual with a disability.

(c) Where a recipient communicates by telephone with beneficiaries, registrants, applicants, eligible applicants/registrants, participants, applicants for employment, and/or employees, the recipient must use telecommunications devices for individuals with hearing impairments (TDDs/TTYs), or equally effective communications systems, such as telephone relay services.

(d) 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.

(e) (1) A recipient must provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The signage provided must meet the most current standards prescribed by the General Services Administration under the Architectural Barriers Act at 41 CFR 101–19.6. Alternative standards for the signage may be adopted when it is clearly evident that such alternative standards provide equivalent or greater access to the information.

(2) The international symbol for accessibility must be used at each primary entrance of an accessible facility.

(f) This section does not require a recipient to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity.

(1) In those circumstances where a recipient believes that the proposed action would fundamentally alter the WIA Title I—financially assisted program, activity, or service, the recipient has the burden of proving that compliance with this section would result in such an alteration.
(2) The decision that compliance would result in such an alteration must be made by the recipient after considering all resources available for use in the funding and operation of the WIA Title I—financially assisted program, activity, or service, and must be accompanied by a written statement of the reasons for reaching that conclusion.

(3) If an action required to comply with this section would result in the fundamental alteration described in paragraph (f)(1) of this section, the recipient must take any other action that would not result in such an alteration, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the recipient.

§37.10 To what extent are employment practices covered by this part?

(a) Discrimination on the ground of race, color, religion, sex, national origin, age, disability, or political affiliation or belief is prohibited in employment practices in the administration of, or in connection with:

(1) Any WIA Title I-financially assisted program or activity; and

(2) Any program or activity that is part of the One-Stop delivery system and is operated by a One-Stop partner listed in Section 121(b) of WIA, to the extent that the program or activity is being conducted as part of the One-Stop delivery system.

(b) Employee selection procedures. In implementing this section, a recipient must comply with the Uniform Guidelines on Employee Selection Procedures, 41 CFR part 60–3.

(c) Standards for employment-related investigations and reviews. In any investigation or compliance review, the Director must consider Equal Employment Opportunity Commission (EEOC) regulations, guidance and appropriate case law in determining whether a recipient has engaged in an unlawful employment practice.

(d) As provided in §37.3(b) of this part, 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 accommodation, have been incorporated into this part by reference. Therefore, recipients must comply with the requirements set forth in those regulatory sections as well as the requirements listed in this part.

(e) Recipients that are also employers, employment agencies, or other entities covered by Titles I and II of the ADA should be aware of obligations imposed by those titles. See 29 CFR part 1630 and 28 CFR part 35.

(f) Similarly, recipients that are also employers covered by the anti-discrimination provision of the Immigration and Nationality Act should be aware of the obligations imposed by that provision. See 8 U.S.C. 1324b, as amended.

(g) This rule does not preempt consistent State and local requirements.
§37.11 To what extent are intimidation and retaliation prohibited by this part?

(a) A recipient must not discharge, intimidate, retaliate, threaten, coerce or discriminate against any individual because the individual has:

(1) Filed a complaint alleging a violation of Section 188 of WIA or this part;

(2) Opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of WIA or this part;

(3) Furnished information to, or assisted or participated in any manner in, an investigation, review, hearing, or any other activity related to any of the following:

(i) Administration of the nondiscrimination and equal opportunity provisions of WIA or this part;

(ii) Exercise of authority under those provisions; or

(iii) Exercise of privilege secured by those provisions; or

(4) Otherwise exercised any rights and privileges under the nondiscrimination and equal opportunity provisions of WIA or this part.

(b) The sanctions and penalties contained in Section 188(b) of WIA or this part may be imposed against any recipient that engages in any such retaliation or intimidation, or fails to take appropriate steps to prevent such activity.

§37.12 What Department of Labor office is responsible for administering this part?

The Civil Rights Center (CRC), in the Office of the Assistant Secretary for Administration and Management, is responsible for administering and enforcing the nondiscrimination and equal opportunity provisions of WIA and this part, and for developing and issuing policies, standards, guidance, and procedures for effecting compliance.

§37.13 Who is responsible for providing interpretations of this part?

The Director will make any rulings under, or interpretations of, the nondiscrimination and equal opportunity provisions of WIA or this part.

§37.14 Under what circumstances may the Secretary delegate the responsibilities of this part?

(a) The Secretary may from time to time assign to officials of other departments or agencies of the Government (with the consent of such department or agency) responsibilities in connection with the effectuation of the nondiscrimination and equal opportunity provisions of WIA and this part (other than responsibility for final decisions under §37.112), including the achievement of effective coordination and maximum uniformity within the Department and within the executive branch of the Government in the application of the nondiscrimination and equal opportunity provisions of WIA or this part to similar programs and similar situations.

(b) Any action taken, determination made, or requirement imposed by an official of another department or agency acting under an assignment of responsibility under this section has the same effect as if the action had been taken by the Director.
§37.15 What are the Director's responsibilities to coordinate with other civil rights agencies?

(a) Whenever a compliance review or complaint investigation under this part reveals possible violation of one or more of the laws listed in paragraph (b) of this section, or of any other Federal civil rights law, that is not also a violation of the nondiscrimination and equal opportunity provisions of WIA or this part, the Director must attempt to notify the appropriate agency and provide it with all relevant documents and information.

(b) This section applies to the following:

(1) Executive Order 11246, as amended;

(2) Section 503 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793);

(3) The affirmative action provisions of the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212);

(4) The Equal Pay Act of 1963, as amended (29 U.S.C. 206d);

(5) Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.);

(6) The Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 621);


(8) The anti-discrimination provision of the Immigration and Nationality Act, as amended (8 U.S.C. 1324b); and

(9) Any other Federal civil rights law.

§37.16 What is this part's effect on a recipient's obligations under other laws, and what limitations apply?

(a) Effect of State or local law or other requirements. The obligation to comply with the nondiscrimination and equal opportunity provisions of WIA or this part are not excused or reduced by any State or local law or other requirement that, on a prohibited ground, prohibits or limits an individual’s eligibility to receive aid, benefits, services, or training; to participate in any WIA Title I—financially assisted program or activity; to be employed by any recipient; or to practice any occupation or profession.

(b) Effect of private organization rules. The obligation to comply with the nondiscrimination and equal opportunity provisions of WIA and this part is not excused or reduced by any rule or regulation of any private organization, club, league or association that, on a prohibited ground, prohibits or limits an individual’s eligibility to participate in any WIA Title I—financially assisted program or activity to which this part applies.

(c) Effect of possible future exclusion from employment opportunities. A recipient must not exclude any individual from, or restrict any individual’s participation in, any program or activity based on the recipient’s belief or concern that the individual will encounter limited future employment opportunities because of his or her race, color, religion, sex, national origin, age, disability, political affiliation or belief, or citizenship.
Subpart B—Recordkeeping and Other Affirmative Obligations of Recipients

ASSURANCES

§37.20 What is a grant applicant's obligation to provide a written assurance?

(a) (1) Each application for financial assistance under Title I of WIA, as defined in §37.4, must include the following assurance:

As a condition to the award of financial assistance from the Department of Labor under Title I of WIA, the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

Section 188 of the Workforce Investment Act of 1998 (WIA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I—financially assisted program or activity;

Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;

Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant applicant also assures that it will comply with 29 CFR part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIA Title I-financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

(2) The assurance is considered incorporated by operation of law in the grant, cooperative agreement, contract or other arrangement whereby Federal financial assistance under Title I of the WIA is made available, whether or not it is physically incorporated in such document and whether or not there is a written agreement between the Department and the recipient, between the Department and the Governor, between the Governor and the recipient, or between recipients. The assurance also may be incorporated by reference in such grants, cooperative agreements, contracts, or other arrangements.

(b) Continuing State programs. Each Strategic Five-Year State Plan submitted by a State to carry out a continuing WIA Title I-financially assisted program or activity must provide a statement that the WIA Title I-financially assisted program or activity is (or, in the case of a new WIA Title I-financially assisted program or activity, will be) conducted in compliance with the nondiscrimination and equal opportunity provisions of WIA and this part, as a condition to the approval of the Five-Year Plan and the extension of any WIA Title I financial assistance under the Plan. The State also must certify that it has developed and maintains a Methods of Administration under §37.54.
§37.21 How long will the recipient's obligation under the assurance last, and how broad is the obligation?

(a) Where the WIA Title I financial assistance is intended to provide, or is in the form of, either personal property, real property, structures on real property, or interest in any such property or structures, the assurance will obligate the recipient, or (in the case of a subsequent transfer) the transferee, for the longer of:

(1) The period during which the property is used either:
   (i) For a purpose for which WIA Title I financial assistance is extended; or
   (ii) For another purpose involving the provision of similar services or benefits; or

(2) The period during which either:
   (i) The recipient retains ownership or possession of the property; or
   (ii) The transferee retains ownership or possession of the property without compensating the Departmental grantmaking agency for the fair market value of that ownership or possession.

(b) In all other cases, the assurance will obligate the recipient for the period during which WIA Title I financial assistance is extended.

§37.22 How must covenants be used in connection with this part?

(a) Where WIA Title I financial assistance is provided in the form of a transfer of real property, structures, or improvements on real property or structures, or interests in real property or structures, the instrument effecting or recording the transfer must contain a covenant assuring nondiscrimination and equal opportunity for the period described in §37.21.

(b) Where no Federal transfer of real property or interest therein from the Federal Government is involved, but real property or an interest therein is acquired or improved under a program of WIA Title I financial assistance, the recipient must include the covenant described in paragraph (a) of this section in the instrument effecting or recording any subsequent transfer of such property.

(c) When the property is obtained from the Federal Government, the covenant described in paragraph (a) of this section also may include a condition coupled with a right of reverter to the Department in the event of a breach of the covenant.

EQUAL OPPORTUNITY OFFICERS

§37.23 Who must designate an Equal Opportunity Officer?

Every recipient must designate an Equal Opportunity Officer (“EO Officer”), except small recipients and service providers, as defined in §37.4. The responsibilities of small recipients and service providers are described in §§37.27 and 37.28.
§37.24 Who is eligible to serve as an Equal Opportunity Officer?

A senior-level employee of the recipient should be appointed as the recipient’s Equal Opportunity Officer. Depending upon the size of the recipient, the size of the recipient’s WIA Title I-financially assisted programs or activities, and the number of applicants, registrants, and participants served by the recipient, the EO Officer may, or may not, be assigned other duties. However, he or she must not have other responsibilities or activities that create a conflict, or the appearance of a conflict, with the responsibilities of an EO Officer.

§37.25 What are the responsibilities of an Equal Opportunity Officer?

An Equal Opportunity Officer is responsible for coordinating a recipient's obligations under this part. Those responsibilities include, but are not limited to:

(a) Serving as the recipient's liaison with CRC;

(b) Monitoring and investigating the recipient’s activities, and the activities of the entities that receive WIA Title I funds from the recipient, to make sure that the recipient and its subrecipients are not violating their nondiscrimination and equal opportunity obligations under WIA Title I and this part;

(c) Reviewing the recipient’s written policies to make sure that those policies are nondiscriminatory;

(d) Developing and publishing the recipient’s procedures for processing discrimination complaints under §§37.76 through 37.79, and making sure that those procedures are followed;

(e) Reporting directly to the appropriate official (including, but not limited to, the State WIA Director, Governor's WIA Liaison, Job Corps Center Director, SESA Administrator, or LWIA grant recipient) about equal opportunity matters;

(f) Undergoing training (at the recipient’s expense) to maintain competency, if the Director requires him or her, and/or his or her staff, to do so; and

(g) If applicable, overseeing the development and implementation of the recipient's Methods of Administration under §37.54.

§37.26 What are a recipient's obligations relating to the Equal Opportunity Officer?

A recipient has the following obligations:

(a) Making the Equal Opportunity Officer’s name, and his or her position title, address, and telephone number (voice and TDD/TTY) public;

(b) Ensuring that the EO Officer’s identity and contact information appears on all internal and external communications about the recipient's nondiscrimination and equal opportunity programs;
(c) Assigning sufficient staff and resources to the Equal Opportunity Officer, and providing him or her with the necessary support of top management, to ensure compliance with the nondiscrimination and equal opportunity provisions of WIA and this part; and

(d) Ensuring that the EO Officer and his/her staff are afforded the opportunity to receive the training necessary and appropriate to maintain competency.

§37.27 What are the obligations of small recipients regarding Equal Opportunity Officers?

Although small recipients do not need to designate Equal Opportunity Officers who have the full range of responsibilities listed above, they must designate an individual who will be responsible for developing and publishing of complaint procedures, and the processing of complaints, as explained in §§37.76 through 37.79.

§37.28 What are the obligations of service providers regarding Equal Opportunity Officers?

Service providers, as defined in §37.4, are not required to designate an Equal Opportunity Officer. The obligation for ensuring service provider compliance with the nondiscrimination and equal opportunity provisions of WIA and this part rests with the Governor or LWIA grant recipient, as specified in the State's Methods of Administration.

Notice and Communication

§37.29 What are a recipient's obligations to disseminate its equal opportunity policy?

(a) A recipient must provide initial and continuing notice that it does not discriminate on any prohibited ground. This notice must be provided to:

(1) Registrants, applicants, and eligible applicants/registrants;

(2) Participants;

(3) Applicants for employment and employees;

(4) Unions or professional organizations that hold collective bargaining or professional agreements with the recipient;

(5) Subrecipients that receive WIA Title I funds from the recipient; and

(6) Members of the public, including those with impaired vision or hearing.

(b) As provided in §37.9, the recipient must take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others.
§37.30 What specific wording must the notice contain?

The notice must contain the following specific wording:

EQUAL OPPORTUNITY IS THE LAW

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases:

against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and

against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas:

deciding who will be admitted, or have access, to any WIA Title I-financially assisted program or activity;

providing opportunities in, or treating any person with regard to, such a program or activity; or

making employment decisions in the administration of, or in connection with, such a program or activity.

WHAT TO DO IF YOU BELIEVE YOU HAVE EXPERIENCED DISCRIMINATION

If you think that you have been subjected to discrimination under a WIA Title I-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either: the recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose); or the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N–4123, Washington, DC 20210.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).

If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with CRC. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).

If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

§37.31 Where must the notice required by §§37.29 and 37.30 be published?

(a) At a minimum, the notice required by §§37.29 and 37.30 must be:

(1) Posted prominently, in reasonable numbers and places;
(2) Disseminated in internal memoranda and other written or electronic communications;

(3) Included in handbooks or manuals; and

(4) Made available to each participant, and made part of each participant's file.

(b) The notice must be provided in appropriate formats to individuals with visual impairments. Where 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.

§37.32 When must the notice required by §§37.29 and 37.30 be provided?

The notice required by §§37.29 and 37.30 must be initially provided within 90 days of the effective date of this part, or of the date this part first applies to the recipient, whichever comes later.

§37.33 Who is responsible for meeting the notice requirement with respect to service providers?

The Governor or the LWIA grant recipient, as determined by the Governor and as provided in that State's Methods of Administration, will be responsible for meeting the notice requirement provided in Sections 37.29 and 37.30 with respect to a State's service providers.

§37.34 What type of notice must a recipient include in publications, broadcasts, and other communications?

(a) Recipients must indicate that the WIA 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 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 at large, to describe programs financially assisted under Title I of WIA or the requirements for participation by recipients and participants. Where such materials indicate that the recipient may be reached by telephone, the materials must state the telephone number of the TDD/TTY or relay service used by the recipient, as required by §37.9(c).

(b) Recipients that publish or broadcast program information in the news media must ensure that such publications and broadcasts state that the WIA Title I-financially assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIA 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.

(c) A recipient must not communicate any information that suggests, by text or illustration, that the recipient treats beneficiaries, registrants, applicants, participants, employees or applicants for employment differently on any prohibited ground specified in §37.5, except as such treatment is otherwise permitted under Federal law or this part.
§37.35 What are a recipient’s responsibilities to provide services and information in languages other than English?

(a) A significant number or proportion of the population eligible to be served, or likely to be directly affected, by a WIA Title I-financially assisted program or activity may need services or information in a language other than English in order to be effectively informed about, or able to participate in, the program or activity. Where such a significant number or proportion exists, a recipient must take the following actions:

(1) Consider:

(i) The scope of the program or activity, and

(ii) The size and concentration of the population that needs services or information in a language other than English; and

(2) Based on those considerations, take reasonable steps to provide services and information in appropriate languages. This information must include the initial and continuing notice required under §§37.29 and 37.30, and all information that is communicated under §37.34.

(b) In circumstances other than those described in paragraph (a) of this section, a recipient should nonetheless make reasonable efforts to meet the particularized language needs of limited-English-speaking individuals who seek services or information from the recipient.

§37.36 What responsibilities does a recipient have to communicate information during orientations?

During each presentation to orient new participants, new employees, and/or the general public to its WIA Title I-financially assisted program or activity, a recipient must include a discussion of rights under the nondiscrimination and equal opportunity provisions of WIA and this part, including the right to file a complaint of discrimination with the recipient or the Director.

Data and Information Collection and Maintenance

§37.37 What are a recipient’s responsibilities to collect and maintain data and other information?

(a) The Director will not require submission of data that can be obtained from existing reporting requirements or sources, including those of other agencies, if the source is known and available to the Director.

(b)(1) Each recipient must collect such data and maintain such records, in accordance with procedures prescribed by the Director, as the Director finds necessary to determine whether the recipient has complied or is complying with the nondiscrimination and equal opportunity provisions of WIA or this part. The system and format in which the records and data are kept must be designed to allow the Governor and CRC to conduct statistical or other quantifiable data analysis to verify the recipient’s compliance with section 188 of WIA and this part.
(2) Such records must include, but are not limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Each recipient must record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, eligible applicant/registrant, participant, terminee, applicant for employment, and employee. Such information must be stored in a manner that ensures confidentiality, and must be used only for the purposes of recordkeeping and reporting; determining eligibility, where appropriate, for WIA Title I-financially assisted programs or activities; determining the extent to which the recipient is operating its WIA Title I-financially assisted program or activity in a nondiscriminatory manner; or other use authorized by law.

(c) Each recipient must maintain, and submit to CRC upon request, a log of complaints filed with it that allege discrimination on the ground(s) of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIA Title I-financially assisted program or activity. The log must include: the name and address of the complainant; the ground of the complaint; a description of the complaint; the date the complaint was filed; the disposition and date of disposition of the complaint; and other pertinent information. Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential.

(d) Where designation of individuals by race or ethnicity is required, the guidelines of the Office of Management and Budget must be used.

(e) A service provider’s responsibility for collecting and maintaining the information required under this section may be assumed by the Governor or LWIA grant recipient, as provided in the State’s Methods of Administration.

§37.38 What information must grant applicants and recipients provide to CRC?

In addition to the information which must be collected, maintained, and, upon request, submitted to CRC under §37.37:

(a) Each grant applicant and recipient must promptly notify the Director when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I-financially assisted program or activity. This notification must include:

(1) The names of the parties to the action or lawsuit;

(2) The forum in which each case was filed; and

(3) The relevant case numbers.

(b) Each grant applicant (as part of its application) and recipient (as part of a compliance review conducted under Section 37.63, or monitoring activity carried out under §37.65) must provide the following information:

(1) The name of any other Federal agency that conducted a civil rights compliance review or complaint investigation, and that found the grant applicant or recipient to be in noncompliance, during the two years before the grant application was filed or CRC began its examination; and
(2) Information about any administrative enforcement actions or lawsuits that alleged discrimination on any protected basis, and that were filed against the grant applicant or recipient during the two years before the application or renewal application, compliance review, or monitoring activity. This information must include:

(i) The names of the parties;

(ii) The forum in which each case was filed; and

(iii) The relevant case numbers.

(c) At the discretion of the Director, grant applicants and recipients may be required to provide, in a timely manner, any information and data necessary to investigate complaints and conduct compliance reviews on grounds prohibited under the nondiscrimination and equal opportunity provisions of WIA and this part.

(d) At the discretion of the Director, recipients may be required to provide, in a timely manner, the particularized information and/or to submit the periodic reports that the Director considers necessary to determine compliance with the nondiscrimination and equal opportunity provisions of WIA or this part.

(e) At the discretion of the Director, grant applicants may be required to submit, in a timely manner, the particularized information necessary to determine whether or not the grant applicant, if financially assisted, would be able to comply with the nondiscrimination and equal opportunity provisions of WIA or this part.

(f) Where designation of individuals by race or ethnicity is required, the guidelines of the Office of Management and Budget must be used.

§37.39 How long must grant applicants and recipients maintain the records required under this part?

(a) Each recipient must maintain the following records for a period of not less than three years from the close of the applicable program year:

(1) The records of applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment; and

(2) Such other records as are required under this part or by the Director.

(b) Records regarding complaints and actions taken on the complaints must be maintained for a period of not less than three years from the date of resolution of the complaint.

§37.40 What access to sources of information must grant applicants and recipients provide the Director?

(a) Each grant applicant and recipient must permit access by the Director during normal business hours to its premises and to its employees and participants, to the extent that such individuals are on the premises during the course of the investigation, for the purpose of conducting complaint investigations, compliance reviews, monitoring activities associated with a State’s development and implementation of a Methods of Administration, and inspecting and copying such books, records, accounts and other materials as may be pertinent to ascertain compliance with and ensure enforcement of the nondiscrimination and equal opportunity provisions of WIA or this part.
(b) Asserted considerations of privacy or confidentiality are not a basis for withholding information from CRC and will not bar CRC from evaluating or seeking to enforce compliance with the nondiscrimination and equal opportunity provisions of WIA and this part.

c) Whenever any information that the Director asks a grant applicant or recipient to provide is in the exclusive possession of another agency, institution, or person, and that agency, institution, or person fails or refuses to furnish the information upon request, the grant applicant or recipient must certify to CRC that it has made efforts to obtain the information and that the agency, institution, or person has failed or refused to provide it. This certification must list the name and address of the agency, institution, or person that has possession of the information and the specific efforts the grant applicant or recipient made to obtain it.

§37.41 What responsibilities do grant applicants, recipients, and the Department have to maintain the confidentiality of the information collected?

The identity of any individual who furnishes information relating to, or assisting in, an investigation or a compliance review, including the identity of any individual who files a complaint, must be kept confidential to the extent possible, consistent with a fair determination of the issues. An individual whose identity it is necessary to disclose must be protected from retaliation (see §37.11).

§37.42 What are a recipient's responsibilities under this part to provide universal access to WIA Title I - financially assisted programs and activities?

Recipients must take appropriate steps to ensure that they are providing universal access to their WIA Title I-financially assisted programs and activities. These steps should involve reasonable efforts to include members of both sexes, various racial and ethnic groups, individuals with disabilities, and individuals in differing age groups. 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.

Subpart C—Governor’s Responsibilities to Implement the Nondiscrimination and Equal Opportunity Requirements of WIA

§37.50 To whom does this subpart apply?

This subpart applies to State Programs as defined in §37.4. However, the provisions of §37.52(b) do not apply to State Employment Security Agencies (SEAS), because the Governor’s liability for any noncompliance on the part of a SESA cannot be waived.
§37.51 What are a Governor’s oversight responsibilities?

The Governor is responsible for oversight of all WIA Title I-financially assisted State programs. This responsibility includes ensuring compliance with the nondiscrimination and equal opportunity provisions of WIA and this part, and negotiating, where appropriate, with a recipient to secure voluntary compliance when noncompliance is found under §37.95(b).

§37.52 To what extent may a Governor be liable for the actions of a recipient he or she has financially assisted under WIA Title I?

(a) The Governor and the recipient are jointly and severally liable for all violations of the nondiscrimination and equal opportunity provisions of WIA and this part by the recipient, unless the Governor has:

(1) Established and adhered to a Methods of Administration, under Section 37.54, designed to give reasonable guarantee of the recipient’s compliance with such provisions;

(2) Entered into a written contract with the recipient that clearly establishes the recipient’s obligations regarding nondiscrimination and equal opportunity;

(3) Acted with due diligence to monitor the recipient’s compliance with these provisions; and

(4) Taken prompt and appropriate corrective action to effect compliance.

(b) If the Director determines that the Governor has demonstrated substantial compliance with the requirements of paragraph (a) of this section, he or she may recommend to the Secretary that the imposition of sanctions against the Governor be waived and that sanctions be imposed only against the noncomplying recipient.

§37.53 What are a Governor’s oversight responsibilities regarding recipients’ recordkeeping?

The Governor must ensure that recipients collect and maintain records in a manner consistent with the provisions of §37.37 and any procedures prescribed by the Director under §37.37(b). The Governor must further ensure that recipients are able to provide data and reports in the manner prescribed by the Director.

§37.54 What are a Governor’s obligations to develop and maintain a Methods of Administration?

(a) Each Governor must establish and adhere to a Methods of Administration for State programs as defined in §37.4. In those States in which one agency contains both SESA or unemployment insurance and WIA Title I-financially assisted programs, the Governor should develop a combined Methods of Administration.

(2) Each Methods of Administration must be designed to give a reasonable guarantee that all recipients will comply, and are complying, with the nondiscrimination and equal opportunity provisions of WIA and this part.

