

ALABAMA WORKFORCE INVESTMENT SYSTEM

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GOVERNOR'S WORKFORCE INNOVATION DIRECTIVE NO. PY 2018-07

SUBJECT: Updated Promising Practices in Achieving Nondiscrimination and Equal Opportunity – A Section 188 Disability Reference Guide

1. Purpose. This directive transmits information regarding promising practices for ensuring equal access to Workforce Innovation and Opportunity Act (WIOA) programs and activities for individuals with disabilities. An updated WIOA Section 188 *Reference Guide*, prepared by the U.S. Department of Labor (USDOL), is transmitted via **Training and Employment Notice (TEN) NO. 24-18, April 3, 2019, Subject: Updated Promising Practices in Achieving Nondiscrimination and Equal Opportunity – A Section 188 Disability Reference Guide.**

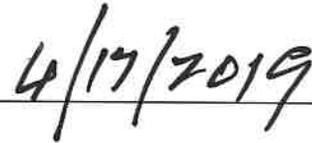
2. Discussion. Section 188 of WIOA and its implementing regulations (29 CFR Part 38) prohibit discrimination against applicants, participants, employees, and others who interact with programs and activities receiving WIOA Title I financial assistance, including nondiscrimination, equal opportunity, and equal access in one-stop systems for individuals with disabilities. The *Reference Guide* is primarily directed to American Job Center programs, but can be a useful and beneficial resource to anyone in the workforce development system committed to ensuring equal opportunity and nondiscrimination for individuals with disabilities.

The *Guide* is divided into two (2) parts – **Part I: Promising Practices** and **Part II: Section 188 Disability Nondiscrimination and Equal Opportunity Regulations.**

- 3. Action.** Local Workforce Development Area (LWDA) Managers/Administrators, LWDA and Agency Equal Opportunity Officers, Managers and staff involved in administration and operation of Alabama Career Center programs and activities, in particular, should review this resource. The TEN/Resource Guide might also be useful to administrators at one-stop partner agencies, workforce development board members and staff.
- 4. Contact.** If you have questions or need further information, you may reach Lillian Patterson, Equal Opportunity Officer at lillian.patterson@commerce.alabama.gov or (334) 242-5861.



**Steve Walkley, Division Director
Workforce Development Division
Alabama Department of Commerce**



Date

Attachments

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

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

INTRODUCTION

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

Section 188 of WIOA¹ prohibits discrimination against individuals who apply to, participate in, work for, or come into contact with programs and activities that receive financial assistance under Title I of WIOA. This includes programs and activities operated by one-stop partners (both required partners and additional partners) to the extent that these programs and activities are being conducted as part of the one-stop delivery system. The one-stop delivery system is also referred to as the American Job Center (AJC) delivery system and the one-stop Career Center system.

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

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

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

² The term “programmatic accessibility” includes providing reasonable accommodations for individuals with disabilities, making reasonable modifications to policies, practices, and procedures, administering programs in the most integrated setting appropriate, communicating with persons with disabilities as effectively as with others, and providing appropriate auxiliary aids or services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of the program or activity. [29 CFR 38.13\(b\)](#)

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

⁴ [20 CFR 678.800](#); [One-stop Operations Guidance for American Job Centers, TEGL 16-16](#) (January 18, 2017).

Section 188's nondiscrimination and equal opportunity implementing regulations are set out at 29 CFR part 38.⁵ That rule sets forth requirements for recipients of financial assistance,⁶ including programs and activities operated by partners of the workforce development system that are covered by the Section 188 nondiscrimination and equal opportunity requirements of WIOA.

PURPOSE

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

While this Reference Guide is focused on AJC programs, it also may be used as a resource document for anyone that desires to ensure nondiscrimination and equal opportunity⁷ for individuals with disabilities in the workforce development system, including State Governors, State Administrators, State Workforce Agencies, Equal Opportunity Officers (EO Officers), SWDBs, and LWDBs.

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

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

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

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

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

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

⁸ See also [One-stop Operations Guidance for American Job Centers \[TEGL No. 16-16 \(January 18, 2017\)\]](#). The regulations implementing Title I of WIOA include additional references to Section 188 of WIOA, in general, and physical and programmatic accessibility, in particular. See, for example: [20 CFR 678.305](#) (Description of Comprehensive One-stop Center); [29 CFR 679.360](#) (Establishment of Standing Committees by Local Board); [20 CFR 679.370](#) (Functions of Local Board); [20 CFR 679.550](#) and [20 CFR 679.560](#) (Development and Contents of Local Plan).

