**FACT SHEET**

**Ensuring Equal Access to the Nation’s Workforce Development System**

*Final Rule to promote nondiscrimination and equal opportunity*

*in WIOA Title I*–*financially assisted programs and activities*

(WIOA Section 188 Nondiscrimination and Equal Opportunity, 29 CFR Part 38)

**Background**

The workforce development system is the backbone of job training and education in the United States. It provides millions of jobseekers and workers the opportunity to learn new skills and obtain new and better jobs. The system also serves a critical role in our nation’s labor market, bringing together workers and businesses to ensure that workers can find good jobs and that employers can find the skilled workers they need to keep business thriving.

An essential element of the workforce development system is its accessibility to everyone. The Department of Labor’s Civil Rights Center (CRC) is tasked with ensuring that all people can access the programs, services, and benefits that the system provides, equally and free from unlawful discrimination. These principles are vital to a successful workforce development system. As Secretary of Labor Thomas Perez has said, “We all know that America is truly strongest when we field a full team.”

CRC has updated the regulations implementing the equal opportunity provisions of the bipartisan Workforce Innovation and Opportunity Act (WIOA), which was signed into law in July 2014, to protect participants and other beneficiaries in the workforce development system. Beneficiaries are those whom WIOA Title I–financially assisted programs and activities are intended to benefit, including those participating in and seeking to participate in covered programs. Participants are those receiving any aid, benefit, service, or training under a program or activity financially assisted in whole or in part under Title I of WIOA. Recipients are those who receive financial assistance under Title I of WIOA, directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient). To best understand the application of the regulation, readers are encouraged to review the “applicability” language of the Final Rule at § 38.2, the definition of “financial assistance” under Title I of WIOA at § 38.4(x) and § 38.4(y), and the definition of “recipient” at § 38.4(zz). Entities connected to the workforce development system may be recipients for purposes of WIOA Section 188 and the Final Rule even if they do not receive assistance in the form of money. The Final Rule provides examples and further explanation.

The Final Rule provides important updates to the existing regulations, which have not been substantively updated since 1999. The old rule did not reflect the many developments in civil rights law since that time, changes in the CRC’s enforcement procedures and processes, or new practices of recipients of WIOA Title I financial assistance and beneficiaries (for example, the routine use of computer- and internet-based systems).

The update ensures the entire workforce system is aware of current equal opportunity rights and responsibilities of beneficiaries and recipients of WIOA Title I financial assistance. This rule increases equality of opportunity for the millions of job applicants, training participants, program beneficiaries, and employees of recipients who interact with the workforce development system each year. The rule’s updates also enhance access to the system, in particular for people with disabilities, individuals with limited English proficiency, transgender individuals who may face various forms of sex discrimination, and individuals who are pregnant, have had a child or have related medical conditions.

**What’s New in the WIOA Nondiscrimination and Equal Opportunity Final Rule**

CRC has revised its regulations to implement the nondiscrimination and equal opportunity obligations under WIOA Section 188. Section 188 prohibits discrimination against individuals in any WIOA Title I–financially assisted program or activity, which includes job training for adults and youth and programs or activities provided by recipients at American Job Centers (one-stop centers). These programs or activities may not refuse to offer or provide services to individuals because of their race, color, religion, sex, national origin, age, disability, or political affiliation or belief. Beneficiaries, applicants, and participants – as defined by the Final Rule – cannot be denied covered services because of their citizenship status, and cannot be denied their rights because of participation in a WIOA Title I–financially assisted program or activity. The rule applies to recipients of WIOA Title I financial assistance and to programs and activities that are operated by American Job Center partners (one-stop partners) as part of the American Job Center system (one-stop delivery system), such as Unemployment Insurance, Temporary Assistance for Needy Families, adult education, Trade Adjustment Assistance, and others. The Final Rule:

* **Updates the nondiscrimination and equal opportunity provisions to align them with current law and legal principles**. The rule captures developments since 1999 under the following laws, reflected in case law and in regulations issued by other Federal agencies, including the Departments of Justice and Education and the Equal Employment Opportunity Commission:
	+ Title VI and Title VII of the Civil Rights Act of 1964;
	+ Title IX of the Education Amendments of 1972;
	+ The Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008; and
	+ Section 504 of the Rehabilitation Act of 1973.
* **Ensures protection from discrimination based on pregnancy**. The rule makes clear that sex discrimination includes discrimination based on pregnancy, childbirth, and related medical conditions, in accord with the Pregnancy Discrimination Act of 1978, which amended Title VII of the Civil Rights Act of 1964, and in accord with Title IX of the Education Amendments of 1972.
* **Safeguards meaningful access to the workforce system for persons with limited English proficiency (LEP).** The regulations clarify that discrimination based on national origin includes failing to provide language services to someone with limited English proficiency. As such, under the rule, recipients must take reasonable steps to ensure that individuals with LEP have meaningful access to aid, benefits, services, and training. These steps may include oral interpretation and written translation of both hard-copy and electronic materials in non-English languages. This ensures that individuals with LEP are informed about or able to participate in covered programs or activities. In addition, the rule clarifies which documents are “vital” and thus must be translated into languages spoken by a significant number or portion of the population eligible to be served or likely to be encountered. The rule requires recipients to record the limited English proficiency and preferred language of applicants who seek to participate in the workforce development system to help ensure they have the necessary information to serve individuals with LEP effectively. Finally, an appendix to the LEP section of the rule describes promising practices to help recipients comply with their legal obligations and includes the components of a plan to facilitate meaningful access for individuals with limited English proficiency.
* **Ensures access to the workforce system for people with disabilities by bringing the regulations in line with updated disability civil rights law.** The rule brings the CRC regulations in accord with the Americans with Disabilities Act Amendments Act of 2008 and the implementing regulations and guidance issued by the Department of Justice, as well as the implementing regulations and guidance issued by the Equal Employment Opportunity Commission. The rule’s updated language ensures that the definition of “disability” will be interpreted broadly, which will enable more individuals with disabilities to be effectively served within the workforce development system. The rule also addresses accessibility requirements (such as for information and electronic technologies) and service animals.
* **Ensures that recipients and beneficiaries are aware of the full scope of their responsibilities and rights.** CRC revised the equal opportunity notice or poster that is required of recipients in order to ensure that they, and individuals participating in their programs and activities, are aware of the scope of the nondiscrimination and equal opportunity responsibilities and recent developments in law. For example, the changes reflect that “sex,” as a prohibited basis for discrimination, includes pregnancy, childbirth, and related medical conditions; and transgender status, gender identity, and sex stereotyping. Similarly, the changes make clear that discrimination against persons with limited English proficiency is a form of national origin discrimination.
* **Outlines protections against sex discrimination.** The rule states that discrimination on the basis of transgender status, gender identity, or sex stereotyping are forms of sex discrimination, in accord with similar developments under other civil rights laws. In addition, the rule acknowledges that interpretations flowing from this area of the law, particularly with regard to discrimination based on sexual orientation, will continue to evolve. The rule specifically states that Section 188’s prohibition of discrimination on the basis of sex includes, at a minimum, sex discrimination related to an individual’s sexual orientation where the evidence establishes that the discrimination is based on gender stereotypes. CRC also anticipates that the law regarding sex discrimination will continue to evolve, and CRC will monitor legal developments in this area.
* **Improves the effectiveness of the Department’s enforcement program to support compliance.**
* The rule increases compliance through clearer descriptions of recipient responsibilities, including recipient responsibilities regarding their Equal Opportunity Officers, and enhanced data collection. CRC is available to provide technical assistance in this regard. Recipients may submit technical assistance requests to CRC at civilrightscenter@dol.gov.
* The rule strengthens recipient recordkeeping and other actions designed to increase compliance. For example, the role of Equal Opportunity Officers is clarified to help ensure that such individuals have the support, authority, and resources necessary to carry out their responsibilities.
* The rule increases the monitoring responsibilities of Governors to improve Governors’ ability to identify and address systemic discrimination by requiring annual monitoring, instead of the current “periodic” monitoring.