(b) The Methods of Administration must be:

(1) In writing, addressing each requirement of §37.54(d) with narrative and documentation;

(2) Reviewed and updated as required in §37.55; and
(3) Signed by the Governor.

c) [Reserved]

d) At a minimum, each Methods of Administration must:

(1) Describe how the State programs and recipients have satisfied the requirements of the following regulations:

(i) Sections 37.20 through 37.22 (assurances);

(ii) Sections 37.23 through 37.28 (Equal Opportunity Officers);

(iii) Sections 37.29 through 37.36 (Notice and Communication);

(iv) Sections 37.37 through 37.41 (Data and Information Collection and Maintenance);

(v) Section 37.42 (Universal Access);

(vi) Section 37.53 (Governor's Oversight Responsibilities Regarding Recipients' Recordkeeping); and

(vii) Sections 37.76 through 37.79 (Complaint Processing Procedures); and

(2) Include the following additional elements:

(i) A system for determining whether a grant applicant, if financially assisted, and/or a training provider, if selected as eligible under section 122 of the Act, is likely to conduct its WIA Title I—financially assisted programs or activities in a nondiscriminatory way, and to comply with the regulations in this part;

(ii) A system for periodically monitoring the compliance of recipients with WIA section 188 and this part, including a determination as to whether each recipient is conducting its WIA Title I—financially assisted program or activity in a nondiscriminatory way. At a minimum, each periodic monitoring review required by this paragraph must include:

(A) A statistical or other quantifiable analysis of records and data kept by the recipient under §37.37, including analysis by race/ethnicity, sex, age, and disability status;

(B) An investigation of any significant differences identified in paragraph (A) of this section in participation in the programs, activities, or employment provided by the recipient, to determine whether these differences appear to be caused by discrimination. This investigation must be conducted through review of the recipient's records and any other appropriate means; and

(C) An assessment to determine whether the recipient has fulfilled its administrative obligations under section 188 or this part (for example, recordkeeping, notice and communication) and any duties assigned to it under the MOA;

(iii) A review of recipient policy issuances to ensure they are nondiscriminatory;
(iv) A system for reviewing recipients' job training plans, contracts, assurances, and other similar agreements to ensure that they are both nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity;

(v) Procedures for ensuring that recipients comply with the requirements of Section 504 and this part with regard to individuals with disabilities;

(vi) A system of policy communication and training to ensure that EO Officers and members of the recipients' staffs who have been assigned responsibilities under the nondiscrimination and equal opportunity provisions of WIA or this part are aware of and can effectively carry out these responsibilities;

(vii) Procedures for obtaining prompt corrective action or, as necessary, applying sanctions when noncompliance is found; and

(viii) Supporting documentation to show that the commitments made in the Methods of Administration have been and/or are being carried out. This supporting documentation includes, but is not limited to:

(A) policy and procedural issuances concerning required elements of the Methods of Administration;

(B) copies of monitoring instruments and instructions;

(C) evidence of the extent to which nondiscrimination and equal opportunity policies have been developed and communicated as required by this part;

(D) information reflecting the extent to which Equal Opportunity training, including training called for by §§37.25(f) and 37.26(c), is planned and/or has been carried out;

(E) reports of monitoring reviews and reports of follow-up actions taken under those reviews where violations have been found, including, where appropriate, sanctions; and

(F) copies of any notices made under §§37.29 through 37.36.

§37.55 When must the Governor carry out his or her obligations with regard to the Methods of Administration?

(a) Within 180 days of either the date on which this interim final rule is effective, or the date on which the Department gives final approval to a State's Five-Year Plan, whichever is later, a Governor must:

(1) Develop and implement a Methods of Administration consistent with the requirements of this part, and

(2) Submit a copy of the Methods of Administration to the Director.

(b) The Governor must promptly update the Methods of Administration whenever necessary, and must notify the Director in writing at the time that any such updates are made.
(c) Every two years from the date on which the initial MOA is submitted to the Director under §37.55(a)(2), the Governor must review the Methods of Administration and the manner in which it has been implemented, and determine whether any changes are necessary in order for the State to comply fully and effectively with the nondiscrimination and equal opportunity provisions of WIA and this part.

(1) If any such changes are necessary, the Governor must make the appropriate changes and submit them, in writing, to the Director.

(2) If the Governor determines that no such changes are necessary, s/he must certify, in writing, to the Director that the Methods of Administration previously submitted continues in effect.

Subpart D—Compliance Procedures

§37.60 How does the Director evaluate compliance with the nondiscrimination and equal opportunity provisions of WIA and this part?

From time to time, the Director may conduct pre-approval compliance reviews of grant applicants for, and post-approval compliance reviews of recipients of, WIA Title I financial assistance, to determine compliance with the nondiscrimination and equal opportunity provisions of WIA and this part. Reviews may focus on one or more specific programs or activities, or one or more issues within a program or activity. The Director may also investigate and resolve complaints alleging violations of the nondiscrimination and equal opportunity provisions of WIA and this part.

§37.61 Is there authority to issue subpoenas?

Yes, section 183(c) of WIA authorizes the issuance of subpoenas. A subpoena may direct the individual named on the subpoena to take the following actions:

(a) To appear:

(1) Before a designated CRC representative,

(2) At a designated time and place;

(b) To give testimony; and/or

(c) To produce documentary evidence.

The subpoena may require the appearance of witnesses, and the production of documents, from any place in the United States, at any designated time and place.

COMPLIANCE REVIEWS

§37.62 What are the authority and procedures for conducting pre-approval compliance reviews?

(a) As appropriate and necessary to ensure compliance with the nondiscrimination and equal opportunity provisions of WIA or this part, the Director may review any application, or class of applications, for Federal financial assistance under Title I of WIA, before and as a condition of their approval. The basis for such review may be
the assurance specified in §37.20, information and reports submitted by the grant applicant under this part or
guidance published by the Director, and any relevant records on file with the Department.

(b) Where the Director determines that the grant applicant for Federal financial assistance under WIA Title I, if
financially assisted, might not comply with the nondiscrimination and equal opportunity requirements of WIA
or this part, the Director must:

(1) Notify, in a timely manner, the Departmental grantmaking agency and the Assistant Attorney General of the
findings of the pre-approval compliance review; and

(2) Issue a Letter of Findings. The Letter of Findings must advise the grant applicant, in writing, of:

(i) The preliminary findings of the review;

(ii) The proposed remedial or corrective action under Section 37.94 and the time within which the remedial or
corrective action should be completed;

(iii) Whether it will be necessary for the grant applicant to enter into a written Conciliation Agreement as described in
§§37.95 and 37.97; and

(iv) The opportunity to engage in voluntary compliance negotiations.

(c) If a grant applicant has agreed to certain remedial or corrective actions in order to receive WIA Title I-funded Federal
financial assistance, the Department must ensure that the remedial or corrective actions have been taken, or that a
Conciliation Agreement has been entered into, before approving the award of further assistance under WIA Title I.
If a grant applicant refuses or fails to take remedial or corrective actions or to enter into a Conciliation Agreement,
as applicable, the Director must follow the procedures outlined in §§37.98 through 37.100.

§37.63 What are the authority and procedures for conducting post-approval compliance reviews?

(a) The Director may initiate a post-approval compliance review of any recipient to determine compliance with the
nondiscrimination and equal opportunity provisions of WIA and this part. The initiation of a post-approval review
may be based on, but need not be limited to, the results of routine program monitoring by other Departmental or
Federal agencies, or the nature or frequency of complaints.

(b) A post-approval review must be initiated by a Notification Letter, advising the recipient of:

(1) The practices to be reviewed;

(2) The programs to be reviewed;

(3) The information, records, and/or data to be submitted by the recipient within 30 days of the receipt of the
Notification Letter, unless this time frame is modified by the Director; and
The opportunity, at any time before receipt of the Final Determination described in §§37.99 and 37.100, to make a documentary or other submission that explains, validates or otherwise addresses the practices under review.

The Director may conduct post-approval reviews using such techniques as desk audits and on-site reviews.

§37.64 What procedures must the Director follow when CRC has completed a post-approval compliance review?

(a) Where, as the result of a post-approval review, the Director has made a finding of noncompliance, he or she must issue a Letter of Findings. This Letter must advise the recipient, in writing, of:

(1) The preliminary findings of the review;

(2) Where appropriate, the proposed remedial or corrective action to be taken, and the time by which such action should be completed, as provided in §37.94;

(3) Whether it will be necessary for the recipient to enter into a written assurance and/or Conciliation Agreement, as provided in §§37.96 and 37.97; and

(4) The opportunity to engage in voluntary compliance negotiations.

(b) Where no violation is found, the recipient must be so informed in writing.

§37.65 What is the Director’s authority to monitor the activities of a Governor?

(a) The Director may periodically review the adequacy of the Methods of Administration established by a Governor, as well as the adequacy of the Governor’s performance under the Methods of Administration, to determine compliance with the requirements of §§37.50 through 37.55. The Director may review the Methods of Administration during a compliance review under §§37.62 and 37.63, or at another time.

(b) Nothing in this subpart limits or precludes the Director from monitoring directly any WIA Title I recipient or from investigating any matter necessary to determine a recipient’s compliance with the nondiscrimination and equal opportunity provisions of WIA or this part.

§37.66 What happens if a recipient fails to submit requested data, records, and/or information, or fails to provide CRC with the required access?

The Director may issue a Notice to Show Cause to a recipient failing to comply with the requirements of this part, where such failure results in the inability of the Director to make a finding. Such a failure includes, but is not limited to, the recipient’s failure or refusal to:

(a) Submit requested information, records, and/or data within 30 days of receiving a Notification Letter;

(b) Submit, in a timely manner, information, records, and/or data requested during a compliance review, complaint investigation, or other action to determine a recipient’s compliance with the nondiscrimination and equal opportunity provisions of WIA or this part; or
(c) Provide CRC access in a timely manner to a recipient’s premises, records, or employees during a compliance review, as required in §37.40.

§37.67 What information must a Notice to Show Cause contain?

(a) A Notice to Show Cause must contain:

(1) A description of the violation and a citation to the pertinent nondiscrimination or equal opportunity provision(s) of WIA and this part;

(2) The corrective action necessary to achieve compliance or, as may be appropriate, the concepts and principles of acceptable corrective or remedial action and the results anticipated; and

(3) A request for a written response to the findings, including commitments to corrective action or the presentation of opposing facts and evidence.

(b) A Notice to Show Cause must give the recipient 30 days to show cause why enforcement proceedings under the nondiscrimination and equal opportunity provisions of WIA or this part should not be instituted.

§37.68 How may a recipient show cause why enforcement proceedings should not be instituted?

A recipient may show cause why enforcement proceedings should not be instituted by, among other means:

(a) Correcting the violation(s) that brought about the Notice to Show Cause and entering into a written assurance and/or entering into a Conciliation Agreement, as appropriate, under §§37.95 through 37.97;

(b) Demonstrating that CRC does not have jurisdiction; or

(c) Demonstrating that the violation alleged by CRC did not occur.

§37.69 What happens if a recipient fails to show cause?

If the recipient fails to show cause why enforcement proceedings should not be initiated, the Director must follow the enforcement procedures outlined in §§37.99 and 37.100.

COMPLAINT PROCESSING PROCEDURES

§37.70 Who may file a complaint concerning discrimination connected with WIA Title I?

Any person who believes that either he or she, or any specific class of individuals, has been or is being subjected to discrimination prohibited by WIA or this part, may file a written complaint, either by him/herself or through a representative.

§37.71 Where may a complaint be filed?

A complainant may file a complaint with either the recipient or the Director. Complaints filed with the Director should be sent to the address listed in the notice in §37.30.
§37.72 When must a complaint be filed?
Generally, a complaint must be filed within 180 days of the alleged discrimination. However, for good cause shown, the Director may extend the filing time. The time period for filing is for the administrative convenience of CRC, and does not create a defense for the respondent.

§37.73 What information must a complaint contain?
Each complaint must be filed in writing, and must contain the following information:

(a) The complainant’s name and address (or another means of contacting the complainant);

(b) The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination);

(c) A description of the complainant’s allegations. This description must include enough detail to allow the Director or the recipient, as applicable, to decide whether:

(i) CRC or the recipient, as applicable, has jurisdiction over the complaint;

(ii) The complaint was filed in time; and

(iii) The complaint has apparent merit; in other words, whether the complainant’s allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIA or this part; and

(d) The complainant’s signature or the signature of the complainant’s authorized representative.

§37.74 Are there any forms that a complainant may use to file a complaint?
Yes. A complainant may file a complaint by completing and submitting CRC’s Complaint Information and Privacy Act Consent Forms, which may be obtained either from the recipient’s EO Officer, or from CRC at the address listed in the notice contained in §37.30.

§37.75 Is there a right of representation in the complaint process?
Yes. Both the complainant and the respondent have the right to be represented by an attorney or other individual of their choice.

§37.76 What are the required elements of a recipient’s discrimination complaint processing procedures?
(a) The procedures that a recipient adopts and publishes must provide that the recipient will issue a written Notice of Final Action on discrimination complaints within 90 days of the date on which the complaint is filed.

(b) At a minimum, the procedures must include the following elements:

(1) Initial, written notice to the complainant that contains the following information:

(i) An acknowledgment that the recipient has received the complaint, and
(ii) Notice that the complainant has the right to be represented in the complaint process;

(2) A written statement of the issue(s), provided to the complainant, that includes the following information:

(i) A list of the issues raised in the complaint, and

(ii) For each such issue, a statement whether the recipient will accept the issue for investigation or reject the issue, and the reasons for each rejection;

(3) A period for fact-finding or investigation of the circumstances underlying the complaint;

(4) A period during which the recipient attempts to resolve the complaint. The methods available to resolve the complaint must include alternative dispute resolution (ADR), as described in paragraph (c) of this section;

(5) A written Notice of Final Action, provided to the complainant within 90 days of the date on which the complaint was filed, that contains the following information:

(i) For each issue raised in the complaint, a statement of either:

(A) The recipient’s decision on the issue and an explanation of the reasons underlying the decision, or

(B) A description of the way the parties resolved the issue; and

(ii) Notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is issued if he or she is dissatisfied with the recipient’s final action on the complaint.

(c) The procedures the recipient adopts must provide for alternative dispute resolution (ADR). The recipient’s ADR procedures must provide that:

(1) The choice whether to use ADR or the customary process rests with the complainant;

(2) A party to any agreement reached under ADR may file a complaint with the Director in the event the agreement is breached. In such circumstances, the following rules will apply:

(i) The non-breaching party may file a complaint with the Director within 30 days of the date on which the non-breaching party learns of the alleged breach;

(ii) The Director must evaluate the circumstances to determine whether the agreement has been breached. If he or she determines that the agreement has been breached, the complainant may file a complaint with CRC based upon his/her original allegation(s), and the Director will waive the time deadline for filing such a complaint.

(3) If the parties do not reach an agreement under ADR, the complainant may file a complaint with the Director as described in §§37.71 through 37.74.
§37.77 Who is responsible for developing and publishing complaint processing procedures for service providers?

The Governor or the LWIA grant recipient, as provided in the State’s Methods of Administration, must develop and publish, on behalf of its service providers, the complaint processing procedures required in §37.76. The service providers must then follow those procedures.

§37.78 Does a recipient have any special obligations in cases in which the recipient determines that it has no jurisdiction over a complaint?

Yes. If a recipient determines that it does not have jurisdiction over a complaint, it must notify the complainant, in writing, immediately. This Notice of Lack of Jurisdiction must include:

(a) A statement of the reasons for that determination, and

(b) Notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the complainant receives the Notice.

§37.79 If, before the 90-day period has expired, a recipient issues a Notice of Final Action with which the complainant is dissatisfied, how long does the complainant have to file a complaint with the Director?

If, during the 90-day period, the recipient issues its Notice of Final Action, but the complainant is dissatisfied with the recipient’s decision on the complaint, the complainant or his/her representative may file a complaint with the Director within 30 days after the date on which the complainant receives the Notice.

§37.80 What happens if a recipient fails to issue a Notice of Final Action within 90 days of the date on which a complaint was filed?

If, by the end of 90 days from the date on which the complainant filed the complaint, the recipient has failed to issue a Notice of Final Action, the complainant or his/her representative may file a complaint with the Director within 30 days of the expiration of the 90-day period. In other words, the complaint must be filed with the Director within 120 days of the date on which the complaint was filed with the recipient.

§37.81 Are there any circumstances under which the Director may extend the time limit for filing a complaint with him or her?

Yes. The Director may extend the 30-day time limit:

(a) If the recipient does not include in its Notice of Final Action the required notice about the complainant’s right to file with the Director, as described in §37.76(b)(5)(ii); or

(b) For other good cause shown.

The complainant has the burden of proving to the Director that the time limit should be extended.
§37.82 Does the Director accept every complaint for resolution?

No. The Director must determine whether CRC will accept a particular complaint for resolution. For example, a complaint need not be accepted if:

(a) It has not been timely filed;

(b) CRC has no jurisdiction over the complaint; or

(c) CRC has previously decided the matter.

§37.83 What happens if a complaint does not contain enough information?

(a) If a complaint does not contain enough information, the Director must try to get the needed information from the complainant.

(b) The Director may close the complainant’s file, without prejudice, if:

(1) The Director makes reasonable efforts to try to find the complainant, but is unable to reach him or her; or

(2) The complainant does not provide the needed information to CRC within the time specified in the request for more information.

(c) If the Director closes the complainant’s file, he or she must send written notice to the complainant’s last known address.

§37.84 What happens if CRC does not have jurisdiction over a complaint?

If CRC does not have jurisdiction over a complaint, the Director must:

(a) Notify the complainant and explain why the complaint falls outside the coverage of the nondiscrimination and equal opportunity provisions of WIA or this part; and

(b) Where possible, transfer the complaint to an appropriate Federal, State or local authority.

§37.85 Are there any other circumstances in which the Director will send a complaint to another authority?

Yes. The Director refers complaints to other agencies in the following circumstances:

(a) Where the complaint alleges discrimination based on age, and the complaint falls within the jurisdiction of the Age Discrimination Act of 1975, as amended, then the Director must refer the complaint, in accordance with the provisions of 45 CFR 90.43(c)(3).
(b) Where the only allegation in the complaint is a charge of individual employment discrimination that is covered both by WIA or this part and by one or more of the laws listed below, then the complaint is a “joint complaint,” and the Director may refer it to the EEOC for investigation and conciliation under the procedures described in 29 CFR part 1640 or 1691, as appropriate. The relevant laws are:

1. Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e to 2000e-17);
3. The Age Discrimination in Employment Act of 1976, as amended (29 U.S.C. 621, et seq.); and

(c) Where the complaint alleges discrimination by an entity that operates a program or activity financially assisted by a Federal grantmaking agency other than the Department, but that participates as a partner in a One-Stop delivery system, the following procedures apply:

1. Where the complaint alleges discrimination on a basis that is prohibited both by Section 188 of WIA and by a civil rights law enforced by the Federal grantmaking agency, then CRC and the grantmaking agency have dual jurisdiction over the complaint, and the Director will refer the complaint to the grantmaking agency for processing. In such circumstances, the grantmaking agency’s regulations will govern the processing of the complaint.

2. Where the complaint alleges discrimination on a basis that is prohibited by Section 188 of WIA, but not by any civil rights laws enforced by the Federal grantmaking agency, then CRC has sole jurisdiction over the complaint, and will retain the complaint and process it pursuant to this part. Such bases generally include religion, political affiliation or belief, citizenship, and/or participation in a WIA Title I-financially assisted program or activity.

(d) Where the Director makes a referral under this section, he or she must notify the complainant and the respondent about the referral.

§37.86 What must the Director do if he or she determines that a complaint will not be accepted?
If a complaint will not be accepted, the Director must notify the complainant, in writing, about that fact, and provide the complainant his/her reasons for making that determination.

§37.87 What must the Director do if he or she determines that a complaint will be accepted?
If the Director accepts the complaint for resolution, he or she must notify the complainant, the respondent, and the grantmaking agency. The notice must:

(a) State that the complaint will be accepted,
(b) Identify the issues over which CRC has accepted jurisdiction; and
(c) Explain the reasons why any issues were rejected.
§37.88 Who may contact CRC about a complaint?
Both the complainant and the respondent, or their authorized representatives, may contact CRC for information about
the complaint. The Director will determine what information, if any, about the complaint will be released.

§37.89 May the Director offer the parties to a complaint the option of mediation?
Yes. The Director may offer the parties to a complaint the option of mediating the complaint. In such circumstances,
the following rules apply:

(a) Mediation is voluntary; the parties must consent before the mediation process will proceed.

(b) The mediation will be conducted under guidance issued by the Director.

(c) If the parties are unable to reach resolution of the complaint through mediation, CRC will investigate and process
the complaint under §§37.82 through 37.88 of this part.

DETERMINATIONS

§37.90 If a complaint is investigated, what must the Director do when the investigation is completed?
At the conclusion of the investigation of the complaint, the Director must take the following actions:

(a) Determine whether there is reasonable cause to believe that the respondent has violated the nondiscrimination and
equal opportunity provisions of WIA or this part; and

(b) Notify the complainant, the respondent, and the grantmaking agency, in writing, of that determination.

§37.91 What notice must the Director issue if he or she finds reasonable cause to believe that a violation has
taken place?
If the Director finds reasonable cause to believe that the respondent has violated the nondiscrimination and equal
opportunity provisions of WIA or this part, he or she must issue an Initial Determination. The Initial Determination
must include:

(a) The specific findings of the investigation;

(b) The corrective or remedial action that the Department proposes to the respondent, under §37.94;

(c) The time by which the respondent must complete the corrective or remedial action;

(d) Whether it will be necessary for the respondent to enter into a written agreement under §37.95 and 37.96; and

(e) The opportunity to engage in voluntary compliance negotiations.
§37.92 What notice must the Director issue if he or she finds no reasonable cause to believe that a violation has taken place?

If the Director determines that there is no reasonable cause to believe that a violation has taken place, he or she must issue a Final Determination under §37.100. The Final Determination represents the Department’s final agency action on the complaint.

§37.93 What happens if the Director finds that a violation has taken place, and the recipient fails or refuses to take the corrective action listed in the Initial Determination?

Under such circumstances, the Department must take the actions described in §37.99 of this part.

§37.94 What corrective or remedial actions may be imposed where, after a compliance review or complaint investigation, the Director finds a violation of the nondiscrimination and equal opportunity provisions of WIA or this part?

(a) A Letter of Findings, Notice to Show Cause, or Initial Determination, issued under §§37.62 or 37.63, 37.66 and 37.67, or 37.91 respectively, must include the specific steps the grant applicant or recipient, as applicable, must take within a stated period of time in order to achieve voluntary compliance.

(b) Such steps must include:

(1) Actions to end and/or redress the violation of the nondiscrimination and equal opportunity provisions of WIA or this part;

(2) Make whole relief where discrimination has been identified, including, as appropriate, back pay (which must not accrue from a date more than 2 years before the filing of the complaint or the initiation of a compliance review) or other monetary relief; hire or reinstatement; retroactive seniority; promotion; benefits or other services discriminatorily denied; and

(3) Such other remedial or affirmative relief as the Director deems necessary, including but not limited to outreach, recruitment and training designed to ensure equal opportunity.

(c) Monetary relief may not be paid from Federal funds.

§37.95 What procedures apply if the Director finds that a recipient has violated the nondiscrimination and equal opportunity provisions of WIA or this part?

(a) Violations at State level. Where the Director has determined that a violation of the nondiscrimination and equal opportunity provisions of WIA or this part has occurred at the State level, he or she must notify the Governor through the issuance of a Letter of Findings, Notice to Show Cause or Initial Determination, as appropriate, under §37.62 or 37.63, 37.66 and 37.67, or 37.91, respectively. The Director may secure compliance with the nondiscrimination and equal opportunity provisions of WIA and this part through, among other means, the execution of a written assurance and/or Conciliation Agreement, under paragraph (d) of this section.
(b) Violations below State level. Where the Director has determined that a violation of the nondiscrimination and equal opportunity provisions of WIA or this part has occurred below the State level, the Director must so notify the Governor and the violating recipient(s) through the issuance of a Letter of Findings, Notice to Show Cause or Initial Determination, as appropriate, under §§37.62 or 37.63, 37.66 and 37.67, or 37.91, respectively.

(1) Such issuance must:

(i) Direct the Governor to initiate negotiations immediately with the violating recipient(s) to secure compliance by voluntary means;

(ii) Direct the Governor to complete such negotiations within 30 days of the Governor’s receipt of the Notice to Show Cause or within 45 days of the Governor’s receipt of the Letter of Findings or Initial Determination, as applicable. The Director reserves the right to enter into negotiations with the recipient at any time during the period. For good cause shown, the Director may approve an extension of time to secure voluntary compliance. The total time allotted to secure voluntary compliance must not exceed 60 days.

(iii) Include a determination as to whether compliance must be achieved by:

(A) Immediate correction of the violation(s) and written assurance that such violations have been corrected, under §37.96;

(B) Entering into a written Conciliation Agreement under §37.97; or

(C) Both.