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

ORGANIZATION

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

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

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

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

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

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

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

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

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

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

SCOPE

While this Reference Guide addresses the nondiscrimination and equal opportunity provisions of the Section 188 WIOA regulations for individuals with disabilities, many AJC programs are also subject to the requirements of: (1) Section 504 of the Rehabilitation Act (Section 504) prohibiting discrimination against individuals with disabilities by recipients of federal financial assistance,⁹ (2) Title I of the Americans with Disabilities Act (ADA), as amended, prohibiting discrimination in employment based on disability, and (3) Title II of the ADA prohibiting public entities, including State and local governments and their departments, agencies, and instrumentalities, from discriminating on the basis of disability.¹⁰ In addition, significant amendments were made to the ADA in 2008, which make it easier for an individual to establish that they have a disability, as defined under the statute.¹¹ These changes to the ADA also apply to Section 504.¹²

⁹ See [29 CFR part 32](#). A recipient's compliance with [29 CFR part 38](#) will satisfy any obligation of the recipient to comply with [Subparts A \(general provisions\)](#), [D \(procedures\)](#) and [E \(auxiliary matters\)](#) of DOL's Section 504 regulations. [29 CFR Part 32](#), [Subparts B \(employment practices and employment-related training program participation\)](#), [C \(program accessibility\)](#) and [Appendix A \(examples of reasonable accommodations\)](#) are adopted by Part 38. Therefore, WIOA recipients must comply with the requirements set forth in those regulatory sections as well as the requirements listed in the current Section 188 regulations. [[29 CFR 38.3\(a\) and \(b\)](#)].

¹⁰ Recipients that are also public entities or public accommodations, as defined by Titles II and III of the ADA, as amended, should be aware of obligations imposed by those Titles and their implementing regulations. [[42 USC 12131](#), et seq., and [42 USC 12181](#), et seq.; See also [29 CFR 38.3\(c\)](#)]. Similarly, recipients that are also employers, employment agencies, or other entities covered by Title I of the ADA should be aware of obligations imposed by that Title and its implementing regulations. [[42 USC 12111](#), et seq., and [29 CFR 38.3\(c\)](#) and [38.18\(e\)](#)]. The term "employment agency" is defined as "any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person." [[42 USC 12111\(7\)](#) and [42 USC 2000e\(c\)](#)]

¹¹ See "Fact Sheet on the EEOC's Final Regulations Implementing the ADA" available at http://www.eeoc.gov/laws/regulations/adaaa_fact_sheet.cfm.

¹² See "Questions and Answers on the Final Rule Implementing the ADA Amendments Act of 2008" Question #3 "Do all of the changes in the ADA apply to other titles of the ADA and provisions of the Rehabilitation Act prohibiting disability discrimination by federal agencies, federal contractors, and recipients of federal financial assistance?" available at http://www.eeoc.gov/laws/regulations/ada_qa_final_rule.cfm.

DEFINITIONS OF INDIVIDUAL WITH A DISABILITY AND REASONABLE ACCOMMODATION

The term “**individual with a disability**” is defined in the Section 188 WIOA regulations as an individual with “[a] physical or mental impairment that substantially limits one or more of the major life activities of such individual; [a] record of having such an impairment; or [b]being regarded as such an impairment”¹³ The Section 188 WIOA regulations reflect changes made by the ADA Amendments Act of 2008 (ADAAA)¹⁴ and make the definition consistent with subsequent Equal Employment Opportunity Commission (EEOC) and Department of Justice (DOJ) regulations to implement the ADAAA.¹⁵

AJC programs are required to provide **reasonable accommodations** for individuals with disabilities to ensure equal access and opportunity.¹⁶ The term “reasonable accommodation” is defined in the Section 188 WIOA regulations as “[m]odifications or adjustments to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, training or employment that the qualified applicant/registrant desires;” or “[m]odifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job, or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities;” or “[m]odifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated qualified individuals without disabilities.”¹⁷

PART I: PROMISING PRACTICES

INTRODUCTION AND OVERVIEW

AJCs around the country have adopted many effective strategies and practices ensuring nondiscrimination and equal opportunity for all eligible individuals, including individuals with disabilities.