(2) If the Governor determines, at any time during the period described in paragraph (b)(1)(ii) of this section, that a recipient’s compliance cannot be achieved by voluntary means, the Governor must so notify the Director.

(3) If the Governor is able to secure voluntary compliance under paragraph (b)(1) of this section, he or she must submit to the Director for approval, as applicable:

(i) Written assurance that the required action has been taken, as described in §37.96;

(ii) A copy of the Conciliation Agreement, as described in §37.97; or

(iii) Both.

(4) The Director may disapprove any written assurance or Conciliation Agreement submitted for approval under paragraph (b)(3) of this section that fails to satisfy each of the applicable requirements provided in §§37.96 or 37.97.

(c) Violations in National Programs. Where the Director has determined that a violation of the nondiscrimination and equal opportunity provisions of WIA or this part has occurred in a National Program, he or she must notify the Federal grantmaking agency and the recipient by issuing a Letter of Findings, Notice to Show Cause, or Initial Determination, as appropriate, under §§37.62 or 37.63, 37.66 and 37.67, or 37.91, respectively. The Director may secure compliance with the nondiscrimination and equal opportunity provisions of WIA and this part through,
among other means, the execution of a written assurance and/or Conciliation Agreement under §§37.96 or 37.97, as applicable.

§37.96 What are the required elements of a written assurance?
A written assurance must provide documentation that the violations listed in the Letter of Findings, Notice to Show Cause or Initial Determination, as applicable, have been corrected.

§37.97 What are the required elements of a Conciliation Agreement?
A Conciliation Agreement must:

(a) Be in writing;

(b) Address each cited violation;

(c) Specify the corrective or remedial action to be taken within a stated period of time to come into compliance;

(d) Provide for periodic reporting on the status of the corrective and remedial action;

(e) Provide that the violation(s) will not recur; and

(f) Provide for enforcement for a breach of the agreement.

§37.98 When will the Director conclude that compliance cannot be secured by voluntary means?
The Director will conclude that compliance cannot be secured by voluntary means under the following circumstances:

(a) The grant applicant or recipient fails or refuses to correct the violation(s) within the time period established by the Letter of Findings, Notice to Show Cause or Initial Determination; or

(b) The Director has not approved an extension of time for agreement on voluntary compliance, under §37.95(b)(1)(ii), and he or she either:

(1) Has not been notified, under §37.95(b)(3), that the grant applicant or recipient has agreed to voluntary compliance;

(2) Has disapproved a written assurance or Conciliation Agreement, under §37.95(b)(4); or

(3) Has received notice from the Governor, under §37.95(b)(2), that the grant applicant or recipient will not comply voluntarily.

§37.99 If the Director concludes that compliance cannot be secured by voluntary means, what actions must he or she take?
If the Director concludes that compliance cannot be secured by voluntary means, he or she must either:

(a) Issue a Final Determination;
(b) Refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

c) Take such other action as may be provided by law.

§37.100 What information must a Final Determination contain?

A Final Determination must contain the following information:

(a) A statement of the efforts made to achieve voluntary compliance, and a statement that those efforts have been unsuccessful;

(b) A statement of those matters upon which the grant applicant or recipient and CRC continue to disagree;

(c) A list of any modifications to the findings of fact or conclusions that were set forth in the Initial Determination, Notice to Show Cause or Letter of Findings;

(d) A statement of the grant applicant's or recipient's liability, and, if appropriate, the extent of that liability;

(e) A description of the corrective or remedial actions that the grant applicant or recipient must take to come into compliance;

(f) A notice that if the grant applicant or recipient fails to come into compliance within 10 days of the date on which it receives the Final Determination, one or more of the following consequences may result:

1. After the grant applicant or recipient is given the opportunity for a hearing, its WIA Title I funds may be terminated, discontinued, or withheld in whole or in part, or its application for such funds may be denied, as appropriate;

2. The Secretary of Labor may refer the case to the Department of Justice with a request to file suit against the grant applicant or recipient; or

3. the Secretary may take any other action against the grant applicant or recipient that is provided by law;

(g) A notice of the grant applicant's or recipient's right to request a hearing under the procedures described in §§37.112 through 37.115; and

(h) A determination of the Governor's liability, if any, under §37.52.

§37.101 Whom must the Director notify of a finding of noncompliance?

Where a compliance review or complaint investigation results in a finding of noncompliance, the Director must notify:

(a) The grant applicant or recipient;

(b) The grantmaking agency; and

(c) The Assistant Attorney General.
BREACHES OF CONCILIATION AGREEMENTS

§37.102 What happens if a grant applicant or recipient breaches a Conciliation Agreement?

When it becomes known to the Director that a Conciliation Agreement has been breached, the Director may issue a Notification of Breach of Conciliation Agreement.

§37.103 Whom must the Director notify about a breach of a Conciliation Agreement?

The Director must send a Notification of Breach of Conciliation Agreement to the Governor, the grantmaking agency, and/or other party(ies) to the Conciliation Agreement, as applicable.

§37.104 What information must a Notification of Breach of Conciliation Agreement contain?

A Notification of Breach of Conciliation Agreement must:

(a) Specify any efforts made to achieve voluntary compliance, and indicate that those efforts have been unsuccessful;

(b) Identify the specific provisions of the Conciliation Agreement violated;

(c) Determine liability for the violation and the extent of the liability;

(d) Indicate that failure of the violating party to come into compliance within 10 days of the receipt of the Notification of Breach of Conciliation Agreement may result, after opportunity for a hearing, in the termination or denial of the grant, or discontinuation of assistance, as appropriate, or in referral to the Department of Justice with a request from the Department to file suit;

(e) Advise the violating party of the right to request a hearing, and reference the applicable procedures in Section 37.111; and

(f) Include a determination as to the Governor’s liability, if any, in accordance with the provisions of §37.52.

§37.105 Whom must the Director notify if enforcement action under a Notification of Breach of Conciliation Agreement is commenced?

In such circumstances, the Director must notify:

(a) The grantmaking agency; and

(b) The Governor, recipient or grant applicant, as applicable.
Subpart E—Federal Procedures For Effecting Compliance

§37.110 What enforcement procedures does the Department follow to effect compliance with the nondiscrimination and equal opportunity provisions of WIA and this part?

(a) Sanctions; judicial enforcement. If compliance has not been achieved after issuance of a Final Determination under §§37.99 and 37.100, or a Notification of Breach of Conciliation Agreement under §§37.102 through 37.105, the Secretary may:

(1) After opportunity for a hearing, suspend, terminate, deny or discontinue the WIA Title I financial assistance, in whole or in part;

(2) Refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

(3) Take such action as may be provided by law.

(b) Deferral of new grants. When proceedings under §37.111 have been initiated against a particular recipient, the Department may defer action on that recipient’s applications for new WIA Title I financial assistance until a Final Decision under §37.112 has been rendered. Deferral is not appropriate when WIA Title I financial assistance is due and payable under a previously approved application.

(1) New WIA Title I financial assistance includes all assistance for which an application or approval, including renewal or continuation of existing activities, or authorization of new activities, is required during the deferral period.

(2) New WIA Title I financial assistance does not include assistance approved before the beginning of proceedings under §37.111, or increases in funding as a result of changed computations of formula awards.

§37.111 What hearing procedures does the Department follow?

(a) Notice of opportunity for hearing. As part of a Final Determination, or a Notification of Breach of a Conciliation Agreement, the Director must include, and serve on the grant applicant or recipient (by certified mail, return receipt requested), a notice of opportunity for hearing.

(b) Complaint; request for hearing; answer. (1) In the case of noncompliance that cannot be voluntarily resolved, the Final Determination or Notification of Breach of Conciliation Agreement is considered the Department’s formal complaint.

(2) To request a hearing, the grant applicant or recipient must file a written answer to the Final Determination or Notification of Breach of Conciliation Agreement, and a copy of the Final Determination or Notification of Breach of Conciliation Agreement, with the Office of the Administrative Law Judges, 800 K Street N.W., Suite 400, Washington, DC 20001.

(i) The answer must be filed within 30 days of the date of receipt of the Final Determination or Notification of Breach of Conciliation Agreement.

(ii) A request for hearing must be set forth in a separate paragraph of the answer.
(iii) The answer must specifically admit or deny each finding of fact in the Final Determination or Notification of Breach of Conciliation Agreement. Where the grant applicant or recipient does not have knowledge or information sufficient to form a belief, the answer may so state and the statement will have the effect of a denial. Findings of fact not denied are considered admitted. The answer must separately state and identify matters alleged as affirmative defenses, and must also set forth the matters of fact and law relied on by the grant applicant or recipient.

(3) The grant applicant or recipient must simultaneously serve a copy of its filing on the Office of the Solicitor, Civil Rights Division, Room N-2464, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington DC 20210.

(4) (i) The failure of a grant applicant or recipient to request a hearing under this paragraph, or to appear at a hearing for which a date has been set, waives the right to a hearing; and

(ii) Whenever a hearing is waived, all allegations of fact contained in the Final Determination or Notification of Breach of Conciliation Agreement are considered admitted, and the Final Determination or Notification of Breach of Conciliation Agreement becomes the Final Decision of the Secretary as of the day following the last date by which the grant applicant or recipient was required to request a hearing or was to appear at a hearing. See §37.112(b)(3).

(c) Time and place of hearing. Hearings will be held at a time and place ordered by the Administrative Law Judge upon reasonable notice to all parties and, as appropriate, the complainant. In selecting a place for the hearing, due regard must be given to the convenience of the parties, their counsel, and witnesses, if any.


(2) Evidence. In any hearing or administrative review conducted under this part, evidentiary matters will be governed by the standards and principles set forth in the Uniform Rules of Evidence issued by the Department of Labor's Office of Administrative Law Judges, 29 CFR part 18.

§37.112 What procedures for initial and final decisions does the Department follow?

(a) Initial Decision. After the hearing, the Administrative Law Judge must issue an initial decision and order, containing findings of fact and conclusions of law. The initial decision and order must be served on all parties by certified mail, return receipt requested.

(b) Exceptions; Final Decision. (1) Final decision after a hearing. The initial decision and order becomes the Final Decision and Order of the Secretary unless exceptions are filed by a party or, in the absence of exceptions, the Secretary serves notice that he or she will review the decision.

(i) A party dissatisfied with the initial decision and order may, within 45 days of receipt, file with the Secretary and serve on the other parties to the proceedings and on the Administrative Law Judge, exceptions to the initial decision and order or any part thereof.

(ii) Upon receipt of exceptions, the Administrative Law Judge must index and forward the record and the initial decision and order to the Secretary within three days of such receipt.
(iii) A party filing exceptions must specifically identify the finding or conclusion to which exception is taken. Any exception not specifically urged is waived.

(iv) Within 45 days of the date of filing such exceptions, a reply, which must be limited to the scope of the exceptions, may be filed and served by any other party to the proceeding.

(v) Requests for extensions for the filing of exceptions or replies must be received by the Secretary no later than 3 days before the exceptions or replies are due.

(vi) If no exceptions are filed, the Secretary may, within 30 days of the expiration of the time for filing exceptions, on his or her own motion serve notice on the parties that the Secretary will review the decision.

(vii) Final Decision and Order.

(A) Where exceptions have been filed, the initial decision and order of the Administrative Law Judge becomes the Final Decision and Order of the Secretary unless the Secretary, within 30 days of the expiration of the time for filing exceptions and replies, has notified the parties that the case is accepted for review.

(B) Where exceptions have not been filed, the initial decision and order of the Administrative Law Judge becomes the Final Decision and Order of the Secretary unless the Secretary has served notice on the parties that he or she will review the decision, as provided in paragraph (b)(1)(vi) of this section.

(viii) Any case reviewed by the Secretary under this paragraph must be decided within 180 days of the notification of such review. If the Secretary fails to issue a Final Decision and Order within the 180-day period, the initial decision and order of the Administrative Law Judge becomes the Final Decision and Order of the Secretary.

(2) Final Decision where a hearing is waived.

(i) If, after issuance of a Final Determination under §37.100 or Notification of Breach of Conciliation Agreement under §37.104, voluntary compliance has not been achieved within the time set by this part and the opportunity for a hearing has been waived as provided for in §37.111(b)(4), the Final Determination or Notification of Breach of Conciliation Agreement becomes the Final Decision of the Secretary.

(ii) When a Final Determination or Notification of Breach of Conciliation Agreement becomes the Final Decision of the Secretary, the Secretary may, within 45 days, issue an order terminating or denying the grant or continuation of assistance or imposing other appropriate sanctions for the grant applicant or recipient’s failure to comply with the required corrective and/or remedial actions, or referring the matter to the Attorney General for further enforcement action.

(3) Final agency action. A Final Decision and Order issued under §37.112(b) constitutes final agency action.

§37.113 What procedure does the Department follow to suspend, terminate, withhold, deny or discontinue WIA Title I financial assistance?

Any action to suspend, terminate, deny or discontinue WIA Title I financial assistance must be limited to the particular political entity, or part thereof, or other recipient (or grant applicant) as to which the finding has been made, and must
be limited in its effect to the particular program, or part thereof, in which the noncompliance has been found. No order suspending, terminating, denying or discontinuing WIA Title I financial assistance will become effective until:

(a) The Director has issued a Final Determination under §37.100 or Notification of Breach of Conciliation Agreement under §37.104;

(b) There has been an express finding on the record, after opportunity for a hearing, of failure by the grant applicant or recipient to comply with a requirement imposed by or under the nondiscrimination and equal opportunity provisions of WIA or this part;

(c) A Final Decision has been issued by the Secretary, the Administrative Law Judge’s decision and order has become the Final Decision of the Secretary, or the Final Determination or Notification of Conciliation Agreement has been deemed the Final Decision of the Secretary, under §37.112(b); and

(d) The expiration of 30 days after the Secretary has filed, with the committees of Congress having legislative jurisdiction over the program involved, a full written report of the circumstances and grounds for such action.

§37.114 What procedure does the Department follow to distribute WIA Title I financial assistance to an alternate recipient?

When the Department withholds funds from a recipient or grant applicant under these regulations, the Secretary may disburse the withheld funds directly to an alternate recipient. In such case, the Secretary will require any alternate recipient to demonstrate:

(a) The ability to comply with these regulations; and

(b) The ability to achieve the goals of the nondiscrimination and equal opportunity provisions of WIA.

§37.115 What procedures does the Department follow for post-termination proceedings?

(a) A grant applicant or recipient adversely affected by a Final Decision and Order issued under §37.112(b) will be restored, where appropriate, to full eligibility to receive WIA Title I financial assistance if the grant applicant or recipient satisfies the terms and conditions of the Final Decision and Order and brings itself into compliance with the nondiscrimination and equal opportunity provisions of WIA and this part.

(b) A grant applicant or recipient adversely affected by a Final Decision and Order issued under §37.112(b) may at any time petition the Director to restore its eligibility to receive WIA Title I financial assistance. A copy of the petition must be served on the parties to the original proceeding that led to the Final Decision and Order. The petition must be supported by information showing the actions taken by the grant applicant or recipient to bring itself into compliance. The grant applicant or recipient has the burden of demonstrating that it has satisfied the requirements of paragraph (a) of this section. While proceedings under this section are pending, sanctions imposed by the Final Decision and Order under §37.112(b) (1) and (2) must remain in effect.

(c) The Director must issue a written decision on the petition for restoration.

(1) If the Director determines that the grant applicant or recipient has not brought itself into compliance, he or she must issue a decision denying the petition.
(2) Within 30 days of its receipt of the Director’s decision, the recipient or grant applicant may file a petition for review of the decision by the Secretary, setting forth the grounds for its objection to the Director’s decision.

(3) The petition must be served on the Director and on the Office of the Solicitor, Civil Rights Division.

(4) The Director may file a response to the petition within 14 days.

(5) The Secretary must issue the final agency decision denying or granting the recipient’s or grant applicant’s request for restoration to eligibility.
Integration with Career Centers
INTEGRATION WITH THE CAREER CENTER
SERVING THOSE WITH DISABILITIES

Integrated Services

The regulations implementing Section 188 of the Workforce Investment Act (WIA), specifically 29 CFR 37.7 (a)(4) prohibit the provision of different, segregated, or separate aid, benefits, services 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 aid, benefits, services or training that are as effective as those provided to others. In addition, 29CFR 37(d) requires that WIA Title I - financially assisted programs and activities be administered in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

Procedures for Services for Individuals with Disabilities

When a job seeker has been identified as having a disability by the Career Center, the following steps should occur:

Resource Room

- If the individual is looking for employment or help with a resume, s/he will be directed to the appropriate resource room / service area.
- If assistance is needed in the resource area, the resource room attendant is available for assistance.
- If additional assistance is needed, the Career Center Disability Services Coordinator should be contacted.

Adaptive Equipment

- Each Career Center has been equipped with the following adaptive equipment: JAWS (Job Access with Speech) for Windows, Kursweil 1,000 (scans and reads text), Duxbury Braille Translation, Wynn Word Prediction, Dragon Naturally Speaking (voice recognition), Pocket Talker (portable listening device), Patriot Eagle Video Magnifier, Zoom Text (magnification), large trackball mouse, Big Keys Keyboard, Braille Blazer Embosser, 4 Track Tape Recorder, adjustable workstation, and TDD/TTY services.
- People with disabilities may already be familiar with this equipment and just need to be directed to the location of the adaptive equipment.
- If the person does need assistance with the equipment, the Career Center Disability Services Coordinator may be called.

Education / Training

- If the individual is interested in educational or training programs, the receptionist should contact the appropriate WIA or Welfare Transition (WT) intake person.
- If the WIA or WT intake person needs assistance with the individual with the disability, the Career Center Disability Services Coordinator should be contacted.
- The WIA or WT intake person would provide services as applicable, with assistance from the Career Center Disability Services Coordinator as needed.
Individualized Assessment

- Job seekers with disabilities are to be served like all other job seekers.
- If additional assistance is needed, the Career Center Disability Services Coordinator may be contacted.
- The Career Center Disability Services Coordinator will do an individualized assessment (Questionnaire/Decision Tree for One-Stop System) and determine if the specialized services criteria is met and a referral for specialized services is warranted.
- The job seeker will then have the option to choose which services are most desirable.
- The Career Center Disability Services Coordinator will make appropriate referrals and follow up.
- If reasonable accommodations for interpretative services is required, the Career Center Disability Services Coordinator will then follow the Interpretative Service Request Procedures.

Criteria for Specialized Services to Individuals with Disabilities

Specialized services for customers with disabilities (including referring customers with disabilities to "special" service providers) are not permitted unless the service provider can prove that all of the following conditions are satisfied:

- A specific determination has been made that providing specialized services is genuinely necessary in order to provide customers with disabilities with programs or activities that are as effective as those provided to customers without disabilities.
- The specialized programs or activities provided to customers with disabilities are in fact as effective as those provided to others.
- An individualized assessment has been performed by the Career Center Disability Services Coordinator for the particular customer with a disability who is being referred to the specialized program or activity.
- As a result of this individualized assessment, a determination has been made that this particular customer will benefit from the specialized program or activity.
- The assessed customer with a disability has been informed that s/he has the option of participating in either the specialized program or activity, or the program or activity provided to customers without disabilities. The ultimate decision is left up to the customer.
Facts about the Americans with Disabilities Act

The information given in this section was obtained from the following websites:

- [www.eeoc.gov/facts/fs-ada.html](http://www.eeoc.gov/facts/fs-ada.html)
- [www.nilp.org/americans_with_disability_act.htm](http://www.nilp.org/americans_with_disability_act.htm)
- [www.disability-access.org/ada/php](http://www.disability-access.org/ada/php)
FACTS ABOUT THE AMERICANS WITH DISABILITIES ACT (ADA)

- Title I of the ADA of 1990 prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions and privileges of employment.
- An individual with a disability is a person who:
  1) has a physical or mental impairment that substantially limits one or more of the major life activities;
  2) has a record of such an impairment; or
  3) is regarded as having such an impairment.
- A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question.
- Reasonable accommodation may include, but is not limited to:
  1) making existing facilities used by employees readily accessible to and usable by persons with disabilities;
  2) job restructuring, modifying work schedules, reassignment to a vacant position; and
  3) acquiring or modifying equipment or devices, adjusting modifying examinations, training materials, or policies, and providing qualified readers or interpreters.
- An employer is required to make an accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business.
- Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources and the nature and structure of its operation.
- An employer is not required to lower quality or production standards to make an accommodation, nor is an employer obligated to provide personal use items such as glasses or hearing aids.
- Employers may not ask job applicants about the existence, nature or severity of a disability.
- Applicants may be asked about their ability to perform specific job functions.
- A job offer may be conditioned on the results of a medical examination, but only if the same examination is required for all similarly situated job applicants.
- Medical examinations of employees must be job related and consistent with the employer's business needs.
- Employees and applicants currently engaging in the illegal use of drugs are not covered by the ADA, when an employer acts on the basis of such use.
- Tests for illegal drugs are not subject to the ADA’s restrictions on medical examinations.
- Employers may hold illegal drug users and alcoholics to the same performance standards as other employees.
- The U.S. Equal Employment Opportunity Commission issued regulations to enforce the provisions of Title I of the ADA on July 26, 1991.
- The provisions originally took effect on July 26, 1992, and covered employers with 25 or more employees.
- On July 26, 1994, the threshold dropped to include employers with 15 or more employees.

(Information above was obtained from http://www.eeoc.gov/facts/fs-ada.html.)

- ADA calls for organizations and businesses that serve the public to make their facilities, goods, and services accessible to all people.
- ADA aims to eliminate discrimination against people with disabilities by ensuring equal opportunity in employment, state and local government services and programs, places of public accommodations, public and private transportation, and telecommunications.
- ADA is the nation's first comprehensive civil right law for people with disabilities.

(Information in these three bullets was obtained from http://www.nilp.org/americans_with_disability_act.htm)
Who is covered by the ADA?
- Employers with 15 or more employees
- State and local governments
- Public and private schools
- Hospitals and dental offices
- Restaurants
- Hotels and motels
- Grocery and retail stores
- Shopping malls
- Libraries and museums
- Banks
- Theaters
- Amusement and recreation parks

The ADA prohibits discrimination in all employment practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment.

It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits, and all other employment-related activities.

Employment discrimination is prohibited against "qualified individuals with disabilities."

Persons discriminated against because they have a known association or relationship with an individual with a disability are also protected.

ADA applies to persons who have substantial, as distinct from minor, impairments, and that these must be impairments that limit major life activities such as seeing, hearing, speaking, walking, breathing, performing manual tasks, learning and caring for oneself.

An individual with epilepsy, paralysis, a substantial hearing or visual impairment, mental retardation, or a learning disability would be covered, but an individual with a minor, nonchronic condition of short duration, such as a sprain, infection, or broken limb, generally would not be covered.

A qualified individual with a disability is a person who meets legitimate skill, experience, education, or other requirements of an employment position that s/he holds or seeks, and who can perform the "essential functions" of the position with or without reasonable accommodation.

Requiring the ability to perform "essential" functions assures that an individual will not be considered unqualified simply because of inability to perform marginal or incidental job functions except for limitations caused by a disability.

The employer must consider whether the individual could perform these functions with a reasonable accommodation.

Reasonable accommodation is any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to perform essential job functions.

Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has the same rights and privileges in employment as non-disabled employees.
Orientation

ORIENTATION

- Orientation will help people with disabilities connect to the Career Center.
- Assist with looking for work.
- Discuss individual needs and the Career Center system.
- Provide information about Vocational Rehabilitation.
- Discuss WIA opportunities and issues.
- Consider accessibility and transportation options.
- Provide access to all job seekers and employers who want information.
DISABILITY ORIENTATION

PURPOSE OF ORIENTATION

- To help connect you to the Career Centers
- To inform you of the services available
- To help you look for work

ORIENTATION TOPICS

- The Career Center system and your needs
- Vocational Rehabilitation
- WIA Opportunities and Requirements
- Accessibility
- Job Placement and Planning
- SSI or SSDI and Employment
- Transportation Options

CAREER CENTERS

- Provide access to all job seekers and employers who want information
- Services include: employment counseling, referrals to jobs and services, education options, job training, and job placement
- Career Centers operate nationwide
- Provides services to employers

VOCATIONAL REHABILITATION

- Required partner within the Career Center system
- Serves people with disabilities that prevent or limit employment options
- Career Centers can serve VR customers and those not eligible for VR
- VR customers can also benefit from other Career Centers services

WIA: OPPORTUNITIES AND REQUIREMENTS

- WIA: Workforce Investment Act
- Establishes a system for all job seekers
- May provide job planning, job referrals, support, and/or training
- Those interested in training must attend a WIA Orientation for more information
- WIA Orientations are held at every Career Center
ACCESSIBILITY AT THE CAREER CENTERS

- Career Center staff are trained to assist individuals with disabilities
- There is a Disability Coordinator in every Center
- Staff are committed to providing all services and information to everyone

SERVICES AND SOFTWARE AVAILABLE

- TTY machines
- Requesting interpreters
- JAWS - Job Access with Speech
- Zoom Test - magnification and reads text
- Kurzweil 1,000 - for the blind or vision impaired, scans and reads text
- Pocket Talker - portable listening device for the hard of hearing
- Big Keys - large keyboard
- Patriot Eagle - magnifier
- Braille Blazer Embosser with Duxbury software
- Dragon Naturally Speaking - voice recognition software
- WYNN Word Prediction
- 4 Track Tape Recorder
- Trackball Mouse
- Adjustable Work Station - height and angle

JOB PLACEMENT FOR PEOPLE WITH DISABILITIES

- Assisting the public to find jobs is our job
- For individuals with disabilities, additional support is available
- Trained Career Center staff
  - Disability disclosure
  - Adaptive devices for employers

STEPS FOR SUCCESSFUL PLACEMENT PLANNING

- Do you have an idea of what type of job you want to do?
- Who can you get to help?
- Job development is most effective when lots of ideas, perspectives, and business contacts are involved. Think of friends, family and organizations.
- Make an Action Plan to clarify tasks and responsibilities.
SOCIAL SECURITY DISABILITY BENEFITS

- The impact of employment
- Ticket to Work
- Social Security Resources
  - Social Security online: www.ssa.gov
  - Employment Support Program: www.ssa.gov/work
  - The Office of Disability Home Page: www.ssa.gov/disability

TRANSPORTATION

- One of the most significant barriers to employment
- Miami-Dade Transit website: www.co.miami-dade.fl.us/transit
- Metrobus
- Metrorail
- Metromover
- Special Transportation Services: Voice: 305-263-5406; TTY/TDD: 305-263-5459

LET US KNOW IF YOU NEED:

- A Disability Coordinator’s specialized services
- This information in another format
- Job referrals today because you are ready to go to work
- Information about Ticket to Work
- Any other resource

GOOD LUCK WITH YOUR JOB SEARCH!
Myths and Facts
RECRUITING AND EMPLOYING PEOPLE WITH DISABILITIES
MYTHS AND FACTS

MYTH: People with disabilities are unable to meet performance standards, thus making them a bad employment risk.

FACT: A DuPont study, which involved 2,745 employees with disabilities, found that 92% of employees with disabilities rated average or better in job performance compared to 90% of employees without disabilities.

MYTH: People with disabilities have problems getting to work.

FACT: People with disabilities are capable of supplying their own transportation by choosing to walk, use a car pool, drive, take a cab or public transportation. Their modes of transportation to work are just as varied as those of other employees.

MYTH: Hiring employees with disabilities increases Worker’s Compensation insurance rates.

FACT: Insurance rates are based solely on the relative hazards of the operation and the organization’s accident experience, not on whether workers have disabilities.

MYTH: Employees with disabilities are more likely to have accidents on the job than employees without disabilities.

FACT: In the 1990 DuPont study, the safety records of both groups were identical.

MYTH: Employees with disabilities have a higher absentee rate than employees without disabilities.

FACT: The DuPont study showed that employees with disabilities are not absent any more than employees without disabilities.

MYTH: People with disabilities are a small segment of the U.S. population.

FACT: People with disabilities are the largest single minority in the country.

MYTH: Disability is an unusual, pathological condition.

FACT: Disability is a normal part of life, experienced by almost everyone, especially when they become older.

MYTH: Disabilities affect other people’s families.

FACT: Nearly 3 out of 10 (29.2%) of American families include at least one member with a disability.

MYTH: The Americans with Disabilities Act has solved the problem of public facility accessibility for people with disabilities.

FACT: People with disabilities continue to face significant obstacles to accessibility, including architectural, physical, communication and attitudinal barriers.

MYTH: Removing physical and social barriers benefits only a few people.

FACT: Society loses whenever any individual is prevented from leaving home, traveling to work or from carrying out everyday activities. People with disabilities - 15% of all Americans - have the same fundamental rights to independence and full participation in society as everyone else.
MYTH: Disabilities begin at birth.

FACT: Most people with disabilities have not been disabled for much of their lives. Only 1/5 (21%) of people with disabilities acquire their disability before age 20 while roughly half (53%) have onset after age 40.

MYTH: People who are mentally challenged cannot be trained to perform a job as well as an employee without a disability.

FACT: Over two-thirds of the 4,000 participants in Pizza Hut, Inc.’s "Jobs Plus Program" are people who are mentally challenged. The current turnover rate among these employees with disabilities is 20% compared to the 150% turnover rate of employees without disabilities. This means a drop in recruitment and training costs.

MYTH: People with disabilities need to be protected from failing.

FACT: People with disabilities have a right to participate in the full range of human experiences including success and failure. Employers should have the same expectations and work requirements for all employees.

MYTH: Considerable expense is necessary to accommodate workers with disabilities.

FACT: Most workers with disabilities require little or no special accommodations. For those who do, the cost is much lower than many employers believe. The Job Accommodation Network studies show: 15% of accommodations cost nothing; 51% cost between $1.00 and $500.00; 12% cost between $501.00 and $1,000.00; 22% cost more than $1,000.00.

MYTH: People with developmental disabilities and have difficulty with fine motor control are unlikely to be able to handle complex operations on a production line in a manufacturing plant.

FACT: A person with this combination of functional limitations was hired for a production line job. The job involved labeling, filling, capping and packing a liquid product. The only accommodation needed was the creation of a plywood jig to hold the bottle steady for correct labeling.

MYTH: A person who is blind and has a missing right hand cannot perform a job as a machinist.

FACT: The applicant lost his vision and right hand in Vietnam. He persuaded a community college to train him as a machinist and was finally given a job on a trial basis. From the fist day, he broke production records and caused others to do the same. His only modification was to move a lever from the right side of the machine to the left.

MYTH: A man whose right leg was amputated six inches above the knee cannot perform the duties of a warehouseman that required loading and unloading trucks, standing, lifting, bending and delivering supplies.

FACT: A person with this type of amputation was hired to work in a paper warehouse. He worked out so well that the company moved him to operating heavy equipment as a log stacker. The company did not have to make any accommodations for either of these jobs.

MYTH: A person with a psychiatric disability cannot work in a stressful environment where tight timelines have to be met.

FACT: All people perceive stress differently and their responses vary. Some individual with psychiatric disabilities perform effectively in jobs that require specific timelines and structure.
MYTH: People who are deaf make ideal employees in noisy work environments.

FACT: Loud noises of a certain frequency and vibration can cause further harm to the auditory system. People who are deaf should be hired for all jobs they have the skills and talents to perform.

No person with a disability should be prejudged regarding employment opportunities.
Disability Etiquette and Serving Individuals with Disabilities
DISABILITY ETIQUETTE

WORDS WITH DIGNITY

- By using words with dignity, we encourage equality for everyone.
- Avoid words like: crazy, insane, mental patient, wacko, retard, lazy, stupid, abnormal, deformed, crippled, stricken with, suffers from, spastic.
- Use epilepsy, not fits.

DISABILITY ETIQUETTE

- Do not feel obligated to act as a caregiver to people with disabilities. Offer assistance, but wait until your offer is accepted before you help.
- Do not tell the person that you admire their courage or that they are an inspiration.
- Do not express sympathy.
- Leaning on someone’s wheelchair is similar to leaning or hanging on a person. A wheelchair is part of the person’s personal body space.
- When speaking to a person who uses a wheelchair, place yourself at eye level with that person. This will spare both of you a sore neck.
- Share the same courtesies with people with disabilities that you would share with anyone else.
- If you shake hands with people you meet, offer your hand to everyone you meet.
- If a person is unable to shake your hand, he/she will tell you.
- When addressing a customer who has a disability, look directly at him/her.
- Tension is increased if we avert eye contact.
- Do not be embarrassed by using terms such as “I gotta run” or “See you later”.
- Do not avoid common questions because you assume the person is sensitive.
- When speaking about parts of a building or parking, replace “handicapped” with “accessible” (Example: accessible parking, accessible bathroom).
- When speaking about people, use “has a disability” instead of “handicapped”.
- Be considerate of the extra time it might take for a person with a disability to get things said or done.
- Most people with disabilities look at it as just another aspect of themselves - no more or less relevant than have red hair or wearing glasses.

DISABILITY ETIQUETTE FOR VISION LOSS

- When offering assistance to a person with a visual impairment, allow that person to take your arm. This will enable you to guide, rather than lead the person.
- Use specific directions such as “left 100 feet” or “right 2 yards”.
- Never pet a service animal unless the person offers for you to.
- When greeting a person, always identify yourself and others.
DEAFNESS DISABILITY ETIQUETTE

- To get the attention of a person who has a hearing loss, tap him/her on the shoulder or wave.
- Look directly at the person and speak clearly, slowly and expressively so see if he/she is reading your lips.
- Not all people with hearing loss can read lips. Those who do read lips, also rely on facial expressions and body language for understanding.
- Stay in the light and speak as natural as possible. Shouting will not help.
- Use written notes or an Interpreter.
- Never direct questions to the Interpreter, speak to the deaf person directly.

If we look beyond the disability, we will see an individual whose life, in all its variety, is more similar to ours than it is different.

SERVING INDIVIDUALS WITH DISABILITIES

Individuals with disabilities should be included in the decision-making process for issues that affect them directly.

ASK BEFORE YOU HELP

- Just because someone has a disability, don’t assume s/he needs help.
- If the setting is accessible, individuals with disabilities can get around fine.
- People with disabilities generally like to be treated as independent people.
- Offer assistance if a person appears to need it or requests it.
- Always ask how you might assist before you act.

BE SENSITIVE ABOUT PHYSICAL CONTACT

- Some individuals with disabilities depend on their arms for balance.
- Do not grab their arms, as this could knock them off balance.
- Have them take your arm.
- Avoid patting a person on the head or touching their wheelchair, scooter or cane.
- Individuals with disabilities consider their equipment their personal space.

THINK BEFORE YOU SPEAK

- Always speak directly to an individual with a disability.
- Speak as you would to anyone else.
- Even making small talk could put the individual at ease.
RESPOND GRACIOUSLY TO REQUESTS

- Inform individuals with disabilities the types of assistive technology that is available at the Career Centers.

DO NOT MAKE ASSUMPTIONS

- Do not make decisions for individuals with disabilities about participating in any activity offered at the facility.
- People with disabilities are generally the best judge of what they can or cannot do.

SERVING PEOPLE WHO USE WHEELCHAIRS

- Wheelchair users are people, not equipment
- Do not lean over a person’s wheelchair to shake another person’s hand.
- Do not ask wheelchair users to hold a coat, jacket, etc.
- Do not use the desktop that can be attached to a person’s wheelchair as a table to put something on (like a drink).

WHEELCHAIR ETIQUETTE

- Do not push or touch a person’s wheelchair unless you have his/her permission because it is part of his/her personal space.
- Keep wheelchair accessible doors unlocked and unblocked.
- Keep ramps and the entire path of travel accessible.
- Place all community used materials and equipment within a wheelchair user’s reach.
- When talking to a wheelchair user, pull up your own chair and sit down.
- If this is not possible, then stand at a slight distance so the wheelchair user is not straining his/her neck to make eye contact with you.

SERVING PEOPLE WHO ARE BLIND OR VISUALLY IMPAIRED

- Identify yourself.
- Tell him/her your name and your role.
- Introduce him/her to other employees in the group for orientation purposes.
- Offer a physical orientation tour of where things are in the facility.
- If the customer has a dog, walk on the side opposite the dog as you are walking.
- When giving directions, give specific, non-visual information such as 5 steps ahead is a 6-inch high curb.
- Do not walk away from a blind or visually impaired person.
- Always let the person know you are leaving.
SERVING PEOPLE WHO ARE DEAF OR HEARING IMPAIRED

There are several types of communication that can be used:

- American Sign Language (ASL)
- Written communication
- Lip reading or speech reading

Only 30% to 35% of English sounds are able to be lip read so do not rely solely on lip reading as a method of communicating with people with hearing impairments.

- Determine the type of communication by following the person’s cues.
- Before speaking to a person who is deaf or hearing impaired, be sure to get his/her attention such as a tap on the shoulder or a wave of your hand, etc.
- When using a sign language interpreter, face and talk directly to the deaf or hearing impaired person and maintain eye contact.
- Speak clearly and do not shout.
- If a comment needs to be repeated, rephrase the comment instead of saying the exact same words again.

USING THE TTY

- The TTY is a Teletype machine that individuals who are deaf or hearing impaired use to communicate.
- Trained reception staff use the TTY machine to facilitate incoming calls to a facility.
- A quick reference guide should be provided for non-reception staff to use regarding the use of the TTY machine.

SERVING PEOPLE WITH SPEECH DISABILITIES

- Give your full attention to a person who has a speech impairment.
- Do not finish or interrupt a person's sentences.
- If you have trouble understanding a person, do not nod but ask the person to repeat the information.
- As a person with a speech disability to write what they are trying to say if you have trouble understanding the speech.
- A quiet environment makes communication easier and more comfortable.
- Do not tease or laugh at a person with a speech disability.

SERVING PEOPLE OF SHORT STATURE

- There are 200 diagnosed types of growth-related disabilities.
- Have necessary items within a person's reach to the maximum extent possible.
- Do not pat a person of short stature on the head.
- Sit in a chair, squat down or stand back a little distance when communicating to a person of short stature so that he/she does not have to strain his/her neck.

SERVING PEOPLE WITH CEREBRAL PALSY

- A person with Cerebral Palsy or a similar disability may appear to be drunk, sick, or have a medical emergency.
- Get the facts before acting on your first impression, whether the situation is business, social, or law enforcement.
- Apply the same techniques for serving individuals with speech disabilities and mobility impairments.
SERVING PEOPLE WITH TOURETTE’S SYNDROME

- A person with Tourette’s Syndrome may make vocalizations or gestures such as tics that he/she cannot complete.
- If the person makes vocalizations during a conversation, wait for him/her to finish then calmly continue.

SERVING INDIVIDUALS WITH EPILEPSY (SEIZURE DISORDERS)

- If a person has a seizure, nothing can be done to stop it.
- Wait for the seizure to end and call emergency if the person appears to have sustained any injuries.
- An individual who experiences a seizure in public would prefer a private place to collect him/herself afterwards.

SERVING INDIVIDUALS WITH COGNITIVE DISABILITIES

- Speak to the person in clear sentences using simple words and concrete concepts.
- Do not use baby talk or talk down to the person.
- Remember that the person is an adult and can make his/her own decisions.
- Be aware that individuals with mental deficiencies like to please.
- Phrase questions to elicit accurate information.
- Verify responses by repeating each question in a different way.
- Be patient.
- Allow time for the individual to respond.

SERVING INDIVIDUALS WITH LEARNING DISABILITIES

- Be aware that some individuals can process information better in written form and others can process better through auditory forms.

SERVING INDIVIDUALS WITH TRAUMATIC OR ACQUIRED BRAIN INJURY

- A person with a brain injury may have a loss of muscle control or mobility, which is not obvious.
- A person with ATBI may not be able to sign his/her name, even though his/her hands may appear to be very functional.
- He/She may have poor social skills.
- He/She may be unable to follow directions due to short term memory.
- If you determine that the ATBI person does not understand, ASK if you can write the information for him/her.
LANGUAGE TO AVOID

- Handicapped
- Crippled
- Physically challenged
- Confined to a wheelchair
- Wheelchair-bound
- Victim
- Sufferer

ACCEPTABLE LANGUAGE

- People/persons with disabilities
- Wheelchair user
- Usage of idiomatic expressions are okay for related disabilities such as "see you later" or "it was good to see you" to a person who is blind.

THINK OF PEOPLE WITH A DISABILITY AS INDIVIDUALS FIRST.
Disability
Employment 101
DISABILITY EMPLOYMENT 101

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THE SECRETARY OF EDUCATION
WASHINGTON, D.C. 20202

October 2003

Dear Colleague:

At the U.S. Department of Education, we know how important it is to ensure that all students receive an education that meets their unique needs and prepares them for employment and independent living. An educated workforce is a qualified workforce, and in our country qualified workers can find meaningful, rewarding jobs.

One in five Americans has a disability, and the unemployment rate for people with disabilities is the highest for any group of Americans. We know that people with disabilities, particularly those with the most significant disabilities, represent an often-untapped group of educated, highly skilled, talented and qualified workers.

While we are excited about the gains that we expect America’s students to make in educational progress as a result of the No Child Left Behind Act, we also recognize that the Department of Education has a critical role to play in helping to break down employment barriers for people with disabilities.

At the Department of Education, the Office of Special Education and Rehabilitative Services administers several programs that support the goal of finding competitive, meaningful, integrated employment for people with disabilities. We are proud of and wish to highlight our employment resources and our partnerships with private employers, state governments, community-based organizations and others who are working toward this important employment goal. We know that we cannot achieve greater employment for people with disabilities without the continued and increased support of the private sector, including large corporations and small businesses.

To this end, I am pleased to share this employment planning guide, Disability Employment 101. This guide is the product of a joint effort between the U.S. Department of Education’s Office of Special Education and Rehabilitative Services and the U.S. Chamber of Commerce’s Center for Workforce Preparation. The guide’s purpose is to acquaint business and industry with the programs and resources we have to help you diversify your workforce by hiring people with disabilities. As part of our collective commitment, we will be hosting a series of nationwide forums to provide you with unique opportunities to partner with schools, vocational rehabilitation agencies, and the research community to share successful practices and recruit from new sources.

I know there is no single solution to the high unemployment rate of people with disabilities, but I am confident that, working together, we can ensure that no American worker with a disability is left behind.

Sincerely

Rod Paige

Our mission is to ensure equal access to education and to promote educational excellence throughout the nation.
CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

THOMAS J. DONOHUE
PRESIDENT AND
CHIEF EXECUTIVE OFFICER

1615 H STREET, N.W.
WASHINGTON, DC 20006-2000

October 2003

Finding and keeping good workers are among the greatest challenges facing businesses in the 21st century. Today, more than ever, businesses need access to a skilled and diverse workforce. They cannot stay competitive and increase profitability without qualified personnel.

People with disabilities are a source of qualified workers that is frequently overlooked. This pool of workers represents one of the largest groups seeking employment in today’s market – some 9 million unemployed Americans with significant disabilities want to work.

Employers tell us that, once hired, this labor source provides some of the best employees within a corporation. They are generally dependable, dedicated, hardworking, and productive. In fact, employers report that the work ethic of disabled employees has a positive effect on the morale and production of their colleagues. Unfortunately, many employers are not aware of this pool of qualified workers. Even those who realize the potential of this labor pool do not know how to reach them and are concerned about the perceived cost and challenge of providing necessary accommodations.

The Center for Workforce Preparation, a nonprofit affiliate of the U.S. Chamber of Commerce, and the U.S. Department of Education’s Office of Special Education and Rehabilitative Services have collaborated to produce the guide Disability Employment 101. This guide provides information for business, industry and service providers about how to hire people with disabilities and access resources to better meet the growing need of business for a skilled workforce. America’s economic success depends on the ability of businesses to recognize and use the valuable and diverse human resources available. Tapping into the talents and skills of people with disabilities will benefit companies and communities nationwide.

Sincerely,
Wherever a door is closed to anyone because of a disability, we must work to open it.
Wherever any job or home or means of transportation is unfairly denied because of a disability, we must work to change it. Wherever any barrier stands between you and the full rights and dignity of citizenship, we must work to remove it, in the name of simple decency and simple justice.

President George W. Bush
February 1, 2001
New Freedom Initiative Announcement Speech
The White House, Washington, D.C.
Introduction

Employers face workforce challenges daily, and the forecast of labor market shortages is not getting any brighter. A 2003 survey report *Rising to the Challenge* conducted by the Center for Workforce Preparation (CWP), a nonprofit affiliate of the U.S. Chamber of Commerce, reveals that workforce development and a shortage of workers at all skill levels are the major issues facing small and large businesses today (2003). Moreover, a recent Aspen Institute report (August 2002) projects a critical shortage of workers over the next 20 years, particularly in jobs requiring higher education and training. The report confirms what chambers of commerce and their business members already know — there are too few sources of qualified workers to meet projected needs.

However, there is good news. Employers now can meet their workforce shortages by tapping into non-traditional sources of labor. Imagine finding workers who are self-motivated, have solid critical thinking skills and solve problems every day. Now, imagine that these workers, who have achieved competitive employment, have consistently proven to have nearly 85 percent one-year employment retention rates (U.S. Department of Education, 2004). As an employer, you need to know that people with disabilities are eager and ready to join your workforce.

Filling the Worker Shortage

Greater demand for skilled labor has increased awareness that many employable people are seeking employment who traditionally have not been considered as potential sources of skilled labor. People with disabilities represent the single largest minority group seeking employment in today’s market. Both large and small companies have benefited by recruiting people with disabilities for many years. Many leading companies attribute much of their success to employing a diverse workforce that includes people with disabilities.

Quick Facts

- A March 2003 survey of employers found that the cost of accommodations was only $500 or less (Dixon, Kruse, & Van Horn, 2003).
- Seventy-three percent of employers report that their employees with disabilities did not require accommodations at all (Dixon, Kruse, & Van Horn, 2003).
- Companies report that employees with disabilities have better retention rates, reducing the high cost of turnover (Unger, 2002).
The 21st Century Workforce

Companies that are strategic in their recruiting efforts understand that they can no longer meet staffing needs through traditional means. Contacts with rehabilitation agencies, welfare offices, and other social programs are designed to assist companies in identifying new sources of qualified workers and an array of workplace supports. For example, companies can benefit financially by recruiting through government and nonprofit sources. Business for Social Responsibility (2001) reported that American Airlines calculated savings of 20 percent in recruiting costs by using nonprofit partners to help in its recruitment efforts. Resources are available to help your business achieve its competitive advantage by supplying a steady pipeline of qualified workers.

Business Incentives

There are compelling reasons to hire people with disabilities.

✔ People with disabilities possess valuable problem-solving skills because they are experts in finding creative ways to perform tasks others may take for granted.

✔ Employees with disabilities have proved to be dependable, dedicated, hardworking and productive employees.

✔ Many businesses report that the experience of working with people with disabilities increases every employee’s morale and productivity.

✔ After acquiring a disability, employees who return to work after being rehabilitated help reduce a company’s training and hiring costs and lower insurance premiums. Employers who have return-to-work programs establish a culture that regards employees as valuable — not disposable.

✔ Employees with disabilities reflect the customer base and can help craft effective marketing strategies to reach this lucrative market for companies that hire them.

People with disabilities make up part of the diverse workforce necessary for your business to succeed.
By raising awareness that your company is a disability-friendly business, you will attract job candidates and new customers. Marketing studies of the Atlanta Paralympics reveal that even households with no disability connection felt goodwill towards companies that included people with disabilities in advertising and were more likely to buy their products (Solutions Marketing Group, 2003).

Your business has an important partner in the effort to enhance its success through diversity. President George W. Bush pledged to improve employment for people with disabilities in his landmark New Freedom Initiative — a comprehensive, innovative plan to promote full participation of people with disabilities in all parts of American society. OSERS and CWP have an important role in working to achieve the president’s objective by helping your business identify strategies to recruit, hire and retain people with disabilities. By releasing this initiative in his first two weeks of office, President Bush signaled his commitment to improving the quality of life for Americans with disabilities. For more information, visit www.whitehouse.gov/infocus/newfreedom.

To help you prepare to employ people with disabilities, OSERS and CWP have designed this employment planning guide.

**What This Employment Planning Guide Offers**

- Lessons and strategies to help you continue to plan and design a program for employing people with disabilities:
  - **Lesson One** — Finding Qualified Workers with Disabilities
  - **Lesson Two** — Cultivating the Next Generation of Qualified Workers
  - **Lesson Three** — Learning from Other Businesses
  - **Lesson Four** — Putting Research into Practice in the Workplace

- Contact information for programs and resources in your state or locality dedicated to helping you in your effort to recruit and hire people with disabilities.

- Fact sheets and a checklist.
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Lesson One: Finding Qualified Workers with Disabilities

Employer surveys indicate that employers are often unaware of how to tap into the talent pool of people with disabilities (Campbell, Green, Unger, & Wehman, 2002). The following resources are available in your community and can connect you with qualified workers with disabilities. These programs, administered by the Rehabilitation Services Administration (RSA) of the Office of Special Education and Rehabilitative Services (OSERS), include the state Vocational Rehabilitation (VR) program and the Centers for Independent Living (CILs).

Vocational Rehabilitation

The VR program is a strong state-federal partnership that promotes the employment and independence of people with disabilities. The VR program, which began more than 80 years ago, was the first federally authorized program specifically created to serve the employment needs of people with disabilities. Today, on average, approximately 230,000 people with disabilities find employment each year with the help of the VR program in their states (U.S. Department of Education, 2002).

VR counselors have extensive specialized training, making them uniquely qualified to work with your business to

✓ identify qualified people with disabilities ready for employment;

✓ develop productive partnerships between your business and training organizations that support a person’s career development while meeting your need for qualified applicants and skilled workers;

✓ provide access to cutting-edge assistive technologies that can improve the overall work performance of people with disabilities; and

✓ provide information regarding the Americans with Disabilities Act of 1990 (ADA) and the Rehabilitation Act of 1973, as amended.

VR counselors also have long-standing relationships with a wide variety of employers in your area. Some of the country’s most successful businesses, such as SunTrust Bank, Western Wireless-
Cellular One and CVS/pharmacy, to name a few, have thriving relationships with VR programs and counselors in their states that help them actively recruit, hire, support and retain qualified workers with disabilities.

The findings of a recent longitudinal study, conducted by the U.S. Department of Education of 8,500 applicants and recipients of RSA’s VR services, show that people with disabilities who have achieved competitive employment through existing business and VR partnerships have a nearly 85 percent job-retention rate after one year (2003). These findings concur with those of companies such as DuPont and Sears who have measured retention rates of their employees.

**Vocational Rehabilitation Puts Dreams Within Reach**

The Maryland Division of Rehabilitation Services (DORS) helped to prepare Debra for a career in information technology. Debra participated in an office technology-training program where she learned the skills needed to succeed in the workplace. She learned computer skills in various office software products, and DORS also arranged for Debra to obtain additional job training at Prince George’s Community College. Eventually Debra accepted an administrative assistant position at NASA’s Goddard Space Flight Center in Greenbelt, Maryland. Through DORS, Debra gained the skills she needed to live independently, work and provide for herself and her children.

You can find your VR program by visiting RSA’s Web site, www.ed.gov/about/offices/list/ers/rsa.

**The VR program in my area is:**

- **Contact Name:**
- **Address:**
- **Phone:**
- **E-Mail:**
Centers for Independent Living

CILs are cross-disability, nonprofit organizations that are designed and operated within a local community by individuals with disabilities. CILs provide an array of independent living services to people with disabilities and can assist your business with finding resources for employees with disabilities, such as accessible transportation and housing. CILs disseminate information about job postings and career fairs throughout the local disability community. By providing these services, CILs can be a source for identifying people with disabilities who are eager to assume competitive, meaningful and integrated employment in businesses like yours that are seeking to hire qualified and productive workers. CILs can help individuals with disabilities get to work and obtain other supports they need to be successful in the workplace.

Your business can benefit from partnering with disability organizations like the CILs. By raising awareness that your company is a disability-friendly business, you will attract job candidates and new customers. Marketing studies of the Atlanta Paralympics revealed that even households with no disability connection felt goodwill towards companies that included people with disabilities in advertising and were more likely to buy their products (Solutions Marketing Group, 2003). You can find the local CIL in your area by visiting, www.ilusa.com/links/ilcenters.htm.

The CIL program in my area is:

| Contact Name: | ___________________________ |
| Address: | ___________________________ |
| Phone: | ___________________________ |
| E-Mail: | ___________________________ |
Lesson One: Strategies

Strategy 1:
Contact your state or local VR agency to post job vacancies to reach people with disabilities who are ready to work. Let VR counselors know the kinds of highly qualified workers you are seeking so they can adapt training programs in your area to better meet your needs. To locate the VR agency in your area, visit RSA’s Web site at www.ed.gov/about/offices/list/osers/rsa.

Strategy 2:
Help VR counselors understand your employment needs by inviting them to tour your business.

Strategy 3:
Engage VR counselors in business association meetings and events.

Strategy 4:
Develop relationships with local disability-related organizations to post jobs and communicate your interest in recruiting and hiring people with disabilities. Contact a CIL in your community and ask them to recruit people with disabilities, post job openings and help locate training opportunities. You can find the local CIL at www.ilusa.com/links/ilcenters.htm.

Strategy 5:
Volunteer to serve on advisory boards or participate in events sponsored by local disability-related organizations. CILs have contacts with other local disability organizations. Again, contact your local CIL by visiting www.ilusa.com/links/ilcenters.htm.

Strategy 6:
Educate your partners from disability organizations about business by inviting them to serve on employer-led committees of your business organizations.
Building Effective Partnerships Between Local Chambers and Service Providers

The Greater Irving-Las Colinas Chamber of Commerce in Texas is an excellent example of how local chambers are used as resources to help connect people with disabilities to employment. The Greater Irving-Las Colinas Chamber has a strategic partnership with Career Design and Development Services (CDDS) that helps connect people with disabilities to the business community in the Greater Dallas-Las Colinas area. CDDS is a service provider that specializes in job training and placement for people with disabilities in the Dallas metropolitan area.

People who use CDDS' services receive career counseling, job preparation and job placement. Contact is made with employers in the community through the Greater Irving-Las Colinas Chamber, and CDDS uses the chamber’s membership as a resource for networking and promotion of its services and clients.
Lesson Two: Cultivating the Next Generation of Qualified Workers

Successful companies know that meeting the growing need for talented employees in the next 10 years means educating students with the right skills now. Educators play an important role in connecting people with disabilities to employers. The Office of Special Education and Rehabilitative Services’ (OSERS) Office of Special Education Programs (OSEP) works with OSERS’ Rehabilitation Services Administration (RSA) and with state education agencies to prepare students with disabilities for higher education, employment and independent living. OSEP also requires schools across the country to establish transition curricula, which include community work-based learning experiences for youth with disabilities. By partnering with schools to offer work-based learning experiences for students with disabilities, your business can help create a pipeline of future employees who are knowledgeable and trained for jobs in your organization.

These work-based learning opportunities may include the following:

✔ Apprenticeships — This combination of on-the-job training and related classroom instruction provides students with disabilities an opportunity to learn the practical and theoretical aspects of highly skilled occupations. Joint employer and labor groups, individual employers and employer associations sponsor apprenticeship programs.

✔ Career academies — Schools create a personalized and supportive learning environment for students with disabilities by combining academic and career-related competencies organized into small learning communities.

✔ Internships — While spending time in a business, industry or other organization, students with disabilities gain insight into and direct experience with different types of work environments. Internships can be paid or unpaid.

✔ Job shadowing and mentoring days — These activities are designed to allow students with disabilities to “shadow” or observe workplace mentors as they go through a normal day on the job. Job shadowing and mentoring provide students with disabilities a realistic look at the workplace.
School-based enterprises — By tapping into their entrepreneurial talents, students with disabilities organize into a group to produce goods or services for sale. Your success as a business leader places you in a position to offer advice to these future entrepreneurs.

Service learning — Students with disabilities expand their horizons by combining meaningful community service with academic learning, personal growth and civic responsibility.

Work-based learning experiences can help students with disabilities prepare to enter your workforce and

✓ develop positive work attitudes and behaviors;

✓ learn general workplace readiness skills as well as job-specific skills;

✓ identify necessary work accommodations and supports;

✓ gain exposure to diverse working environments;

✓ apply practical theories learned in the classroom to your business;

✓ clarify and get excited about their career choices; and

✓ network with potential employers.

Work-Based Learning: A Win-Win

Employers benefit from work-based learning experiences, as well. Companies that institute mentoring, job-shadowing, apprenticeship and internship programs learn firsthand how people with disabilities can contribute. Businesses discover that working and interacting with employees with disabilities raise morale and eliminate the mystery of workplace accommodations. Positive experiences with students dispel the fears that employers have about giving people with disabilities a chance in full-time employment. Most importantly, businesses that implement these programs cultivate their next generation of qualified workers and attract new customers.
Lesson Two: Strategies

The strategies listed below are some of the ways you as an employer can get involved in creating work-based learning opportunities for people with disabilities in your community.

Strategy 1:
Connect with your local schools by

✓ helping schools and career counselors identify competencies, both personal and technical, that students with disabilities will need in the workplace;

✓ instituting mentoring and internship opportunities to place students in your company-sponsored programs;

✓ using your business connections to provide schools with instructors in specific professional and technical fields who can work with special education and VR professionals in your community;

✓ assisting schools and special education coordinators to develop curricula and instructional plans that prepare students with disabilities for jobs in the local market;

✓ providing assistance to students who want to pursue entrepreneurial endeavors; and

✓ advising educators and counselors of the future skill needs of your workforce.

To assist you in completing this strategy, locate local high schools in your area by contacting your state education agency through the Education Resource Organizations Directory (EROD) at http://herod02.ed.gov/Programs/EROD/statelist.cfm

Strategy 2:
Connect with your local community colleges and universities.

When you recruit at colleges and universities, indicate to the career office that you have an interest in recruiting students with disabilities. To provide work-based learning experiences to college students with disabilities, reach out to colleges or universities.
Strategy 3:
When you attend school-sponsored open houses and job fairs, provide recruiting materials in accessible formats, make sure interviewing locations are accessible, and be sure your Web site is accessible to people with disabilities. For more information, visit the Job Accommodation Network at http://janweb.icdi.wvu.edu.

Strategy 4:
Serve as a mentor to students with disabilities. Contact your local CIL (www.ilusa.com/links/Ilcenters.htm) to identify possible opportunities or contact the American Association of People with Disabilities (www.aapd-dc.org) to find out how your business can participate in the annual National Disability Mentoring Day in October.

"Overall, the opportunity to play a part in Disability Mentoring Day was extremely rewarding for everyone involved from Bank of America. Based on the conversations I’ve had with each of the organizers in the local areas, I can assure you that the experience was not only rewarding for the hundreds of students who were brought into corporations across the nation, but equally as rewarding and meaningful for the individuals who volunteered as mentors and got to meet the high-potential workforce of tomorrow. Thank you again for allowing us the opportunity to be part of this remarkable and memorable day! You can count on Bank of America to participate next year."

Manager from Bank of America
(K. Moore, personal communication, October 2000)
Lesson Three: Learning from Other Businesses

By connecting to business organizations, such as the U.S. Chamber’s Center for Workforce Preparation, the U.S. Business Leadership Network, the Society for Human Resource Management, and your local chamber, your company can learn from other employers about the best strategies for finding, accommodating and retaining employees with disabilities. Local business executives who understand your bottom-line priorities and who have direct employment experience with people with disabilities are often the best sources for real-world answers to all your hiring questions.

U.S. Chamber of Commerce’s Center for Workforce Preparation

In 1990, the Chamber of Commerce created the Center for Workforce Preparation (CWP) to help build workforce development leadership in local chambers. CWP helps chambers across the country to develop innovative and effective workforce development initiatives that assist their member companies in recruiting diverse and undifferentiated labor sources, such as people with disabilities. A major part of CWP’s effort is the dissemination of best practices and the formulation of strategic peer networks to support workforce development activities among state and local chambers. By connecting to CWP, you can learn how to partner with your local chamber to help improve employment outcomes for people with disabilities and satisfy your company’s workforce needs.

U.S. Business Leadership Network

The U.S. Business Leadership Network (USBLN) is a national employer-led network. It is the national organization that supports development and expansion of BLNs across the country, serving as their collective voice. The USBLN recognizes and promotes best practices in hiring, retaining and marketing to people with disabilities.

The Society for Human Resource Management

The Society for Human Resource Management (SHRM), the world’s largest human resources association, represents more than 170,000 members. SHRM serves the needs of human resource professionals by providing the most essential and comprehensive set of human-resource management resources available, including surveys of members on disability-related topics. SHRM currently has more than 500 affiliated chapters within the United States and members in more than 120 countries.
Lesson Three: Strategies

Strategy 1:
Become active in the USBLN or one of its local chapters to learn how other businesses have successfully employed people with disabilities. For more information, visit www.usbln.com.

Strategy 2:
Connect with your local chamber for information and resources about

✔ job skill requirements and industry trends;

✔ quality of training and job placement services provided by your local Vocational Rehabilitation program and other service providers;

✔ local economic development indicators; and

✔ links to other members that have partners with local disability organizations.

Visit the U.S. Chamber Web site at www.uschamber.com for a listing of Federation chamber members by state and region.

Strategy 3:
Access information and linkages about workforce development at CWP’s Web site by visiting www.uschamber.com/cwp.

Strategy 4:
Learn about available trainings that will help staff with the recruiting, hiring and advancing of people with disabilities. Visit SHRM’s Web site at www.shrm.org.
Lesson Four: Putting Research into Practice in the Workplace

National Institute on Disability and Rehabilitation Research

The challenge for business is to decipher fact from fiction about the issues that may be of concern to employers. Questions about costs of accommodations, productivity and other workplace issues are the focus of much research. The Office of Special Education and Rehabilitative Services’ (OSERS) National Institute on Disability and Rehabilitation Research (NIDRR) assists businesses by funding research on a wide spectrum of issues related to the employment of people with disabilities.

NIDRR’s research

✓ measures attitudes in the business community to identify employer needs;

✓ refines workplace technologies designed to increase the productivity of people with disabilities; and

✓ evaluates reasonable accommodations and personal supports needed to successfully assist people with disabilities in the workplace.

NIDRR’s research also tracks current employment statistics about people with disabilities, helping you keep up with trends and issues affecting recruitment and retention.

Rehabilitation Research and Training Centers

NIDRR funds Rehabilitation Research and Training Centers (RRTCs), the purpose of which is to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended, and thereby improve the rehabilitation services outcomes for individuals with disabilities.

For example, Cornell University’s RTC for Economic Research on Employment Policy for Persons with Disabilities has developed a Web site that offers an interactive repository of employment statistics about people with disabilities (www.ihr.cornell.edu/ped/il/independence/research.htm). In making important business decisions regarding employment, you might ask, “What are the most effective approaches for reducing barriers to employment for people with disabilities in the work-
place?” Human resource professionals can look up Cornell’s surveys of employers at www.lhr.cornell.edu/ped/surveyresults.html and find strategies employers believe are effective approaches in reducing barriers to employment for people with disabilities, including:

<table>
<thead>
<tr>
<th>Strategy</th>
<th>Percentage</th>
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<tr>
<td>Visible Top-Level Management Commitment</td>
<td>82 percent</td>
</tr>
<tr>
<td>Staff Training</td>
<td>63 percent</td>
</tr>
<tr>
<td>Mentoring</td>
<td>60 percent</td>
</tr>
<tr>
<td>On-Site Consultation or Technical Assistance</td>
<td>59 percent</td>
</tr>
</tbody>
</table>

Percentages refer to employers surveyed who consider the various strategies effective.

Through the work of NIDRR-funded research programs, many partnerships among the business, industry and rehabilitation communities have been established. One model for establishing collaborative partnerships is provided by Virginia Commonwealth University’s (VCU) RRTC on Workplace Supports.

This RRTC identifies factors that enhance or inhibit your business from hiring people with disabilities. It collects data and resources related to employment supports, a particularly useful employment strategy for individuals with disabilities.

A Web site created by VCU’s RRTC (www.worksupport.com) contains valuable information on return-to-work strategies, effective disability management programs and financial tax credits to offset accommodation costs and encourage hiring, retention and advancement. VCU also created the VCU Business Roundtable as a forum to identify and address factors that deter or inhibit industries from employing workers with disabilities.
Disability and Business Technical Assistance Centers

To help business and industry find, hire and retain people with disabilities, NIDRR established 10 regional Disability and Business Technical Assistance Centers (DBTACs) to provide information, training and technical assistance to employers about the Americans with Disabilities Act of 1990 (ADA).

The centers serve as a comprehensive resource for ADA issues on employment, public services, public accommodations and communications. Each center works closely with your business — and disability, government and rehabilitation networks — placing special emphasis on helping small businesses understand and comply with the ADA.

Programs vary in each region, but all DBTACs provide the following programs:

- technical assistance on ADA questions;
- education and training;
- materials dissemination;
- information and referral;
- public awareness; and
- local capacity building.
Lesson Four: Strategies

Strategy 1:

Strategy 2:
Learn about successful employment strategies used by other businesses and form your own business roundtable to support disability recruitment, hiring practices, retention methods and placement efforts in your business and community.

For more information about a model for business-led efforts to increase the employment of people with disabilities, visit the Worksupport.com Web site at www.worksupport.com.

Strategy 3:
Locate your local Disability and Business Technical Assistance Center (DBTAC) and explore its resources by visiting wwwadata.org/dbtac.html or calling 800-949-4232 (voice/TTY).
Conclusion

Business is about productivity and maintaining a competitive advantage. To do this, business needs qualified workers.

Highly Qualified, Motivated and Dependable Workers Want to Work for You

Esther has been blind since birth. She attended a well-known school for the blind until her senior year when she was transferred to public school to complete her education. After graduation, Esther attended college, earning an associate's degree in medical secretarial work.

With assistance from her vocational rehabilitation counselor, Esther opened her own transcription service. With equipment provided by the rehabilitation office, she became a successful businesswoman. When area hospitals began hiring staff to perform medical transcription on-site, Esther applied for a medical transcriptionist position and was hired at a local hospital, also a member of the local chamber of commerce.

As the requirements of Esther’s job have changed, she has remained successful by learning new skills and acquiring assistive technology that allows her to read print material. State vocational rehabilitation has supported Esther in her career by providing both the hardware and the necessary instruction for her to succeed. Esther now uses a computer with speech output and a scanner. Vocational rehabilitation and its business partner ensure her continued professional success.

Council of State Administrators of Vocational Rehabilitation, 2003

Hiring people with disabilities adds value to your business and will attract new customers. Disability is not inability, and the partnership between the U.S. Chamber of Commerce and the U.S. Department of Education has been established to raise awareness about the programs available to assist you in meeting your employment needs. The president’s position is that “he will not be satisfied until every American who wants a job can find a job, and all Americans have economic security.” (White House, Office of Press Secretary, 2002). Make a sound business decision, gain a competitive advantage and use this guide to increase your potential to hire people with disabilities.
Resources

General Resources

American Association of People with Disabilities (AAPD)  www.aapd-dc.org
AAPD, the largest national nonprofit cross-disability member organization in the United States, is
dedicated to ensuring economic self-sufficiency and political empowerment for Americans with
disabilities. AAPD works in coalition with other disability organizations for the full implementa-
tion and enforcement of disability nondiscrimination laws, particularly the Americans with Dis-
abilities Act of 1990 (ADA) and the Rehabilitation Act of 1973, as amended.

Center for Workforce Preparation (CWP)  www.uschamber.com/cwp
An affiliate of the U.S. Chamber of Commerce, CWP assists state and local chambers to build
their capacity as leaders in workforce development. CWP helps chambers recognize the value
and importance of this leadership role and provides information, resources, promising practices
and opportunities for chambers to learn from one another.

Employer Assistance Referral Network (EARN)  www.earnworks.com
EARN is a nationwide, cost-free referral and technical assistance service for employers. EARN
connects employers who have job vacancies to employment service providers who have direct
access to job-ready individuals with disabilities. EARN also provides technical assistance to assist
employers in locating appropriate organizations and information as they seek to hire qualified candi-
dates with disabilities.

Disability and Business Technical Assistance Centers (DBTACs)  www.adata.org/dbtac.html
DBTACs provide information, training and technical assistance to employers with responsibilities
under the Americans with Disabilities Act of 1990 (ADA)

Job Accommodation Network (JAN)  http://janweb.icdi.wvu.edu
JAN is a free consulting service that provides information about job accommodations, ADA and
the employability of people with disabilities.

National Organization on Disability (NOD)  www.nod.org
NOD promotes the full and equal participation and contribution of America’s 54 million men,
women and children with disabilities in all aspects of life.
National Council on Independent Living (NCIL)  www.ncil.org
NCIL is a membership organization that advances the self-empowerment philosophy and
advocates for the human rights of, and services for, people with disabilities to further their
full integration and participation in society. NCIL represents over 700 organizations and
individuals including:
✓ Centers for Independent Living (CILs);
✓ Statewide Independent Living Councils (SILCs);
✓ individuals with disabilities; and
✓ other organizations that advocate for the human and civil rights of people with disabili-
ties throughout the United States.

Rehabilitation Research and Training Center (RRTC) for Economic Research
on Employment Policy for Persons with Disabilities  www.iit.cornell.edu/ped/dep/rtc.html
Cornell University’s coordinated research, training, and dissemination activities are aimed at
deepening the understanding of policymakers and other stakeholders about how the economy,
public policies and other socio-political factors affect the employment and economic self-
sufficiency of people with disabilities.

U.S. Business Leadership Network (USBLN)  www.usbln.com
The U.S. Business Leadership Network (USBLN) is a national employer-led network. It is
the national organization that supports development and expansion of BLNs across the
country, serving as their collective voice. The USBLN recognizes and promotes best prac-
tices in hiring, retaining and marketing to people with disabilities.

Virginia Commonwealth University Rehabilitation Research and
Training Center (RRTC) on Workplace Supports  www.worksupport.com
The RRTC on Workplace Supports identifies factors that enhance or inhibit businesses from
tapping into a pool of potential employees with disabilities. It collects data and resources
related to employment supports, a particularly useful employment strategy for individuals
with severe disabilities. The center’s Web site contains valuable information on return-to-
work strategies, effective disability management programs and financial tax credits to en-
courage hiring, retention and advancement of people with disabilities.
## Federal Resources

### The Access Board  
[www.access-board.gov](http://www.access-board.gov)

The Access Board is an independent federal agency devoted to accessibility for people with disabilities. It operates with approximately 30 staff members and a governing board of representatives from federal departments and public members appointed by the president. Key responsibilities of the board include developing and maintaining accessibility requirements for the physical environment, transit vehicles, telecommunications equipment, electronic and information technology; technical assistance and training on these guidelines and standards; and enforcing accessibility standards for federally-funded facilities.

### Census Bureau Disability Statistics  


### DisabilityInfo.gov  
[www.disabilityinfo.gov](http://www.disabilityinfo.gov)

DisabilityInfo.gov is the result of a collaborative effort across multiple federal agencies in conjunction with the president’s New Freedom Initiative. It contains information on civil rights, education, employment, housing, health care, technology and transportation, among other subjects. The website is designed to be a one-stop source of government information relevant to people with disabilities, their families, employers and service providers. Employers can specifically learn about sources for job candidates with disabilities, tax credits to offset the cost of accommodations, assistive technologies and more at [www.disabilityinfo.gov/Employment/](http://www.disabilityinfo.gov/Employment/).

### Social Security Administration, Ticket to Work Program  
[www.yourtickettowork.com](http://www.yourtickettowork.com)

The Ticket to Work Program is a nationwide initiative administered by the Social Security Administration designed to increase job training and employment choices for individuals with disabilities. Employers that offer (or arrange for) job training, vocational rehabilitation (VR), support, retention, or other types of job-related services and/or assistance for individuals with disabilities can become Employment Networks and are eligible for compensation for services. Employers can directly provide, or arrange for, appropriate employment services including job readiness, placement, VR, training, and support and/or retention services for individuals with disabilities.

The Department of Education’s Web site is designed to help promote the president’s initiatives in educating all Americans, including No Child Left Behind, and to advance the mission of the Department — to ensure equal access to education and to promote educational excellence for all Americans. The following Department of Education offices address the needs of people with disabilities:

Office of Special Education and Rehabilitative Services (OSERS)  www.ed.gov/about/offices/list/osers

OSERS is committed to improving results and outcomes for people with disabilities of all ages. OSERS provides a wide array of supports to parents and individuals, school districts and states in three main areas — special education, vocational rehabilitation and research — through its component offices below:

Office of Special Education Programs (OSEP)  www.ed.gov/about/offices/list/osers/osep

OSEP is dedicated to improving results for infants, toddlers, children and youth with disabilities, from birth through age 21, by providing leadership and financial support to assist states and local districts. The Individuals with Disabilities Education Act (IDEA) authorizes formula grants to states, and discretionary grants to institutions of higher education and other nonprofit organizations to support research, demonstrations, technical assistance and dissemination, technology and personnel development and parent-training and information centers.

Rehabilitation Services Administration (RSA)  www.ed.gov/about/offices/list/osers/rsa

RSA oversees formula and discretionary grant programs that help individuals with disabilities obtain employment and live more independently through the provision of such supports as counseling, job training and other individualized services.

National Institute on Disability and Rehabilitation Research (NIDRR)  www.ed.gov/about/offices/list/osers/nidrr

NIDRR provides leadership and support for a comprehensive program of research related to the community integration and employment of individuals with disabilities.
U.S. Department of Justice, Americans with Disabilities Act (ADA) Homepage: www.usdoj.gov/crt/ada/adahom1.htm

This Department of Justice Web site provides information and technical assistance on the Americans with Disabilities Act of 1990, which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities and transportation.


ODEP provides national leadership to increase employment opportunities for adults and youth with disabilities while striving to eliminate barriers to employment. ODEP supports the creation of expanded work options and meaningful employment, promotes economic opportunities and independence, encourages self-determination and supports the inclusion of people with disabilities in their communities. Employers can find useful resources through ODEP programs at www.dol.gov/odep/business/business.htm.


EEOC enforces Title I and Title V of the ADA, prohibiting employment discrimination on the basis of disability in the private sector and state and local governments. The EEOC is conducting a series of free workshops for small businesses on the ADA. These workshops include information on tax incentives and community resources.