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

¹³ [29 CFR 38.4\(q\)](#); See also [29 CFR 38.4\(ff\)](#).

¹⁴ 42 U.S.C. 12101 *et seq.*, [Public Law 110-325](#), 122 Stat. 3553 (2008).

¹⁵ See EEOC regulation [29 CFR part 1630](#). See also DOJ regulations [28 CFR part 35](#) and [28 CFR part 36](#) and accompanying explanations to the DOJ [Final Rule to Implement ADAAA](#). See also footnotes 16 and 17.

¹⁶ Reasonable accommodations are not required for individuals who are solely regarded as having a disability without meeting one of the other definitions, and, as such, do not need reasonable accommodations. [29 CFR 38.4\(yy\)\(4\)](#).

¹⁷ [29 CFR 38.4\(yy\)\(1\)](#) (“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.”).

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

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

Part I is divided into three Sections:

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

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

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

Each section includes an introductory paragraph that describes the purpose and function of the disability-related requirements in the Section 188 WIOA regulations and links to the correlating section of Part II of the Reference Guide.

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

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

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

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

The following are promising practices for providing equal access to programs and activities, particularly customer services and services integration.

1.1 Understanding Local Needs

- The SWDB and LWDB assess and consider the needs of the local population, including individuals with disabilities, in the design and delivery of services including the development of appropriate intake procedures, screening devices and comprehensive assessments, if necessary; determining the nature and mix of services and supports provided; and analyzing training program needs for AJC programs personnel to accomplish program objectives.
- The SWDB and LWDB, with support from EO Officers and cross-agency partner committees, survey AJC programs to evaluate knowledge of and experience with the requirements of Section 188 and implementing regulations relating to individuals with disabilities. The surveys are disseminated to AJC program staff, partners, and customers and used to inform direction of policy, practice, and training to improve access and employment of individuals with disabilities.
- AJC program staff obtains and reviews strategic plans developed by the SWDB and LWDB and the section in the State's Nondiscrimination Plan that describes how the AJC programs will address the employment and training-related needs of individuals with disabilities. Policies, practices, and procedures adopted by the AJC programs are consistent with and facilitate achieving the outcomes contained in the strategic plans (if applicable) and the Nondiscrimination Plan.
- AJC program staff affirmatively seeks to include individuals with disabilities who represent the full spectrum of physical, mental, cognitive, and sensory disabilities, in all planning, including development of policies, manuals, and guidance.

1.2 Marketing and Outreach

1.2.1 Marketing, In General

- General marketing and recruitment materials (including photos and advertisement copy) for the AJC programs mention individuals with disabilities as one of the groups served, contain positive images of individuals with disabilities, and indicate a commitment to hire and/or effectively serve individuals with disabilities.
- Marketing and recruitment materials mention that services are available to individuals representing the full range of physical, mental, cognitive, and sensory disabilities, and images show diversity in their portrayal of individuals with disabilities.
- Informational resources are disseminated and advertisements are made through a broad range of media sources (e.g., social media, web-based education, billboards, newspaper outlets, television, radio, public service announcements,

and other public information and community outlets) including, but not limited to, media targeted toward individuals with disabilities.

- Presentations to community organizations, partner agencies, job seekers, and others explain that individuals with challenges to employment, including individuals with disabilities, are encouraged to take advantage of the programs and services offered at the AJC.

1.2.2 Marketing, Businesses

- Outreach and technical assistance efforts by AJC program staff and partners, particularly State Vocational Rehabilitation (VR) programs, build connections with businesses and promote the inclusion of disability in diversity and inclusion initiatives as part of business' strategy.
- Providing employers with skilled workers by supporting job seekers to enroll in complete training and apprenticeship programs to meet increasing business demands.¹⁸
- Providing quality engagement and other services to employers and sectors by establishing fruitful relationships and maintaining them over extended periods of time.¹⁹
- Providing quality business engagement services to all employers within a State and local economy which can increase the probability of retaining business partnerships and new business referrals from other employers that are in need of business services.²⁰
- Networking opportunities within the business sector are used by AJC program staff to make the business case for hiring individuals with disabilities, including the benefits of incorporating universal design²¹ into employment recruitment, hiring, and retention practices.
- Websites, other modes of communication, and the media are used to showcase business examples, highlighting benefits businesses have gained by hiring workers with disabilities in a variety of job categories.