U.S. Small Business Administration (SBA): www.sba.gov/ada

SBA’s ADA home page supports the ADA, which guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services and telecommunications. SBA also has an ADA Guide for Small Businesses, a 15-page illustrated guide that presents an overview of some basic ADA requirements for small businesses that provide goods and services to the public. It offers guidance on how to make services accessible and how tax credits and deductions may be used to offset specific costs incurred in accommodations.
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<tr>
<th><strong>The White House</strong></th>
<th><a href="http://www.whitehouse.gov">www.whitehouse.gov</a></th>
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<tbody>
<tr>
<td>The White House's comprehensive Web site supports the president's policies, agenda and activities, and serves as a portal to the U.S. government.</td>
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<thead>
<tr>
<th><strong>New Freedom Initiative</strong></th>
<th><a href="http://www.whitehouse.gov/infocus/newfreedom">www.whitehouse.gov/infocus/newfreedom</a></th>
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<tr>
<td>This Web site features President George W. Bush's New Freedom Initiative, announced by the president during his first month in office, and is dedicated to increasing access to assistive and universally designed technologies, expanding educational opportunities and promoting full access to community life for Americans with disabilities.</td>
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<tr>
<th><strong>Workforce Recruitment Program</strong></th>
<th><a href="http://www.dol.gov/odep/programs/program.htm">www.dol.gov/odep/programs/program.htm</a></th>
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<tr>
<td>Coordinated by the U.S. Department of Labor and the U.S. Department of Defense, the Workforce Recruitment Program provides summer work experience, and in some cases full-time employment, for students with disabilities. The program develops partnerships with other federal agencies and businesses. Each year, recruiters develop a database of approximately 1,500 qualified students that employers can use to recruit interns.</td>
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Appendix I:  Recommended Disability-Friendly Strategies for the Workplace

Employers who hire people with disabilities diversify, enrich and enhance the culture of the workplace. Outlined below are strategies to successfully include people with disabilities in the workplace.

✓ Make a corporate commitment to include people with disabilities among your stakeholders. Is the CEO committed to a disability-friendly workplace? Do corporate policies, procedures and practices specifically mention the word “disability?” Do people with disabilities serve on the board? Are workers with disabilities employed at all skill levels in the workforce, including senior management positions? Are your products and services marketed to customers with disabilities? Do people with disabilities purchase your goods and services?

✓ Educate all staff on disability issues. Does new staff orientation include disability awareness training? Are training materials available in alternate formats such as large print, Braille and captioned? Do employees with disabilities serve as mentors for new hires who do not have disabilities? Are people with disabilities integrated into your workforce?

✓ Provide continuing information on disability issues. Is staff familiar with legislation pertaining to disability issues? Is disability information provided routinely in the company newsletter or on an intranet site?

✓ Form a disability support group. Do employees with disabilities meet to discuss disability employment issues? Does this group have authority to make recommendations to management?
accommodate applicants and workers with disabilities. Is there a central source and budget for accommodations? Are applicants and employees informed that accommodations are available if needed? Does staff routinely stay abreast of new developments in universal and assistive technology?

Project a disability-friendly image to attract candidates and customers with disabilities. Do college recruiters target students with disabilities when making campus calls? Do recruiters search for resumes on disability-related Web sites? Are recruiters and other personnel responsible for establishing working relationships with community agencies serving applicants with disabilities?

Hire applicants with disabilities. Do recruiters regularly attend employment fairs for candidates with disabilities or target students at colleges with known populations of students with disabilities, such as Gallaudet University (www.gallaudet.edu) and the National Technical Institute for the Deaf (http://ntidweb.rit.edu)?

Train and advance workers with disabilities. Do employees with disabilities routinely participate in employer-sponsored training opportunities? If not, has this issue been brought before a disability support group for recommendations? Are procedures in place to promote qualified employees with disabilities to management and supervisory positions?

Encourage staff to volunteer in the community. Is staff encouraged to build relationships with community service organizations for people with disabilities? Does staff make regular visits to high schools to inform administrators, teachers and students with disabilities about open houses or job trends in your industry?

Brief coworkers? Have coworkers been trained to know how to welcome workers with disabilities? Do coworkers know whom to contact for questions regarding working with employees with disabilities?

Content adapted from: “Disability Friendly Strategies for the Workplace” prepared by Virginia Commonwealth University, Rehabilitation Research and Training Center on Workplace Supports (www.worksupport.com)
# Appendix II: Recommended Disability-Friendly Business Checklist

## Considerations for Evaluating Accessibility

- Is the entrance to the business accessible to people with mobility limitations? Is the entrance to the building on an even, hard surface without steps?

- If the accessible entrance is not immediately apparent, are there directional signs?

- Are there handicapped parking signs and spaces with necessary access space for vans with lifts?

- Does the building have accessible restrooms, phones and water fountains?

## Other Considerations to Include Depending on the Type of Business and Its Services to the Public

- Post a notice on the front door that assistance will be provided for people with disabilities.

- Install sensors or automatic doors.

- Install a lift or elevator.

- Have Braille on elevator panels and on signs for public restrooms.

- Have Braille or large print available on menus and business cards.

- Have a TTY and volume controls on a public telephone or assistive technology device.

- Have movable seating and accessible tables that accommodate wheelchairs.

- Have wide aisles or appropriately spaced displays of merchandise for wheelchairs to maneuver through.

- Make the company’s Web site user-friendly to visitors with disabilities (e.g., including “text-only” versions for persons with visual impairments or supplying text for audio clips for persons who are deaf or hard of hearing).
Considerations for Evaluating Customer Friendliness

☐ Is staff alert and helpful to customers who have visible disabilities?

☐ Does someone on staff know sign language?

☐ Has the business offered disability awareness training to its staff?

☐ If removal of a barrier is not readily achievable, are the goods, services, etc., made available through alternative methods?

Considerations for Evaluating Employment Friendliness

☐ Are people with disabilities included in the job applicant pool?

☐ When interviewing people with disabilities, is the focus on the candidates’ skills and abilities rather than on their disabilities?

☐ Has an effort been made to educate management and human resources personnel on the Americans with Disabilities Act of 1990 (ADA)?

☐ Are policies, practices and procedures flexible enough so that necessary modifications can be made to ensure that the skills and abilities of applicants with disabilities are equally represented?

Content adapted from: “Disability Friendly Business Checklist” prepared by Virginia Commonwealth University, Rehabilitation Research and Training Center on Workplace Supports (www.worksupport.com)
Appendix III: Business Tax Credits and Reduced Labor Costs

Incentives for small- and medium-sized businesses make tapping into the disability community an attractive recruiting strategy. There are three tax incentives — small business tax credit, architectural and transportation tax deduction, and work opportunity tax credit — available to help employers cover accommodation costs for employees or customers with disabilities to make their business environment accessible to these individuals.

Small Business Tax Credit

Internal Revenue Code (IRC) Section 44: Expenditures to Provide Access for Disabled Individuals (Disabled Access Tax Credit).

What Is IRC Section 44?

Your small business may take an annual tax credit for becoming accessible to people with disabilities. The total disabled access tax credits taken in 1996 on corporate income tax returns by all industries totaled $11.9 million (Internal Revenue Service, 1999).

Is Your Business Eligible?

Your small business that in the previous year earned $1 million or less in gross receipts or had 30 or fewer full-time employees is eligible for the Small Business Tax Credit.

What Expenses Are Covered?

The tax credit is available every year and can be used for a variety of costs including the following:

- Sign language interpreters for employees or customers who have hearing impairments and readers for employees or customers with visual impairments.
- The purchase of adaptive equipment or the modification of equipment.
- Printed materials in alternate formats (e.g., Braille, audio tape, large print).
- The removal of architectural barriers in buildings or vehicles.
- Other similar services (e.g., use of a job coach or coworker to provide support to an employee with a disability).
What Expenses Are Not Covered?
The tax credit does not apply to the costs of new construction. Also, the tax credit does not apply to any building being modified if the building was placed in service after November 6, 1990.

What Is the Amount of the Tax Credit?
The credit is 50 percent of expenditures over $250, not to exceed $10,250, for a maximum benefit of $5,000.

How Can This Credit Be Claimed?
Your business can claim the Disabled Access Credit on IRS Form 8826.

Example of a Small Business Disabled Access Tax Credit
Company X hired a person with a disability. As a workplace accommodation, a coworker was assigned to support the new employee. The coworker, who earned $10 per hour, spent a total of one hour each day providing support. The number of coworker hours spent with the employee totaled 200 hours during the calendar year. Therefore, the cost of providing the reasonable accommodation for the new employee with a disability was $2,000. The amount by which $2,000 exceeds $250 is $1,750. Fifty percent of $1,750 is $875. Company X may take a tax credit of $875 on its next income tax return.

Architectural and Transportation Tax Deduction
IRC Section 190: Expenditures to Remove Architectural Barriers and Transportation Barriers to the Handicapped and Elderly.

What Is IRC Section 190?
Your business may take an annual deduction for expenses incurred to remove physical, structural and transportation barriers for people with disabilities.

Is Your Business Eligible?
All businesses are eligible.

What Expenses Are Covered?
The architectural and transportation deduction is available each year to businesses with qualified expenses. It can be used for a variety of costs to make a facility or public trans-
portation vehicle, owned or leased for use in the business, more accessible to and usable by people with disabilities. Examples of deductions include:

- Providing accessible parking spaces, ramps and curb cuts.
- Making telephones, water fountains and restrooms accessible to persons using wheelchairs.
- Making walkways at least 48 inches wide.
- Providing accessible entrances to buildings, including stairs and floors.

What Expenses Are Not Covered?
The deduction may not be used for expenses incurred for new construction, completion of renovations being made to a facility or public transportation vehicle or for normal replacement of depreciable property.

What Is the Amount of the Tax Deduction?
The Internal Revenue Service allows a deduction of up to $15,000 per year for qualified architectural and transportation barrier removal expenses.

How Can This Expenditure Be Deducted?
Businesses seeking to take a deduction for expenditures made for architectural and transportation modifications should follow the instructions found in IRS Publication 907 and in IRS Publication 535. Businesses cannot take a deduction and a tax credit for the same expenditure.

Work Opportunity Tax Credit (WOTC)
WOTC was authorized by the Small Business Job Protection Act of 1996.

What Is the WOTC?
WOTC replaced the Targeted Jobs Tax Credit program. It provides a tax credit for employers hiring individuals from certain targeted groups, including low-income individuals, vocational rehabilitation referrals, former Aid to Families with Dependent Children recipients, veterans, ex-felons, food stamp recipients, summer youth employees and Supplemental Security Income (SSI) recipients. The total amount of WOTC taken by all industries in 1996 on corporate income tax returns totaled $6.9 million. (IRS 1996 Statistics of Income Report, published 1999).
How Does WOTC Apply to People with Disabilities?

An employer who hires an employee receiving Supplemental Security Income or who is a certified vocational rehabilitation participant may claim the WOTC after certification is received from the State Employment Security Agency (SESA).

What Is the Amount?

An employer may take a tax credit up to 40 percent of the first $6,000 in first-year wages per qualifying employee. The maximum per employee credit is $2,400 in a given tax year. This credit applies only to employees who work at least 400 hours during the tax year. With respect to qualified summer youth employees, the maximum credit for each is $1,200 (40 percent of the first $3,000 of first-year wages).

What are the Minimum Employment Requirements?

The employer may claim a partial credit of 25 percent for certified employees who worked at least 120 hours, but fewer than 400 hours, during a one-year period. No credit is available for employees who work fewer than 120 hours.

How Do I Claim the Credit?

Complete and submit IRS Form 8850, Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits, to your local SESA. Do not submit this form to the IRS.

How Does WOTC Work?

The following steps must be followed:

1. The employer determines likely eligibility by including the WOTC Pre-Screening Notice as part of the application process.

2. On or before the day employment is offered, the Pre-Screening Notice must be signed by the employer and employee and mailed to the SESA within 21 days after the employee begins work.

3. The employer documents eligibility (based on information received from the employee) and submits documentation to the SESA.

4. SESA certifies that the individual is eligible for the WOTC and notifies the employer in writing for purposes of filing the tax credit.

Content adapted from: “Business Tax Credits & Deductions for Employment of People with Disabilities” prepared by Virginia Commonwealth University, Rehabilitation Research and Training Center on Workplace Supports (www.worksupport.com)
Appendix IV: Reasonable Accommodations and the ADA

The Americans with Disabilities Act of 1990 (ADA) requires most public and private employers to provide reasonable accommodations that enable qualified people with disabilities to perform the essential functions of their jobs. As the term “reasonable accommodation” implies, the accommodation must not constitute an undue hardship to the employer. This fact sheet provides definitions of key terms and procedures related to job accommodations under the employment provisions (Title I) of the ADA.

Who Is Covered?

**Employers:**
Public and private employers with 15 or more employees are required to comply with the provisions of Title I of the ADA. The executive agencies of the federal government, Native American tribes and tax-exempt private membership clubs that are not labor organizations are not covered, but other federal, state or local disability-related non-discrimination laws may apply.

**Applicants:**
Individuals with a physical or mental impairment that substantially limits one or more major life activities of such individual, a record of such an impairment, or being regarded as having such an impairment, are covered by Title I of the ADA when applying for employment. Major life activities may include walking, learning, seeing, working, hearing, speaking and caring for oneself.

Who Is a Qualified Applicant?
Under Title I of the ADA, a qualified person with a disability is one who satisfies the skill, experience, education, and other job-related requirements of the position and who can perform essential functions of the job with or without reasonable accommodations. To be eligible for reasonable accommodations, the person must have a disability and be qualified for the position that he or she seeks or holds.
What Are Essential Functions?

Essential job functions are those fundamental job duties that the person must be capable of performing with reasonable accommodations, if needed. The following are some of the reasons a function may be considered essential:

☑ The position exists so that the function can be performed.
☑ There are a limited number of other employees available to perform the function or among whom the function can be distributed.
☑ The function is highly specialized, and the person in the position is hired for his or her special expertise or ability to perform it.

What Are Reasonable Accommodations?

Reasonable accommodations are modifications or adjustments to the job, the work environment, or to the way things are usually done that enable qualified people with disabilities to enjoy an equal employment opportunity. Broad categories of accommodations include changes to the job application process to ensure an equal opportunity to apply for employment, changes that enable an employee with a disability to perform the essential functions of a job and changes that enable an employee with a disability to enjoy equal benefits and privileges of employment (e.g., access to training).

Reasonable Accommodations May Include:

☑ Making existing facilities used by employees accessible to and usable by an individual with a disability.
☑ Restructuring the job.
☑ Modifying the work schedule.
☑ Modifying the equipment or devices.
☑ Installing new equipment or devices.
☑ Providing qualified readers and interpreters.
☑ Appropriate modification of the application and examination procedures and training materials.

Reasonable Accommodations Do Not Include:

☑ Eliminating a primary job responsibility.
☑ Lowering production standards that are applied to all employees.
☑ Providing personal use items, such as prosthetic limbs, wheelchairs, eyeglasses or hearing aids.
Allowing anything that would be considered to be an undue hardship to the employer.

Excusing a violation of a uniformly applied conduct rule that is job-related and consistent with business necessity (e.g., an employer never has to tolerate or excuse violence, threats of violence, stealing or destruction of property).

What Constitutes an Undue Hardship?

An accommodation may be considered an undue hardship if it creates significant difficulty or expense to the employer. That is, an employer would not be required to provide an accommodation if it costs more than alternatives that are equally effective, requires extensive and disruptive renovations or negatively affects other employees or customers. Undue hardships are determined on a case-by-case basis. Factors to take into consideration when determining whether an accommodation constitutes an undue hardship are:

- The cost and nature of the accommodation;
- The overall financial resources of the facility;
- The overall financial resources of the employer;
- The type of operation of the covered employer; and
- The impact of the accommodation upon the operation of the facility.

What Should an Employee Do to Request an Accommodation?

The employee must let the employer know that he or she needs an adjustment or change at work because of a disability. Requests for accommodations can be made orally or in writing.

What Should an Employer Do Following a Request for an Accommodation?

The following are the steps an employer should take in response to an accommodation request:

- Verify the employee’s disability
- Identify the essential job functions that require accommodations.
- Consult with the individual to identify a variety of accommodations to reduce or remove barriers and increase productivity.
- Implement the most appropriate accommodations, taking into account the preferences of the individual with disabilities.
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Content adapted from: “Reasonable Accommodations & The Americans with Disabilities Act” prepared by Virginia Commonwealth University, Rehabilitation Research and Training Center on Workplace Supports (www.worksupport.com)
References


Acknowledgments
This employment planning guide was developed jointly by:

Office of Special Education and Rehabilitative Services
The U.S. Department of Education’s Office of Special Education and Rehabilitative Services (OSERS) is committed to improving employment opportunities for people with disabilities. In implementing President Bush’s No Child Left Behind Act of 2001 and the New Freedom Initiative, OSERS administers programs that educate and provide vocational rehabilitation services for youth and adults with disabilities and funds research to improve the lives of people with disabilities. OSERS comprises the Office of the Assistant Secretary and three program components: the Office of Special Education Programs, the National Institute on Disability and Rehabilitation Research and the Rehabilitation Services Administration.

U.S. Department of Education
Office of Special Education and Rehabilitative Services
400 Maryland Avenue, S.W.
Washington, DC 20202-7100

Phone: 202-245-7468
Fax: 202-245-7636
Web: www.ed.gov/about/offices/list/osers
Center for Workforce Preparation

The Center for Workforce Preparation (CWP) is a grant-based nonprofit affiliate of the U.S. Chamber of Commerce that focuses on workforce development and quality education. It assists chambers of commerce in the development of workforce strategies so that their members can hire, train, retain and advance workers with skills to compete in the 21st century. CWP builds leadership in local chambers for workforce development and helps chambers recognize the value and importance of this leadership role. In addition, it provides the tools, knowledge and strategic relationships for local chambers, businesses and communities to become successful.

CWP’s partnerships with local chambers, other workforce development organizations and funders have been instrumental in defining and demonstrating the important, unique role of local chambers in workforce development and education. Together, CWP and local chambers excel at reaching small and medium-sized businesses, where the majority of job growth occurs.

Workforce development is about more than hiring and training the right workers. It is also about identifying and addressing other critical factors, such as transportation, health care and childcare, that enable people to work and advance in their careers. CWP promotes lessons and promising practices from successful communities to encourage chambers and employers to build resources that support productive workplaces.

Center for Workforce Preparation
U.S. Chamber of Commerce
1615 H Street, N.W.
Washington, DC 20062

Phone: 202-463-5525
Fax: 202-463-5308
Web: www.uschamber.com/cwp
Disability Related Inquiries
DISABILITY-RELATED INQUIRIES:  
WHAT YOU CAN AND CANNOT ASK  
AND WHAT YOU CAN DO WITH THE INFORMATION YOU HAVE

Presented by Denise Sudell, Esq.,  
Senior Policy Advisor, Disability Issues, USDOL, Civil Rights Center

INTRODUCTION

- This presentation will review:
  - The Disability nondiscrimination laws that apply to the One-Stop system
  - Which activities are legal and which are illegal
  - What disability-related questions you can ask, and when you can ask them
  - What you can do with disability-related information

WHAT FEDERAL DISABILITY NONDISCRIMINATION LAWS APPLY TO THE ONE-STOP SYSTEM?

- Several different disability nondiscrimination laws apply to each program or activity within the One-Stop system
- You need to know about all the laws that apply to your program or activity
- Workforce Investment Act of 1998 (WIA), Section 188 (29 U.S.C. § 2938)  
  - Implementing regulations: 29 CFR part 37  
  - Bar disability-based discrimination  
  - Require equal opportunity for customers with disabilities through:  
    - individualized treatment  
    - positive actions (e.g., reasonable accommodation)
- Other applicable laws:
  - The Americans with Disabilities Act of 1990, as amended (42 U.S.C. § 12101 et seq.)
- Under these laws, the One-Stop system should focus on:  
  - The individual customer’s abilities  
  - The accommodations and auxiliary aids and services he/she needs in order to use those abilities
- Under these laws, the One-Stop system should not focus on:  
  - The limitations caused by the customer’s disability

PROVISION OF SERVICES VS. EMPLOYMENT

- Different contexts, different legal standards
- Two different types of legal standards  
  - Standards relating to provision of services (e.g., ADA Title II, Section 504)  
  - Standards relating to employment (e.g., ADA Title I, specific parts of Section 504 regulations [29 CFR part 32 subparts B and C])
Both types of legal standards (service-related and employment-related) will apply to programs and activities in the One-Stop system.

Which standards apply will depend on the type of activity.

Why do I need to know which types of legal standards apply?

Important: Some practices that are legal in the context of providing services are illegal in the context of employment-related activities.

Which activities fall under "provision of services"?

Examples of activities to which service-related standards apply:
- Assessment of skills, prior work experience and employability
- Creation of service strategy
- Supportive programs such as child care, transportation, housing assistance, benefits counseling

Which activities fall under "employment-related" standards?

Employment-related standards apply to:
- Employment-related training
- Job placement/referral and related activities of One-Stop agencies/programs/activities that are acting as "employment agencies"

What is employment-related training?
- Definition is broad: "training that allows or enables an individual to obtain employment" (29 CFR § 37.4)
- Examples:
  - Occupational skills training
  - On-the-job training
  - Job readiness training

A One-Stop agency/program is acting as an "employment agency" when it regularly has a "principal function".
- Procuring employees for at least one employer, or
- Procuring work opportunities for customers

Legal or illegal?

It depends on which standards apply.

Primary differences fall in two areas:
- What you ask a customer (disability-related inquiries)
- What you do with information about customer’s disabilities, potential disabilities, or medical information

Are these activities legal or illegal?

Disability related inquiries (asking)
- Asking customers questions that are likely to elicit information about disabilities
- Asking customers to undergo assessments to determine if they have hidden disabilities (such as learning disabilities)
DISABILITY-RELATED INQUIRIES

- What’s legal, what’s not

ARE THESE ACTIVITIES LEGAL OR ILLEGAL?

- When providing services, disability-related inquiries are legal and recommended.
  - Screening customers who have particular types of employment problems for signs of hidden disabilities
  - Determining whether - and which - reasonable accommodations would help customers succeed in employment

- In employment-related contexts, disability-related inquiries are illegal (except in certain circumstances)
  - Examples of when you cannot ask disability-related questions:
    - When you are a One-Stop employee deciding whether to refer a customer to a particular job (steering)
    - When you are an employer or training instructor and a customer is not performing well

- In the employment context (e.g., if you are making job referral decisions), you can ask questions about:
  - Whether the customer can perform specific job functions, has needed experience / education / licenses
  - Non-disability-related impairments (e.g., “How did you break your leg?”)
  - If the person has disclosed a disability or has an obvious disability, you can ask whether the person will need accommodations for the application process (not about whether s/he will need accommodations for the job)
  - Current illegal use of drugs / drinking habits

EXCEPTIONS TO THE GENERAL RULE RE: DISABILITY-RELATED INQUIRIES

- Demographic data - required by 29 CFR 37.37 (b) (2)
  - Must be collected about every applicant, registrant, eligible applicant/registrant, participant, terminee, applicant for employment, and employee
  - Must be kept separate from other information about the individual

- Recipients may invite applicants for employment/training to indicate disability if all of these criteria are met:
  - Recipients must be either:
    - Taking remedial action to correct the effects of past discrimination, or
    - Taking voluntary action to overcome the effects of conditions that resulted in limited participation by people with disabilities in the recipient’s program or activity, or
    - Taking affirmative action under section 503 of the Rehabilitation Act
  - Recipient must inform the applicant clearly that the information will be used solely for remedial actions or voluntary or affirmative action efforts

- Whenever disability-related information is collected/requested, the recipient must clearly inform the person that:
  - Providing the information is voluntary, and
  - The information will be kept confidential as provided by law, and
  - Refusal to provide the information will not subject the applicant, employee or participant to any adverse treatment, and
  - The information will be used only in accordance with the law.

DISABILITY-RELATED INFORMATION

- What’s legal, what’s not
ARE THESE ACTIVITIES LEGAL OR ILLEGAL?

- What can you do with information about a customer’s disability?
  - In the service related context - broader range, you can use it to figure out:
    - Reasonable accommodations / modifications
    - Auxiliary aids and services
    - Assistive technology
  - In the employment context, which is much more limited, you cannot:
    - Use it as the sole basis for deciding whether to refer a customer to a particular job (steering)
    - Tell an employer / training provider that a particular customer has a disability (except under certain circumstances)
- You can talk with a customer about:
  - Whether s/he will need accommodations for the application process
  - Whether s/he is interested in special employment programs for persons with his/her disability

WHO MAY BE TOLD ABOUT A CUSTOMER’S DISABILITY?

- Supervisors, managers, trainers - but only to explain limitations or reasonable accommodations
- First aid and safety personnel - but only if the condition may require emergency treatment

WHAT IS STEERING:

- Based solely on a person’s disability:
  - Referring him/her to a particular job or employer
  - Directing him/her to a particular profession or career path
- Steering is illegal!
- Deciding on an individualized basis is appropriate and required by law.

WHERE TO GET MORE INFORMATION

Civil Rights Center (CRC)
U.S. Department of Labor
200 Constitution Avenue N.W.
Room N-4123
Washington, D.C. 20210
website: http://www.dol.gov/dol/oasam/crchome.htm

HOW TO CONTACT DENISE SUDELL

E-mail: sudell.denise@dol.gov
Phone: Voice - 202-693-6554
TTY - 800-877-8339
Job Accommodation Network (JAN)

The Job Accommodation Network (JAN) was created over 20 years ago to offer accommodation options and practical solutions to physical barriers preventing people with disabilities from gainful employment. JAN is a free consulting service that is designed to increase the employability of people with disabilities.

The JAN website is: http://www.jan.wvu.edu
JOB ACCOMMODATION NETWORK

- The Job Accommodation Network (JAN) is a free consulting service designed to increase the employability of people with disabilities by:
  1) Providing individualized worksite accommodations solutions
  2) Providing technical assistance regarding the ADA and other disability related legislation
  3) Educating callers about self-employment options

- JAN is a service of the Office of Disability Employment Policy (ODEP) of the U.S. Department of Labor.

- JAN represents the most comprehensive resource for job accommodations available.

- JAN’s mission is to facilitate the employment and retention of workers with disabilities by providing employers, employment providers, people with disabilities, their family members and other interested parties with information on job accommodations, self-employment and small business opportunities and related subjects.

- JAN can help:
  - Hire, retain and promote qualified employees or applicants with disabilities;
  - Provide accommodation options and practical solutions;
  - Accommodate a person with a disability in the classroom or other training environment;
  - Address issues pertaining to accessibility;
  - Obtain information and referrals about self-employment and small business ownership opportunities for people with disabilities.

- JAN can also help businesses and services comply with the ADA and other disability related legislation.

- 1-800-ADA-Work (voice and TTY) connects to a JAN consultant who knows employment issues, public access issues, and ways to modify facilities and equipment to provide access for people with disabilities.

HOW DOES JAN WORK?

- When you call JAN, a consultant will help you clearly define the accommodation needs based on:
  1) The individual's limitations such as walking, hearing or remembering;
  2) The specific activities or job functions to be performed such as using a telephone, assembling parts or attending meetings.
  3) Other relevant conditions in the Career Center, training or work environment.

- The JAN consultant will determine a set of practical accommodation solutions based on the information provided.

- You may choose to receive the detailed accommodation descriptions by fax, E-mail or U.S. ground mail.
WHEN SHOULD JAN BE USED?

- As a Career Center professional, you will find JAN helpful when:
  - A customer with a disability needs an accommodation to access your Center’s services or programs.
  - You need information about communicating effectively and appropriately with people who have various disabilities.
  - A customer is job-ready and will require accommodations to make his/her employment plans a reality.
  - You are helping a person with a disability understand his/her rights under the Americans with Disability Act.
  - You want to help a customer explore small business ownership or other self-employment options.
  - You are developing policies and procedures to assist people with disabilities apply for and use your services.

- Anyone may call JAN for information about job accommodations and the employability of people with functional limitations.

- Consultants can address questions regarding any disability, employment type, and business or training environment.

- JAN preserves the confidentiality of communication between the caller and the consultant.

- JAN provides information in alternative formats: Braille, large print, audio tape, diskette, and CD-ROM, as well as materials in Spanish.

- 1-800-JAN-7234 (voice/TTY)

- Website: http://www.jan.wvu.edu

- E-mail: jan@jan.wvu.edu
Resources
This Community Based Organization provides Vocational Evaluation Services and Employment Development Services.

The Self-Employment Resource Program provides the knowledge, tools and support services needed to assist people with disabilities to become self-employed.

Non-Profit organization that provides advocacy services to individuals with disabilities.

AGENCY FOR WORKFORCE INNOVATION
Peter de Haan, Equal Opportunity Officer
Office for Civil Rights
107 East Madison Street, MSC 150
Tallahassee, FL 32399-4129
Office: 850-921-3201; Fax: 850-921-3122
Florida Relay 711 for communication assistance
E-mail: civil.rights@awi.state.fl.us
Website: www.floridajobs.org/civilrights/index.html
ASSOCIATION FOR THE DEVELOPMENT OF THE EXCEPTIONAL, INC.

HELENA DEL MONTE, Executive Director
Main Branch: 2801 N. Miami Avenue
Miami, FL 33127
Office: 305-573-3737; Fax: 305-573-8393

South Branch: 12700 S.W. 216 Street
Miami, FL 33170
Office: 305-257-2600; Fax: 305-257-3057
Florida Relay 711 for communication assistance
E-mail: hdelmonte@ademiami.org
Website: ademiami.org

BEST BUDDIES JOBS
Kevin Devine or Dave Ward
100 S.W. 2nd Street, Suite 1990, Miami, FL 33131
Voice: 305-374-2233
Fax: 305-374-5305
Florida Relay 711 for communication assistance
E-mail: kevindevine@bestbuddies.org
daveward@bestbuddies.org

Non-Profit organization that assists with job placement for people with developmental disabilities.

BRAIN INJURY ASSOCIATION OF FLORIDA, INC.
Harold Angel, Family Support Specialist
Miami Jewish Hospital
5200 N.E. 2nd Avenue
Ablin Bldg., Room # 8
Miami, FL 33137
Office: 305-762-1546; Fax: 305-762-1547; Helpline: 1-800-992-3442
Florida Relay 711 for communication assistance

Non-Profit organization that assists individuals and their families with counseling, information and referral and job placement assistance.

CENTER FOR INDEPENDENT LIVING
Kelly Greene, Executive Director
6660 Biscayne Blvd., Miami, FL 33138
Voice / TDD: (305) 751-8891
Toll free: 1-800-854-7551
Fax: (305) 751-8944
E-mail: soflic@aol.com
Website: www.soflic.org

This Community Based Organization provides Independent Living Services to Individuals with Disabilities.
CIVIL RIGHTS CENTER, U.S. DEPARTMENT OF LABOR
200 Constitution Avenue NW, Room N-4123
Washington, DC 20210
Voice: (202) 693-6500
TTY/TDD: (800) 877-8339
E-mail: CivilRightsCenter@dol.gov
Website: www.dol.gov/oasam/programs/CRC

The Office for Civil Rights ensures nondiscrimination and equal opportunity in employment, and in programs or services that receive federal financial assistance through the Agency.

COMMUNITY COMMITTEE FOR DEVELOPMENTAL HANDICAPS (CCDH)
Helene J. Good, MSW, Executive Director
Monica Santomauro, Family Support Coordinator
8585 Sunset Drive, Suite 75, Miami, FL 33143
Voice: (305) 596-1160
Florida Relay 711 for communication assistance
Fax: (305) 596-6196
E-mail: hgood@ccdh.org; or monica@ccdh.org
Website: www.ccdh.org

This Community Based Organization works in partnership with people with disabilities and their families. CCDH advocates, coordinates and provides supportive services.

DEAF SERVICES BUREAU
Clara Gantes, Program Administrator
1250 N.W. 7 Street, Suite 207, Miami, FL 33125
Voice: (305) 560-2866
TDD: (305) 560-2779 Florida Relay: 711
Fax: (305) 560-2864
E-mail: deafsvc@bellsouth.net

Deaf Services Bureau is a non-profit organization that provides social services, interpreter services, Education and Advocate on Deaf culture, ADA and sign language to the public. It provides sign language classes, Driver education and Citizenship training for the deaf and HOH. Deaf Services also provides volume control phones, TDDS and special devices for speech impaired and deafblind through the Florida Telecommunication/relay program to qualified Florida residents. Deaf Service also provides outreach and community education to the community.

DEPARTMENT OF CHILDREN AND FAMILIES, DISTRICT 11
Lisa Friedman-Chavez, BCABA, SE/SL Coordinator
401 N.W. 2nd Avenue, Suite S-312
Miami, FL 33128
Office: 305-377-7281; Fax: 305-377-7224
Florida Relay 711 for communication assistance
E-mail: lisa_friedman-chavez@dcf.state.fl.us
DEPARTMENT OF HEALTH
OFFICE OF EPIDEMIOLOGY AND DISEASE CONTROL
Donna Marie Milazzo, MPH, CHES, Health Service Representative for bio-terrorism
1350 N.W. 14th Street
Miami, FL 33125
Office: 305-324-2413; Fax: 305-325-3562
Florida Relay 711 for communication assistance
E-mail: donnamarie_milazzo@doh.state.fl.us

DIVISION OF BLIND SERVICES
Gail Sterner, District Administrator
401 N.W. 2nd Avenue, Room S-712, Miami, FL 33128
Voice: (305) 377-5339
Florida Relay 711 for communication assistance
Fax: (305) 377-5691
E-mail: gail_sterner@dbs.doe.state.fl.us

The Division of Blind Services serves blind and visually impaired individuals from birth to 100+. There are three programs: Children and Families’ Program which serves birth to age 15, Vocational Rehabilitation Program which serves clients 15 and over who are willing and feasible for work, and the Adult Program which serves any adult who needs our services but does not want to work. The adults are required to have permanent legal status in the United States. Our mission is to enable individuals to be as independent as possible and to work if that is their choice.

DIVISION OF BLIND SERVICES (State Office)
1320 Executive Center Drive, Room 100, Atkins Building, Tallahassee, FL 32399-2050
Voice: (850) 245-0300
Toll Free: 1-800-342-1828 (Florida only)
Florida Relay 711 for communication assistance
Fax: (850) 245-0363
Website: dbs.myflorida.com

DIVISION OF BLIND SERVICES RISE PROGRAM
(Reach Independence through Self-Employment)
Website: www.risepartners.com

RISE Partners provides education, consultation and business counseling services to facilitate individuals with disabilities in starting their own business. RISE Partners works with agencies that provide employment related services to make self-employment a legitimate and successful option for people with disabilities.

EASTER SEALS MIAMI-DADE
Catherine Rabitto, Vocational Services Director
1475 N.W. 14th Avenue, Miami, FL 33125
Voice: (305) 325-0470
TDD: (305) 326-7351
Fax: (305) 325-0578
E-mail: carabbito@aol.com
Website: www.info@miamieasterseals.com

This Community Based Organization provides Vocational Services to Individuals with Disabilities.
EPILEPSY FOUNDATION OF SOUTH FLORIDA INC.
Judy Clauser, Director of Employment Services
7300 North Kendall Drive, Suite 700, Miami, FL 33156
Voice: (305) 670-4949
Florida Relay 711 for communication assistance
Fax: (305) 670-0904
E-mail: jclauser@epilepsysofla.org
Website: www.epilepsysofla.org

This Community Based Organization provides Employment Services to Individuals with Disabilities.

FREEDOM SCIENTIFIC
11800 31st Court North
St. Petersburg, FL 33716
Office: 1-800-444-4443 or 727-803-3000
Florida Relay 711 for communication assistance

This company produces the JAWS screen reader and other products for blind or low vision groups.

GOODWILL INDUSTRIES OF SOUTH FLORIDA
Bridget Pallango, Senior Vice President of Human Services
2121 N.W. 21st Street
Miami, FL 33142
Voice: (305) 326-4134 or (305)326-4166
Florida Relay 711 for communication assistance
Fax: (305) 324-7319

South Office: (305) 253-1477 or (305) 255-9271
Contact Eber Oroz, Employment Specialist, for services - 305-326-4174
E-mail: bpallango@goodwillmiami.org

Goodwill Industries of South Florida is a private non-profit vocational rehabilitation organization. The Rehabilitation Services division helps people with disabilities and special needs overcome barriers to employment. Case management, Vocational evaluation, work adjustment services, vocational training and placement services are provided. Goodwill Industries has several entrepreneurial divisions that employ persons with disabilities.

JACKSON MEMORIAL HOSPITAL
Mental Health Hospital Center, Deaf and Hard of Hearing
Susan Williams, PhD, Program Director
1695 N.W. 9th Avenue, DHOH Room 2416, Miami, FL 33136
Voice: (305) 355-8059
TDD: (305) 355-8066
Fax: (305) 355-8091
E-mail: swilliams@um-jmh.org

This Program provides mental health services to individuals who are Deaf or Hard of Hearing. This includes counseling, psychological assessments, psychiatry services, medication management and case management. Office hours are 8:00 am to 4:30 pm. Medicaid, Medicare and private insurance are accepted. There is a grant available for individuals with no insurance.
MACTOWN

**Lynette McCray**, Director of External Services  
151 N.E. 62 Street, Miami, FL 33138  
Voice: (305) 758-4485  
Florida Relay 711 for communication assistance  
Fax: (305) 756-9990

*This Community Based Organization provides employment services to the developmentally disabled.*

MEED PROGRAM, MIAMI DADE COLLEGE

**Kathy Beckman**, Director  
300 N.E. 2nd Avenue, Room 1181, Miami, FL 33129  
Voice: (305) 237-3688  
TDD: (305) 237-3072  
Fax: (305) 237-3192  
E-mail: KBeckman@mdc.edu

*This Program provides services to students with disabilities in the areas of: Training Readiness Assessment, Career Training, Internships and Coops, Job Placement Assistance - for students and employers, Post-placement support for 1 year, comprehensive Vocational Services with special focus on Career Counseling and Job Placement.*

MIAMI-DADE COUNTY  
DISABILITY SERVICES AND INDEPENDENT LIVING

**Jeffrey Harris**, Employment Specialist  
Voice / TDD: (305) 547-5445  
Fax: (305) 547-7355  
E-mail: jharris@miamidade.gov

*This is a County Office through the Department of Human Services that Provides Independent Living and Employment Services to adults with Disabilities.*

MIAMI-DADE COUNTY PUBLIC SCHOOLS  
OFFICE OF ADULT, VOCATIONAL, ALTERNATIVE AND COMMUNITY EDUCATION

**Diana Ross**, Instructional Supervisor  
1450 N.E. 2nd Avenue, Room 814, Miami, FL 33132  
Voice: (305) 995-2811  
TDD: (305) 995-2400  
Fax: (305) 995-1895  
E-mail: dross@dadeschools.net

*This program provides adult and vocational educational services to Miami-Dade County. In addition to our traditional adult basic education, ESOL and vocational education courses, we also offer industry specific educational training programs, internships and partnerships such as Maytag/Major appliance repair program, Honda and Toyota sponsored technician training, electric line service and repair program sponsored by FPL, Caterpillar heavy equipment repair, Microsoft certified training, Diesel engine repair sponsored by Miami-Dade County as well as affiliations with the Florida Restaurant Association, physicians offices and major hospital programs. Career Specialists are available at adult and vocational education centers for assistance with resume development, job placement and other employment activities including job fairs and employer recruiting services.*
MIAMI-DADE COUNTY PUBLIC SCHOOLS
OFFICE OF EXCEPTIONAL STUDENT EDUCATION
Mary Ellen Tracy, M.A., Counselor for deaf and hard of hearing students
1500 Biscayne Blvd., Suite 407-A
Miami, FL 33132
Office: 305-995-2709
TDD: 305-995-1789

MIAMI LIGHTHOUSE FOR THE BLIND
Sylvia Stinson-Perez, Interim Director of Adult Services
601 S.W. 8th Avenue, Miami, FL 33130
Voice: (305) 856-2288
Florida Relay 711 for communication assistance
Fax: (305) 285-6967
Website: www.miamilighthouse.org

The Miami Lighthouse offers 3 programs:
1. Rehabilitation Programs: Orientation and Mobility training; Rehabilitation training - daily living skills training, educational services (Braille, use of adaptive writing guides and adaptive equipment); Computer training - use of adaptive technology. Supported Employment - provides employability skills classes, individual and group counseling and services, job placement, and job coaching, to clients who are blind or visually impaired and have a secondary disability.

2. Social Work Services: Social Group Activities - clients, primarily older persons, meet once a week to engage in social activities, such as arts and crafts.

3. Children’s Services: Blind Babies Program - provides early intervention (0-6 years old) for blind and visually impaired children. Summer Camp Programs - the Lighthouse offers summer camp programs to children ages 6 and up. These programs provide recreation, daily living skills classes, and adaptive equipment training, socialization, and educational opportunities.

NEW DIRECTIONS EMPLOYMENT AND TRAINING SERVICES, INC.
Gabriel Parra, President/CEO
5555 Biscayne Blvd - 1st Floor. Miami, Florida 33137
Voice: (305) 759-8500 ext 126
Florida Relay 711 for communication assistance
Fax: (305) 754-9223
ndets@bellsouth.net
www.newdirectionsusa.org

For twenty (24) years, NDETS has focused on serving the "most in need" or "hardest to serve" clients with disabilities. Programs include: 1) occupational skills training programs to train and place individuals with disabilities in the areas of Building Maintenance, Office Procedures and Landscape Park Attendants; 2) a case management program initiated in 1994 to provide services of retraining and direct placement to individuals who have been dislocated from the work force and; 3) Refugee Employment Program initiated in 1995.
REHABILITATION SERVICES
Robert L. Lessne, PhD, Director
9841 S.W. 100 Avenue, Miami, FL 33176
Voice: (305) 271-0012
TDD: (305) 273-1221
Fax: (305) 273-1221
E-mail: ergobob@consultant.com

This Community Based Organization specializes in Vocational Evaluation, Job Placement, Vocational Ergonomics, ADA Compliance and Orientation Mobility Services.

SOCIAL SECURITY ADMINISTRATION
Angel Figueredo, Work Incentives Coordinator
11401 West Flagler Street, Miami, FL 33174
Voice: (305) 227-2726 x 1264
Florida Relay 711 for communication assistance
Fax: (305) 227-4760

This Federal agency section works with SSI and SSDI recipients in the Ticket to Work Program.

SPINAL CORD LIVING-ASSISTANCE DEVELOPMENT, INC. (SCLAD)
Pedro Rodriguez, Director
240 East 1st Avenue, Suite 122, Hialeah, FL 33010
Voice: (305) 887-8838
Florida Relay 711 for communication assistance
Fax: (305) 884-7606
Website: www.sclad.org

This Community Based Agency provides Vocational Services to Individuals with Disabilities, specializing in the area of spinal cord injuries.

UNITED CEREBRAL PALSY ASSOCIATION OF MIAMI
Pam Miller, Director of Adult Day Services
Voice: (305) 728-1544
Florida Relay 711 for communication assistance
Fax: (305) 325-1044
E-mail: pam.miller@ucpsouthflorida.org

This Community Based Organization provides Employment Services to Individual with Developmental Disabilities.
VOCATIONAL REHABILITATION (FLORIDA DEPARTMENT OF EDUCATION)
  Cynthia Gaber, Area Director
  1111 Park Center Blvd., Suite 103, Miami, FL 33169
  Voice: (305) 628-7033
  Florida Relay 711 for communication assistance
  Fax: (305) 628-7048
  Central referral: (305) 643-7600
  E-mail: gaberc@vr.doe.state.fl.us

This State Agency is the largest that provides Vocational Services to all Individuals with Disabilities except for those who are Blind.

VOCATIONAL REHABILITATION (Florida Division of V.R. - State Office)
  2002 Old Saint Augustine Road, Building A, Tallahassee, FL 32301
  Voice / TDD: (850) 245-3399
  Toll Free: Voice / TDD: 1-800-451-4327
  Website: www.rehabworks.org

WORKER’S COMPENSATION
  Sonya Harrington, W.C. Rehabilitation Nurse Supervisor
  401 N.W. 2nd Avenue, Suite S-321, Miami, FL 33128
  Voice: (305) 377-5379 x 110
  Florida Relay 711 for communication assistance
  Fax: (305) 377-7199
  E-mail: harrins@vr.doe.state.fl.us

This State Agency works with individuals who have been injured on the job and are receiving Worker’s Compensation.
# CAREER CENTER DISABILITY COORDINATORS

<table>
<thead>
<tr>
<th>CAREER CENTER</th>
<th>DISABILITY COORDINATOR</th>
<th>ZIP CODES</th>
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<td>3 Hialeah Gardens</td>
<td>Harry Santiago</td>
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<td>5 Hialeah Downtown</td>
<td>Ramon Sanchez</td>
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<td>Carlos Franco</td>
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<td>3060 Biscayne Blvd.</td>
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<tr>
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<td>7 Miami Beach</td>
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# CAREER CENTER DISABILITY COORDINATORS

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<tr>
<td>Michelle Cintron (back up)</td>
<td></td>
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<tr>
<td><a href="mailto:mcintron@southfloridaworkforce.com">mcintron@southfloridaworkforce.com</a></td>
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<tr>
<td>9 Little Havana</td>
<td>Paulina Velez</td>
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<td>10 Perrine</td>
<td>Maria Silva</td>
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<td>Elizabeth Zarate (back up)</td>
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<td>Blanca Radicy (back up)</td>
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<td><a href="mailto:bradicy01@southfloridaworkforce.com">bradicy01@southfloridaworkforce.com</a></td>
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<tr>
<td>12 Key Largo</td>
<td>Fran Herbenick</td>
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<td>103400 Overseas Hwy Suite 239</td>
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<td>13 Key West</td>
<td>Morgan Whittaker</td>
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<tr>
<td>305-292-6762</td>
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<tr>
<td>14 Transition, Inc.</td>
<td>Luz Norwood Mora</td>
<td>Ex-Offenders with disabilities in Miami-Dade County</td>
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<td>305-374-1987</td>
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Vocational Rehabilitation
## QUICK REFERENCE

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<tr>
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<tr>
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<td>287</td>
<td>23A</td>
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<td>Northeast</td>
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* VR Area Supervisors
**FLORIDA DEPARTMENT OF EDUCATION**
**DIVISION OF VOCATIONAL REHABILITATION**
**AREA 6**

**UNIT 23-A**

**Address:** 1111 Park Center Blvd., Suite 103  
Miami, Florida 33169-0000

**DBS:** 48 80 02 06 600  
**Location:** 287

**Telephone:** (305) 628-7033  
**SunCom:** 428-7033

**Fax:** (305) 628-7048  
**SunCom Fax:** 428-7048

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<tr>
<td>04628</td>
<td>Cynthia C. Gaber</td>
<td>Area Director</td>
<td><a href="mailto:GABERC@VR.DOE.STATE.FL.US">GABERC@VR.DOE.STATE.FL.US</a></td>
</tr>
<tr>
<td>04823</td>
<td>Linda B. Lacy</td>
<td>Staff Assistant</td>
<td><a href="mailto:LACYLAN@VR.DOE.STATE.FL.US">LACYLAN@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04826</td>
<td>Diane A. Ferrer</td>
<td>OMC I</td>
<td><a href="mailto:FERRERD@VR.DOE.STATE.FL.US">FERRERD@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04927</td>
<td>Phyllis Moore</td>
<td>OMC I</td>
<td><a href="mailto:MOOREPH@VR.DOE.STATE.FL.US">MOOREPH@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04821</td>
<td>Marilyn M. Booker</td>
<td>Senior Management Analyst*</td>
<td><a href="mailto:BOOKERM@VR.DOE.STATE.FL.US">BOOKERM@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04541</td>
<td>Mara T. Kwast</td>
<td>Government Operations Consultant I</td>
<td><a href="mailto:KWASTM@VR.DOE.STATE.FL.US">KWASTM@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>03640</td>
<td>Larry D. Watt</td>
<td>Administrative Secretary*</td>
<td><a href="mailto:WATTLARR@VR.DOE.STATE.FL.US">WATTLARR@VR.DOE.STATE.FL.US</a></td>
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- Contracts Positions
FLORIDA DEPARTMENT OF EDUCATION
DIVISION OF VOCATIONAL REHABILITATION
AREA 6

UNIT 23-B

Address: 12000 Biscayne Blvd., Suite 204
North Miami, Florida 33181

DBS: 48 80 02 06 601  Lease #:  480:0665
Location: 288

Telephone: (305) 795-2285  SunCom: 487-2285
Fax: (305) 795-3488  SunCom Fax: 487-3488

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<td>04832</td>
<td>Natalie Brann</td>
<td>VR Supervisor</td>
<td><a href="mailto:BRANNN@VR.DOE.STATE.FL.US">BRANNN@VR.DOE.STATE.FL.US</a></td>
</tr>
<tr>
<td>04820</td>
<td>Abner Perodin</td>
<td>VR Consultant</td>
<td><a href="mailto:PERODIA@VR.DOE.STATE.FL.US">PERODIA@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04837</td>
<td>Vacant</td>
<td>VR Sr. Counselor</td>
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<tr>
<td>04836</td>
<td>Evons Milion</td>
<td>VR Sr. Counselor</td>
<td><a href="mailto:MILIEN@VR.DOE.STATE.FL.US">MILIEN@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04839</td>
<td>Berto Torguet</td>
<td>VR Sr. Counselor</td>
<td><a href="mailto:TORQUEB@VR.DOE.STATE.FL.US">TORQUEB@VR.DOE.STATE.FL.US</a></td>
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<td>04831</td>
<td>Ketha Otis</td>
<td>VR Technician</td>
<td><a href="mailto:OTIKET@VR.DOE.STATE.FL.US">OTIKET@VR.DOE.STATE.FL.US</a></td>
</tr>
<tr>
<td>04834</td>
<td>Carine Fleuriot</td>
<td>VR Technician</td>
<td><a href="mailto:FLEURIQ@VR.DOE.STATE.FL.US">FLEURIQ@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04838</td>
<td>Elsie Marshall</td>
<td>Administrative Secretary</td>
<td><a href="mailto:MARSHAE@VR.DOE.STATE.FL.US">MARSHAE@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04840</td>
<td>Lisette Quintero</td>
<td>Secretary Specialist</td>
<td><a href="mailto:QUINTIEL@VR.DOE.STATE.FL.US">QUINTIEL@VR.DOE.STATE.FL.US</a></td>
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FLORIDA DEPARTMENT OF EDUCATION  
DIVISION OF VOCATIONAL REHABILITATION  
AREA 6  