¹⁸ Training and Employment Guidance Letter ([TEGL No. 10-16, "Performance Accountability Guidance for Workforce Innovation and Opportunity Act \(WIOA\) Title I, Title II, Title III, and Title IV Core Programs"](#)) (December 19, 2016).

¹⁹ [Id.](#)

²⁰ [Id.](#)

²¹ "Universal design" is the concept or philosophy of designing products and services that are usable by people with the widest possible range of functional capabilities. This includes products and services that are directly usable (without requiring assistive technologies) and those that are made compatible with assistive technologies. "Assistive technologies" include any items, pieces of equipment or systems, whether acquired commercially, modified or customized, that are commonly used to increase, maintain, or improve functional capacities of individuals with disabilities.

- Resources are offered to businesses by AJC program Business Service staff in collaboration with other partners, particularly VR, on inclusive best practices in disability employment (including recruitment, hiring, retention, and advancement) and targeted resources are available to employers, including resources describing effective reasonable accommodation policies and relevant tax and other financial incentives.
- As part of the business services strategy, the AJC programs work with businesses and business groups (such as the local Chamber of Commerce) to:
 - Learn about their unmet needs and challenges in the workplace
 - Identify areas in which the needs of businesses and candidates for employment can be matched or otherwise customized through negotiation (customized employment)²²
 - Explore the value of workplace flexibility and otherwise customizing employment in recruiting and retaining a diverse workforce and its usefulness as a tool to maximize productivity
 - Develop customized training resources for the specific skills needed by employers
 - Promote paid and unpaid work experiences (e.g., on-the-job training, internships, apprenticeships, etc.) for individuals with disabilities

1.2.3 Outreach

- AJC programs, with support from EO Officers, SWDBs, LWDBs, and mandatory partners, particularly VR, develop strategic outreach plans that reach people across the spectrum of disabilities and other underserved populations.
- AJC programs collaborate with partners that serve individuals across the spectrum of disabilities and use language that is inclusive of various segments of

²² “Customized Employment” is described and discussed at <http://www.dol.gov/odep/topics/CustomizedEmployment.htm>. The term “customized employment” is defined in the regulations implementing Section 7(7) of the Rehabilitation Act, as amended by Title IV of WIOA, to mean “competitive, integrated employment for an individual with a significant disability that is: based on an individualized determination of the unique strengths, needs, and interests of the individual with a significant disability; designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer; and carried out through flexible strategies, such as: job exploration by the individual; and working with an employer to facilitate placement, including customizing a job description based on current employer needs or on previously identified and unmet employer needs; developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review) and determining a job location; using a professional representative chosen by the individual, or if elected self-representation, to work with an employer to facilitate placement; and providing services and supports at the job location.” [34 CFR 361.5(c)(11)]

the disability community. This includes using “people-first”²³ language such as “people with developmental disabilities” or “people with mental health disabilities,” or “Deaf” for individuals who use sign language and consider themselves part of Deaf culture. Disability related symbols are also used to promote accessible events/programs, including the symbol for sign language interpreters or Communication Access Realtime Translation (CART) services,²⁴ which sends a signal that auxiliary aids and services for equally effective communication will be made available.

- When AJC program staff conducts outreach to individuals with disabilities or organizations serving individuals with disabilities, the information given to individuals and organizations describes the types of reasonable accommodations; reasonable modifications; programmatic and architectural accessibility; and auxiliary aids and services it regularly provides.
- AJC program staff conducts tours of its facilities in partnership with community organizations (including organizations that serve individuals with disabilities) and schools to help job seekers from those organizations and schools and their family members become familiar with the facilities and the services offered.
- When conducting outreach, qualified speakers of diverse backgrounds (including individuals with disabilities) are recruited to present to entities in the community about programs and services available through AJC programs.
- When off-site presentations to the general public are held by AJC program staff, they occur in locations that are accessible to and usable by all prospective customers, including individuals with disabilities.
- All job fairs and job recruiting events hosted by AJC programs include outreach to schools, agencies, and nonprofit organizations serving people with disabilities.
- Notices of AJC programs, benefits, and activities are sent to schools, universities, colleges or technical schools, and community service groups that serve individuals with disabilities through multiple communication vehicles (including various public and community outlets, media outlets, and accessible web portals) to ensure broad dissemination of information about AJC programs, services, and activities available through the AJC programs, as well as information to explain how customers can access these programs, services, and activities.