UNIT 23-C  

Address: 410 West 49th Street, Suite 105  
Hialeah, Florida 33012  

DBS: 48 80 02 06 602  

Location: 289  

Telephone: (305) 364-3147  
SunCom: 481-3147  
Fax: (305) 364-3098  
SunCom Fax: 481-3098  

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<td>04846</td>
<td>Brenda Lampon</td>
<td>VR Supervisor</td>
<td><a href="mailto:LAMPONB@VR.DOE.STATE.FL.US">LAMPONB@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04845</td>
<td>Teresa Alonso</td>
<td>VR Sr. Counselor</td>
<td><a href="mailto:ALONSOVT@VR.DOE.STATE.FL.US">ALONSOVT@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04843</td>
<td>Magaly Figueroa</td>
<td>VR Sr. Counselor</td>
<td><a href="mailto:VALENCM@VR.DOE.STATE.FL.US">VALENCM@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04841</td>
<td>Raul San Jose</td>
<td>VR Sr. Counselor</td>
<td><a href="mailto:SANJORGE@VR.DOE.STATE.FL.US">SANJORGE@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04844</td>
<td>Eneida Amaro</td>
<td>VR Technician</td>
<td><a href="mailto:MARCEN@VR.DOE.STATE.FL.US">MARCEN@VR.DOE.STATE.FL.US</a></td>
</tr>
<tr>
<td>04849</td>
<td>Maria Rodriguez</td>
<td>VR Technician</td>
<td><a href="mailto:RODRIGM@VR.DOE.STATE.FL.US">RODRIGM@VR.DOE.STATE.FL.US</a></td>
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<td>04842</td>
<td>Olivia Henry</td>
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<td><a href="mailto:HENRYOL@VR.DOE.STATE.FL.US">HENRYOL@VR.DOE.STATE.FL.US</a></td>
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**FLORIDA DEPARTMENT OF EDUCATION**  
**DIVISION OF VOCATIONAL REHABILITATION**  
**AREA 6**

**UNIT 23-D**

Address: 315 NW 27th Avenue, Suite 3  
Miami, Florida 33125

DBS: 48 80 02 06 605  
Location: 290  
Telephone: (305) 643-7600  
Fax: (305) 643-7618

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FLORIDA DEPARTMENT OF EDUCATION  
DIVISION OF VOCATIONAL REHABILITATION  
AREA 6  

UNIT 23-E

Address: 7984 SW 8th Street  
Miami, Florida 33144  

DBS: 45 80 02 06 604  Lease #: 480:0527  
Location: 291  
Telephone: (305) 442-6885  SunCom: 489-6885  
Fax: (305) 442-6909  SunCom Fax: 489-6909

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* Management Information Systems (MIS) Position
FLORIDA DEPARTMENT OF EDUCATION  
DIVISION OF VOCATIONAL REHABILITATION  
AREA 6  
UNIT 23-F

Address: 315 NW 27th Avenue, Suite 4  
        Miami, Florida 33125  
DBS: 48 50 02 06 605  
    Lease #: 480:0558  
Location: 292  
Telephone: (305) 643-7650  
           SunCom: 481-7650  
Fax: (305) 643-7666  
           SunCom Fax: 481-7666

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<td>Caridad Cid</td>
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*Management Information Systems (MIS) Position

** Area Office Position
FLORIDA DEPARTMENT OF EDUCATION
DIVISION OF VOCATIONAL REHABILITATION
AREA 6

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Address: 2828 SW 22nd Street, Suite 480
Miami, Florida 33145

DBS: 48 80 02 06 006
Location: 293

Telephone: (305) 442-6970
Fax: (305) 442-6975

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<td>04894</td>
<td>Joseph Mahoney</td>
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<tr>
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<td>Randy Nieves</td>
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FLORIDA DEPARTMENT OF EDUCATION
DIVISION OF VOCATIONAL REHABILITATION
AREA 6

UNIT 23-GA

Address: 1611 NW 12th Avenue, Room 138-B
Miami, Florida 33136

DBS: 48 80 02 06 607
Location: 294

Telephone: (305) 325-3237
Fax: (305) 325-2680

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# Florida Department of Education
## Division of Vocational Rehabilitation
### Area 6

**Unit 23-H**

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FLORIDA DEPARTMENT OF EDUCATION
DIVISION OF VOCATIONAL REHABILITATION
AREA 6

UNIT 23-J

Address: 10700 Caribbean Blvd., Suite 204
Miami, Florida 33189

DBS: 48 80 02 06 609 Lease #: 480:0519
Location: 296
Telephone: (305) 252-4453 SunCom: 489-4453
Fax: (305) 252-4320 SunCom Fax: 489-4320

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* Area Office Position
FLORIDA DEPARTMENT OF EDUCATION
DIVISION OF VOCATIONAL REHABILITATION
AREA 6

UNIT 23-K

Address: 9000 SW 137th Avenue, Suite 220
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Location: 297

Telephone: (305) 275-1950  SunCom: 491-1950
Fax: (305) 275-1953  SunCom Fax: 491-1953

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<tr>
<td>04914</td>
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<td>VR Sr. Counselor</td>
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<td>04915</td>
<td>Armantina Forns</td>
<td>VR Counselor</td>
<td><a href="mailto:GRANADA@VR.DOE.STATE.FL.US">GRANADA@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04918</td>
<td>Iris Ortiz</td>
<td>VR Counselor</td>
<td><a href="mailto:ORTIZIR@VR.DOE.STATE.FL.US">ORTIZIR@VR.DOE.STATE.FL.US</a></td>
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<td>04922</td>
<td>Deborah Small</td>
<td>VR Technician</td>
<td><a href="mailto:SMALLDF@VR.DOE.STATE.FL.US">SMALLDF@VR.DOE.STATE.FL.US</a></td>
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<td>04917</td>
<td>Amal Bunassar</td>
<td>VR Technician</td>
<td><a href="mailto:BUNASSA@VR.DOE.STATE.FL.US">BUNASSA@VR.DOE.STATE.FL.US</a></td>
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<td>04921</td>
<td>Caridad Bailon</td>
<td>Administrative Secretary</td>
<td><a href="mailto:BAILONC@VR.DOE.STATE.FL.US">BAILONC@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04920</td>
<td>Irene Ahmed</td>
<td>Secretary Specialist</td>
<td><a href="mailto:AHMEDIR@VR.DOE.STATE.FL.US">AHMEDIR@VR.DOE.STATE.FL.US</a></td>
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Florida Department of Education
Division of Vocational Rehabilitation
Area 6

Unit 23-M

Address: 1111 Park Center Blvd., Suite 100
Miami, Florida 33169

DBS: 48 80 02 06 614  Lease #: 480:0536
Location: 298
Telephone: (305) 628-7244  SunCom: 428-7244
Fax: (305) 628-7248  SunCom Fax: 428-7248

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<td>04924</td>
<td>Nancy Whittaker</td>
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<td>Matelvy Othello</td>
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<td>04933</td>
<td>Ruth McQueen-Dean</td>
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<td>Tatlyn Samuels</td>
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<td>Paulette Rodgers</td>
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<td>04926</td>
<td>Maria Collot</td>
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<td>04934</td>
<td>Gayla Mangham</td>
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<tr>
<td>04633</td>
<td>Lucinda Hassell (MIS) * OAS</td>
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<td><a href="mailto:HASSELL@VR.DOE.STATE.FL.US">HASSELL@VR.DOE.STATE.FL.US</a></td>
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* MIS Position
FLORIDA DEPARTMENT OF EDUCATION  
DIVISION OF VOCATIONAL REHABILITATION  
AREA 6  

UNIT 23-N  

Address: 315 NW 27th Avenue, Suite 2  
Miami, Florida 33125  

DBS: 48 80 02 06 615  
Location: 300  

Telephone: (305) 643-7640  
Fax: (305) 643-7638  

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<td>04818</td>
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<td>VR Consultant</td>
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<td>04937</td>
<td>Isabel Yepez</td>
<td>VR Sr. Counselor</td>
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<tr>
<td>04938</td>
<td>Carlos Gonzalez</td>
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<td><a href="mailto:GONZALC@VR.DOE.STATE.FL.US">GONZALC@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04928</td>
<td>Thomas Mata</td>
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<td><a href="mailto:MATATHO@VR.DOE.STATE.FL.US">MATATHO@VR.DOE.STATE.FL.US</a></td>
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<td>04939</td>
<td>Cynthia Paul-Pierre</td>
<td>VR Counselor</td>
<td><a href="mailto:PAUL.PIE@VR.DOE.STATE.FL.US">PAUL.PIE@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04877</td>
<td>Primrose Rose</td>
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<td><a href="mailto:ROSFRI@VR.DOE.STATE.FL.US">ROSFRI@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04940</td>
<td>Maria Rodriguez</td>
<td>VR Technician</td>
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<td>04941</td>
<td>Tangela Dixon</td>
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<td>04822</td>
<td>Brenda Wilcher</td>
<td>Administrative Secretary</td>
<td><a href="mailto:WILCHEB@VR.DOE.STATE.FL.US">WILCHEB@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04650</td>
<td>Chevette Bethea-Williams</td>
<td>VR Counselor</td>
<td><a href="mailto:BETHEAC@VR.DOE.STATE.FL.US">BETHEAC@VR.DOE.STATE.FL.US</a></td>
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<tr>
<td>04851</td>
<td>Shakevia Anthony</td>
<td>VR Counselor</td>
<td><a href="mailto:ANTHONS@VR.DOE.STATE.FL.US">ANTHONS@VR.DOE.STATE.FL.US</a></td>
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FLORIDA DEPARTMENT OF EDUCATION
DIVISION OF VOCATIONAL REHABILITATION
AREA 6

UNIT 23-L

Address: 3112 Flagler Avenue
Key West, Florida 33040

DBS: 48 80 02 06 611 Lease #: Free Space

Location:

Telephone: (305) 293-7586 SunCom: 464-7586
Fax: (305) 292-7127 SunCom Fax: 464-7127

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FLORIDA DEPARTMENT OF EDUCATION
DIVISION OF VOCATIONAL REHABILITATION
AREA 6

UNIT 23-LA

Address: 5800 Overseas Highway, Suite 32
          Marathon, Florida 33050

DBS:        48 80 02 06 612  Lease #: 480:0870
Location:
Telephone:  (305) 289-6174  SunCom: 464-6174
Fax:         (305) 289-6181  SunCom Fax: 464-6181

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UNIT 23-LB

Address: 103400 Overseas Highway, Suite 230
          Key Largo, Florida 33037

DBS:        48 80 02 06 613  Lease #: 480:0669
Location:
Telephone:  (305) 453-1271  SunCom: 464-1271
Fax:         (305) 453-1270  SunCom Fax: 464-1270

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<td>04208 VR Counselor</td>
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<tr>
<td>Sandra Benjamin</td>
<td>04647 VR Technician</td>
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# Florida Department of Education
## Division of Vocational Rehabilitation
### Area 6

University of South Florida  
College of Engineering  
4202 Fowler Avenue, ENB 118  
Tampa, Florida 33620-5350  

Dr. Rajiv Dubey, PhD, Director  
Stephen Sundarrao, Associate Director  
Telephone: (813) 974-3977 – SunCom: 574-3977  
Fax: (813) 974-3369 – 574-3369

<table>
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<tr>
<td>Alexander A. Reina</td>
<td>Rehabilitation Engineer</td>
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<td><a href="mailto:reina@eng.usf.edu">reina@eng.usf.edu</a></td>
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<tr>
<td>Alberto Garcia-Paz</td>
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<td>C526</td>
<td><a href="mailto:garciapa@eng.usf.edu">garciapa@eng.usf.edu</a></td>
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<tr>
<td>Jeffrey Daniel</td>
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Becoming Relay Friendly
BECOMING RELAY FRIENDLY

How to use the Florida Relay System (FRS)

What is a Relay Call?

- This is an operator-assisted communication between a person using a text telephone (TTY) and a person who is using a standard telephone.
- If a call is made to a person who does not have a TTY, then the person may use the Relay System to make the call.
- If an individual who uses a TTY machine is making a call to another person who uses a TTY, then the call is made directly TTY-to-TTY.
- The callers who use TTY’s and Relay services are either deaf, hard of hearing or have a speech impairment.
- The TTY caller will dial 711 to connect to the Relay Operator (OPR).
- The caller will type the number he/she wishes to dial and the OPR will make the call.
- The caller types the message to the OPR, then the OPR reads the text to the person receiving the call.
- When the caller has completed his/her comment(s), the caller will write GA (go ahead).
- The OPR will then speak the message that the caller has typed, saying GA, to signal to the person called that it is his/her turn to speak.
- The person who received the call then answers back to the OPR, while the OPR types the message to the caller.
- The call will proceed in this manner with each person using GA to signal it is the other person’s turn to answer.
- When the call is ready to end, the signal is SK (stop keying).
- Each party will use SK-SK to complete the call. This is very important especially on TTYs.
- When one of the parties wants to initiate the end of the call, he/she will use GA to SK.

Common Abbreviations used for TTY and Relay Calls

- ASST - Assistant
- CLD - Could
- GA - Go Ahead
- IMPT - Important
- NBR - Numbers
- PLS - Please
- R - Are
- SVC - Service
- U - You
- XXX - Used to correct a misspelled word

- BIZ - Business
- CUZ - Because
- HD - Hold
- LTRS - Letters
- OFC - Office
- PPL - People
- SHD - Should
- THKS - Thanks
- UR - Your

- Bye - Goodbye
- DR - Doctor
- ILY - I Love You
- MSG - Message
- OIC - Oh, I See
- Q - Question
- SK - Stop Keying
- TMW - Tomorrow
How to Place a Relay Call
• When you know you are calling a TTY number, dial 711. This will connect to the Relay Operator.
• The OPR will ask for the number to be called with the area code first.
• The OPR will dial the number and tell you when the party answers.
• A light flashes to alert non-hearing TTY users a call is being received.
• The OPR will tell you when the party answers and when to begin your conversation.
• Sometimes there is no answer, but the person called may have a TTY answering machine that will take messages from the Relay OPR.
• After the call has been connected and the conversation begins, always say GA to signal the TTY user that it is his/her turn to type back to you.
• The call “relays” back and forth in this manner, until the SK signal is given to end the conversation.

Speaking Protocol for Relay
• When using the Relay OPR, it is important to always speak directly to the person being called. For example: “I am calling to remind you about your appointment tomorrow.”
• Do not say, "Tell him I am calling to remind him about his appointment tomorrow."
• This may take some practice.
• Many people who are Deaf are not fluent in English. This is because their first language is American Sign Language (ASL),
• ASL uses a different syntax and grammatical structure.

Points to Remember
• Relay calls can be made 24 hours a day, 7 days a week.
• There is never a charge to use the Florida Relay System.
• Each state has it’s own system.
• The OPR will type everything that is heard, word for word, so talk slowly.
• Sometimes the equipment is referred to as TDD (Tele-device for the Deaf). However, TTY is the preferred term because not all users are deaf.

Relay Users Rights
• People using the Relay system have the right to communicate anything that is needed.
• The OPRs are used to conversations with varied content.
• The OPR has the responsibility to convey the message in the same spirit in which it is given.
• In Florida, FRS offers services in English, Spanish and Haitian Creole.
Other Types of Relay Systems

- People who are deaf, hard of hearing or speech impaired do not need to use a TTY to make a telephone call. There are other Relay Systems available through the Internet.
- IP-Relay and AT&T Relay are often used through the Internet.
- Websites are:
  - www.sprintrelayonline.com
  - www.relaycall.com
  - www.ip-relay.com
- The process for receiving an Internet Relay call is exactly the same.
Listed below are training programs that can be requested from the Disability Program Navigator. Attached is a training request form that can be completed and faxed to 305-470-5522.

- Becoming Relay Friendly
- Disability Awareness and Etiquette
- Disability Orientation
- Disability Program Navigator Initiative
- Job Accommodation Network (JAN)
- Myth and Facts
- Services for Customers with Disabilities
TRAINING REQUEST FORM

To: Martha Scott, Disability Program Navigator, fax # 305-470-5522

From: ____________________________________________________________

PROGRAM REQUESTED:

___ Becoming Relay Friendly
___ Disability Awareness and Etiquette
___ Disability Orientation
___ Disability Program Navigator Initiative
___ Job Accommodation Network (JAN)
___ Myth and Facts
___ Services for Customers with Disabilities

Training date requested: ______________________________________________
# Record of Disability Services Training Attended

Your Name: _____________________________

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# DISABILITY SERVICES TRAINING SIGN IN LOG

Program: ________________________________  
Date: ________________________________  

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The BLN is a group of employers who have hired people with disabilities and want to educate and encourage other employers to also recruit, hire and retain employees with disabilities. A web link has also been created between the BLN (www.myabilities.org) and SFW where resumes of people with disabilities can be posted. These resumes will be distributed to the Career Centers by zip code.
A Successful Public-Private Partnership

- The Business Leadership Network (BLN) is an employer-led venture of the U.S. Department of Labor, Office of Disability Employment Policy. The purpose is to educate and encourage employers to hire and retain employees with disabilities as part of promoting good business practices and to create awareness of the skills and abilities of workers with disabilities through the organization of an employer network.
- The United States Business Leadership Network (USBLN) is a national employer non-profit network that engages in business-to-business conversations to recognize and promote the best business practices on hiring, retaining, promoting and marketing to individuals with disabilities.
- The USBLN Vision is: Every employer recognizes and benefits from the best practice of including people with disabilities in their workforce and marketplace.
- The USBLN Mission is: The USBLN is the national organization that supports development and expansion of BLNs across the country, serving as their collective voice.
- The Florida BLN is sponsored by The Able Trust (www.abletrust.org)

The Florida BLN seeks to promote two primary personnel policies:
1) Diversity policies that include people with disabilities
2) Hiring practices that target candidates with disabilities.

How it works:

- Employers in Florida join the BLN for free by completing a brief membership application.
- Member employers then identify specific hiring requirements and disability employment concerns, and request information on specific disability topics.
- Members hire and promote workers with disabilities; attend business forums that provide information on critical disability employment issues; conduct job seeking skills sessions for candidates with disabilities; serve as mentors to postsecondary students with disabilities; recruit at disability employment fairs; provide summer, internship and co-op work experiences to enable students with disabilities to gain related work experience; and market the BLN to other employers.

Benefits to BLN members:

- Gain access to a pool of qualified candidates with disabilities,
- Obtain a variety of resources and information to help with the best disability employment practices,
- Share information with other employers,
- Contribute to human resource training and employment issues, and
- Gain access to an untapped market for goods and services

Local Chapters of the Florida BLN are working to increase employment opportunities for Floridians with disabilities in their own communities.

These Chapters work to assist businesses and organizations with recruiting, hiring, training and retaining people with disabilities in their membership area.
BLN members join hundreds of others who want to improve their access to an untapped employee pool and increase their knowledge of best employment practices for people with disabilities.

The Miami-Dade BLN Mission is: To educate and encourage employers to recruit, hire, train and retain employees with disabilities as part of promoting good business practices.

The Miami-Dade BLN Vision is to:
- Expand the pool of qualified individuals in the workforce
- Attract new customers
- Enhance customer service
- Expand workplace diversity
- Enhance economic development
- Improve the lives of people with disabilities through gainful employment

The Miami-Dade BLN is an employer-to-employer network with a common vision to increase workforce diversity through the recruitment and hiring of qualified workers with disabilities.

The Miami-Dade BLN is affiliated with The Able Trust, which coordinates the Florida BLN. The BLN is funded by the Florida Developmental Disabilities Council, Inc. and organized by Wilson Resources, Inc.

The BLN is a business-driven approach based on two premises:
1) Businesses, large and small, have the power to hire people with disabilities
2) Businesses respond to their peers

BLN members champion opportunities to create productive and supportive partnerships among people with disabilities, private businesses, and government and community service agencies.

Businesses need workers and people with disabilities are an untapped source of dependable employees.

People with disabilities want to work!
The involvement and support of the business community is critical to decreasing the unemployment of people with disabilities - and everybody wins!
Definition of Terms
DEFINITION OF TERMS

Alternate Dispute Resolution (ADR): A variety of procedures for resolving disputes. ADR can be a fair and efficient alternative to the traditional complaint process. Some of the more common ADR procedures are arbitration, mediation, and conciliation. Under 29 CFR 37.76(c)(1), participation in ADR is voluntary on the complainant’s part.

Alternate Formats: Formats usable by people with disabilities. These may include, but are not limited to, Braille, ASCII text, large print, and recorded audio.

Alternate Methods: Different means of providing information, including product documentation, to people with disabilities. Alternate methods may include, but are not limited to, voice, fax, relay service, TTY, Internet posting, captioning, text-to-speech synthesis, and audio description.

Assistive Technology: Any item, piece of equipment, or system, whether acquired commercially, modified, or customized, that is commonly used to increase, maintain, or improve functional capabilities of individuals with disabilities. Includes items such as communication devices, adapted appliances for accessible living, environmental control devices, modified housing, adapted computers, and specialized software.

Auxiliary Aids and Services: Devices or services that accommodate a functional limitation of a person with a communication-related disability. Includes qualified interpreters and communication devices for persons who have deafness or hardness of hearing; qualified readers, taped texts, Braille or other devices for persons with visual impairments; and adaptive equipment for person with other communication disabilities.

Electronic and Information Technology: Technology and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information. The term electronic and information technology includes, but is not limited to, telecommunications products (such as telephones), information kiosks and transaction machines, World Wide Web sites, multimedia, and office equipment such as copiers and fax machines.

Essential Job Functions: Fundamental job duties of an employment position that an individual with a disability holds or desires.

Fundamental Alteration: A change in the essential nature of a program or activity as defined in part of 29 CFR part 37.4, including but not limited to an aid, service, benefit, training; or a cost that a recipient can demonstrate would result in an undue burden.

Individual with a Disability: Person who has a physical or mental impairment that substantially limits one or more of that person’s major life activities, has a record of such impairment, or who is regarded as having such an impairment.

Information Transaction Machines (ITM): Public service kiosks such as fare vending machines and Automated Teller Machines.

Job Coach: Person hired by a placement agency or provided through an employer to assist an employee with a disability in learning and performing a job and adjusting to the work environment.

Major Life Activity: Functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, and learning.
**Natural Supports:** Supports provided to an employee with a disability from supervisors and co-workers, such as mentoring, friendship, socializing at breaks or after work, providing feedback on job performance or learning a new skill together. These natural supports are particularly effective as they enhance the social integration of the employee with a disability with his or her co-workers and supervisor. In addition, natural supports are more permanent, part of the workplace and more readily available than paid job coaches, thereby facilitating long-term job retention.

**Qualified Individual with a Disability:** With respect to employment, an individual with a disability who, with or without reasonable accommodation, is capable of performing the essential functions of the job in question. With respect to aid, benefits, services, or training, an individual with a disability who, with or without reasonable accommodation and/or reasonable modification, meets the essential eligibility requirements for the receipt of such aid, benefits, services, or training.

**Reasonable Accommodation:** (1) Modification or adjustment 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. (2) Modifications 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. (3) Modifications 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 individuals without disabilities.

**Supported Employment:** Supports that help people with severe disabilities (e.g., psychiatric, mental retardation, significant learning disabilities, traumatic brain injury) find competitive work in an integrated setting where they might not otherwise be able to do so. The supports can include job coaches, transportation, assistive technology, specialized job training and individually tailored supervision.

**Telecommunications Relay Services (TRS):** Service available in all states and territories that enables voice telephone users to talk to people who have deafness or hardness of hearing via trained Communications Assistants who relay the message in real time.

**Teletypewriter Technology (TTY):** Typewriter keyboards that allow users to type their conversations over the phone lines. The conversation is read on a lighted screen display or a paper printout.

**Ticket-to-Work:** Social Security Administration (SSA) program designed to help individuals with disabilities that are receiving SSA/SSI disability benefits find and maintain employment.

**Undue Hardship:** This term has different meanings, depending upon whether it is used with regard to reasonable accommodation of individuals with disabilities, or with regard to religious accommodation. 1) Significant difficulty or expense incurred by a recipient or the facility when considering the nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions, and/or outside funding, for the accommodation. Factors considered in determining undue hardship include the size, nature and structure of a business, as well as the resources available to an employer. If the facility considering the accommodation is part of a larger entity, the structure and overall resources of the larger organization are considered, as well as the financial and administrative relationship of the employing facility to the larger organization. 2) For purposes of religious accommodation only, undue hardship means any additional, unusual costs, other than de minimis costs, that a particular accommodation would impose upon a recipient.