²³ “People-first” language emphasizes the person, not the disability. By placing the person first, the disability is no longer the primary, defining characteristic of an individual, but one of several aspects of the whole person.

²⁴ CART is a professional service provided by a captioner who uses a court reporting stenography machine, a computer, and software to display everything that is being said, word-for-word.

1.3 Involving Community Groups and Schools

- AJC program staff identifies and, on an ongoing basis, collaborates with community or advocacy organizations or agencies and schools that provide services and supports to individuals with disabilities to educate them about its programs.
- Cross training between staff of AJC programs and community organizations is provided to facilitate the exchange of up-to-date information on available services, supports, resources, and critical disability-related employment topics such as interacting with job seekers with disabilities, disclosure issues, social security disability work incentives, the ADA and other disability employment laws, employer resources on hiring job seekers with disabilities, reasonable accommodations, and valuable community resources.
- AJC program staff joins with VR and schools to identify employers that will provide summer work experiences to youth in order to develop career skills and soft skills, and cultivate self-employment interests.
- AJC program staff reaches out to local high school transition staff to offer information about services provided within the AJC and coordinate on-going small group orientations of AJC programs.
- When developing and implementing policies governing the operation of the AJC's programs and activities, including strategic plans and efforts to improve outreach and service delivery to individuals with disabilities, program staff, and Local Boards consult with and elicit input from individuals with disabilities and organizations that serve individuals with disabilities.
- Opportunities are provided for representatives of individuals with disabilities and other diverse populations to inform AJC programs or Local Boards of their communities' needs by actively participating on an ongoing basis in strategic planning, charter reviews, and similar processes.

1.4 Effecting Collaboration, Including Partnerships and Linkages

- Steps are taken by AJC programs to improve operational collaboration and communication (e.g., conduct surveys on how entities could more effectively work together and establish partnerships and linkages through open and ongoing discussions and memoranda of understanding or other mechanisms) with entities that have experience working with individuals with disabilities to enhance capacity to effectively serve individuals with disabilities and to ensure equal opportunity and nondiscrimination in such areas as:

- Registration
- Common data intake and sharing
- Customer outreach
- Service delivery and coordination
- Cost sharing
- Performance measures and outcome data collection

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

- Coordinates using funds and in-kind resources available to/through AJC programs and other agencies that improve common outcome measures related to career advancement, such as employment, job retention, and earnings. For example, staff may identify job opportunities that match interests and skills sets of customers with disabilities; Vocational Rehabilitation (VR) funds may pay for on-the-job assessments and training; Medicaid may pay for personal assistance services on and off the job site; and Temporary Assistance for Needy Families (TANF) funds may be used to pay for after-school child care support, if needed.
 - Uses cost-sharing arrangements to cover the cost of dedicated staff experts, such as a Disability Resource Coordinator (DRC), who can establish and/or formalize commitments from partner organizations as well as contribute to the overall development and/or implementation of efforts pertaining to individuals with disabilities within the AJC programs.
 - In determining cost sharing arrangements, review extensive guidance jointly published by DOL and ED, Training and Employment Guidance Letter ([TEGL No. 17-16, “Infrastructure Funding of the One-stop Delivery System”](#) (January 18, 2017)).
- With respect to **SERVICE DELIVERY AND COORDINATION**, the AJC programs:
 - Incorporate dedicated staff, such as Disability Resource Coordinators (DRCs), as part of the staffing structure of the AJC programs to facilitate linkages across partner organizations. DRCs can also establish Integrated Resource Teams (IRTs) and convene a “disability and employment task force” or other partnership working group to address policy and systemic issues impacting the employment of individuals with disabilities, among other endeavors to improve successful employment outcomes.
 - Convene an IRT to coordinate services and leverage funding to meet the employment needs of job seekers who may need access to multiple service providers and resources to reach training and employment goals. IRTs may involve a diverse range of supports to ensure job training, job search, and employment outcomes are successful for the individual, such as community transportation or housing coordinators, community college liaisons, special education transition assistance, or certified benefits planners, among others.

The IRT incorporates the individual with a disability as the primary contributor to the team.²⁵

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

1.5 Staff Training

- Based on regular and ongoing surveys of AJC program staff knowledge and experience serving individuals with disabilities, the AJC programs provide a range of training opportunities (basic, intermediate, advanced) to all of its line and supervisory staff to ensure universal access to services and activities and nondiscrimination/equal opportunity, including training on topics such as confidentiality, privacy, disclosure of disability, and the full range of topics described in the Reference Guide.
- Dedicated AJC program staff is designated, such as a Disability Resource Coordinator, with training and expertise in providing services and supports to customers with disabilities. The Dedicated AJC program staff:
 - Increases the capacity of AJC programs to help customers with disabilities navigate a pathway to higher skilled and higher-paying jobs and economic security;
 - Leverages funds and resources;
 - Provides training and support to workforce staff and partners; and
 - Conducts outreach to the disability community.
- Action-oriented cross-training is conducted (by and for individuals in various roles such as State VR counselors, job service personnel, job training staff, service

²⁵ See [Training and Employment Guidance Letter \(TEGL\) No. 31-10, "Increasing Enrollment and Improving Services to Youth with Disabilities"](#) (June 13, 2011).

coordinators (including case managers), local disability providers, etc.) to promote relationship-building between various partner agencies in areas such as job search techniques, job development, and employer negotiation, and job support strategies related to individualized employment services.

- Joint Statewide training among AJC programs, VR and other partners is conducted that models effective collaboration, increased alignment and systems coordination, consistent messaging, and relatable scenarios and common language.
- Manuals, guidelines, resource directories, and other materials used by staff (and used to train staff) include examples of the types of services and supports for individuals with disabilities and other individuals facing challenges to employment.
- Reception and service staff are trained in “disability etiquette” –specific ways of being courteous and welcoming to individuals who may have disabilities (both visible and/or hidden).
- Case managers and job developers are trained about the range of approaches to workplace flexibility and job development, including creating employment positions for specific job seekers through negotiation with employers.²⁶ One such approach is known as “Customized Employment.”²⁷ Customized Employment involves a highly individualized process of job seeker exploration, discovery, development of descriptive profile documents, customized employment planning, innovative representation methods, employer needs analysis, and representation by a job developer. AJC program staff members are trained to problem-solve and proactively offer assistance to customers who appear to be having difficulty accessing services (i.e., providing appropriate support to customers who are using self-directed services, including computers and other technology).
- AJC program staff performance evaluations include requirements that staff have participated in disability-related training that emphasizes the need to effectively serve individuals with disabilities.
- AJC program staff uses www.workforcegps.org--[Disability and Employment Community of Practice](#), which is an online learning destination for public workforce system staff and partners, job seekers, community-based organizations, grantees and the business sector. This online system provides a “one-stop-shop” venue for workforce practitioners to find and share high quality information about how to better provide integrated, seamless, and accessible services and programs to individuals with disabilities and/or other individuals facing challenges to employment.

²⁶ Negotiation with employers is an essential element of “Customized Employment.”

²⁷ See footnote 22 for a description and discussion of “Customized Employment.”

- Cross agency partners located within the same local workforce area simulate an Integrated Resource Team (IRT) with joint resources and goal setting. This action-oriented collaboration is used to build cross agency partnerships and solidify concepts of the IRT. For example, AJC program staff is trained about the available resources and additional supports people with disabilities may need, e.g., people living with HIV/AIDS may be interested in learning about the AIDS Drug Assistance Program.

1.6 Intake, Registration and Orientation, Disclosure of Disability

1.6.1 Intake

- AJC program staff uses a common intake process for new job seekers that helps establish eligibility for other public benefits and assistance from partners in the workforce development system (e.g., adult education and literacy authorized under Title II of WIOA, and dislocated workers and veterans workforce programs under Title I) and other service-delivery systems including benefits and assistance provided by State VR, Medicaid, Mental Health, and Intellectual and Developmental Disabilities agencies.
- The AJC programs develop and use a common release-of-information form across WIOA partners and other service-delivery systems that allow the customer to agree to disclose personal information and identify the particular partner agencies that may receive the information in order to promote integrated service-delivery strategies.
- The AJC programs develop and implement data-sharing agreements among WIOA partners and other service-delivery systems (Medicaid, Mental Health, Intellectual and Developmental Disabilities) that increase efficient and effective support of customers served by the workforce development system, consistent with legal requirements and privacy and confidentiality policies.

1.6.2 Registration

- AJC program staff asks all registrants (including individuals with disabilities) whether they need assistance during the application/registration process.
- AJC program staff offers assistance to all individuals, including individuals with disabilities, in filling out forms and application materials. If a person needs assistance, this process is done one-on-one in a private room, where the individual's responses will not be overheard.
- All customers are routinely offered the option of meeting with staff in private offices.

- All customers are asked if they will need some type of accommodations or assistance to take full advantage of services and supports.
- Front desks are partially lowered, so job seekers with a lower line of sight (e.g., individuals using wheelchairs or small-statured individuals) are welcomed eye-to-eye.

1.6.3 Orientation

- As required by regulation, every orientation session hosted by AJC programs includes a presentation of customers' rights to equal opportunity, including the right to file a complaint if they believe their rights have been violated.
- A list of the immediately-available auxiliary aids and services for communication, assistive technology devices, and materials available in accessible formats is provided in writing and reviewed verbally during orientation.
- Orientation materials are available in formats that account for a variety of learning styles, and are also accessible to individuals who have limited or no reading skills (e.g., pictures, videotapes, audiotapes) and/or individuals who are blind. Videos for customers are open- and/or closed-captioned.
- A guided tour of the AJC is part of the standard orientation to program services, highlighting the modifications/assistance/accommodations that are immediately available for customers who may have disabilities.
- Workshops are offered that highlight access to a wide range of commonly requested resources, such as transportation, housing, Supplemental Security Income (SSI)/Social Security Disability Insurance (SDI), legal support, State benefits, and other needed resources. The session not only provides information on the resources, but also how to navigate the application process.

1.6.4 Disclosure of Disability

- The AJC programs develop written policies for staff regarding the legal requirements related to discussion and disclosure of a customer's disability, and provide training to staff regarding the applicability of these requirements and policies. For example, the policy explains that intake workers inform individuals that, if they have a disability, they may disclose their disability and request and receive a reasonable accommodation, reasonable modification, and/or auxiliary aids and services. In addition, it is made clear that disclosure is voluntary and information regarding disability will be kept confidential and maintained in a separate file.

- Staff working with individuals with disabilities must obtain permission from the individual before disclosing information about his or her disability with others.
- All discussions between staff and customers are conducted in a manner that ensures the preservation of confidentiality.
- A packet of information is developed and given to customers that describes disability disclosure rights, considerations, and obligations by AJC programs including explaining when staff may ask medical or disability-related questions, how staff keeps that information confidential, explanations of why an individual may not want to disclose, and why disclosure may be beneficial (e.g., entitlement to reasonable accommodations/modifications or auxiliary aids and services).
- If AJC programs have specific programs for customers with disabilities, information is provided about these programs to all customers so an individual customer does not have to disclose the fact that he or she has a disability in order to learn about these programs.

1.7 Assessments and Screenings

- During the initial intake process, if it comes to the attention of the AJC program staff that an individual may have a functional impairment that could impact his or her ability to benefit from services, the individual should be provided with an opportunity for a more comprehensive assessment. This assessment should be conducted by qualified personnel to make a determination of eligibility for other services and/or for identifying appropriate accommodations and modifications.
- AJC program staff uses a variety of assessment tools, approaches, and strategies for assessment, discovery, and exploration of individual strengths and abilities, and selects those that are most appropriate for the specific job seeker.
- AJC program staff is allowed, where legal and appropriate, to use data that was previously collected about a particular customer, rather than asking customers repeatedly for the same information.
- AJC program staff members are knowledgeable about:
 - The information that must be given to a customer before asking questions that may lead to disclosure of information about disability, and about the process of obtaining customers' informed consent before referring them for diagnostic assessment or further assessment of strengths and abilities; and
 - Which funds may be used for conducting a comprehensive assessment, such as Vocational Rehabilitation (VR), education, TANF, and/or Medicaid

funds. Staff is also provided training about how to access these funds and coordinate the process of referral for diagnostic assessment.²⁸

- Working with all partners, the AJC program staff establishes an "expectation of success" attitude regarding customers with significant challenges to employment, including individuals with disabilities. This attitude includes a commitment by staff and all partners to serve a customer with a disability alongside other customers to the extent appropriate to the needs of the customer with a disability (providing appropriate supports such as reasonable accommodations), instead of automatically referring these customers to another specialized service agency (e.g., a State agency that exclusively serves individuals with mental illness or intellectual/developmental disabilities).

1.8 Service Delivery

1.8.1 In General

- To the extent AJC programs provide services (e.g., education and training opportunities, labor market information, job listing and job-search assistance, resume and cover letter preparation) on a self-service basis, staff provides appropriate assistance to individuals with disabilities so they can effectively benefit from such services (including assistance in using computers and other technology) and assistance and training in how to navigate multiple systems of services.
- AJC program staff roles and responsibilities are flexible enough to allow employees to provide individualized services responsive to customers' unique needs.

1.8.2 Service Delivery, Funding

- AJC program staff explores and uses a range of funding sources that includes an exploration of building financial capability for customers with disabilities and improving financial stability.
- AJC program staff conducts meetings of mandated and non-mandated AJC program partners to identify potential funding options, including both general resources available to all customers and specific program funds.

²⁸ See Training and Employment Guidance Letter ([TEGL No. 16-16, "One-stop Operations Guidance for the American Job Center Network" \(January 18, 2017\)](#)), [TEGL No. 16-16 Change 1 \(June 16, 2017\)](#). See also Training and Employment Guidance Letter ([TEGL No. 17-16, "Infrastructure Funding of the one-stop Delivery System" \(January 18, 2017\)](#)).

- The AJC programs collaborate with other local organizations to assist job seekers who are eligible for other Federal or state programs, including benefits programs such as Social Security and disability insurance programs.
- The AJC program front-line and executive staff is aware of policies that apply when accessing and sharing funding from various agencies and provides examples of shared “blended” or “braided” funds and other resources:
 - Blended funding occurs when dollars from multiple funding streams are combined to purchase one or more specific services; and
 - Braided funding occurs when multiple funding streams are separately *but* simultaneously utilized to purchase and provide specific services.

1.8.3 Service Delivery, Career Services²⁹

1.8.3.1 In General

The AJC programs:

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

²⁹ Under WIOA, the term “career services” includes core services such as job search assistance and intensive services such as intensive assessments and individual career counseling, which were considered distinct services under WIA. [[29 CFR 680.150](#)]

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

1.8.3.2 Person-Centered Services

- In interacting with customers with disabilities, AJC program staff and partners assume that the customers are the experts in understanding their disability and specific needs based on that disability unless otherwise indicated by facts pertaining to that individual customer.
- AJC programs convene an Integrated Resource Team (IRT) comprised of representatives from different agencies and service systems (both general workforce and disability-specific) that coordinates services and leverages funding to meet the employment needs of job seekers with disabilities to reach their training and employment goals. The IRT may include a diverse range of supports

to ensure job training, job search, and employment outcomes are successful for the individual, such as community transportation or housing coordinators, community college liaisons, special education transition assistance, or certified benefits planners, among others. The IRT also incorporates the individual with a disability as the primary and essential component of the team.³⁰

1.8.3.3 Career Exploration and Discovery

- Plans for employment are developed based on individual strengths, needs, and interests. AJC program staff explores all facets of the individual's life in various contexts to identify a more expansive range of skills and competencies and gain sufficient insight and information for possible customization of employment.
- Labor-market and career-path information is made available to all job seekers, including individuals with disabilities, as essential components of the decision-making process in considering job training, education, and employment prospects.
- A variety of strategies are made available for career exploration, including informational interviews, job shadowing opportunities, short-term job tryouts, group discovery classes, existing job seeker peer groups (such as job clubs and friendship groups), and education regarding barriers to employment and the impact of employment on benefits, life routines, and responsibilities.
- A broad range of entities are considered (including nontraditional partner agencies) for participation in the process of career exploration and obtaining employment for each job seeker, including those with disabilities. A process is developed and implemented by AJC program staff to reach out to additional entities as customers' needs dictate.
- A lead AJC program staff member is identified to compile a narrative profile report that captures the findings of the job seeker's exploration process, which includes areas of the job seeker's strengths, needs, and interests, as well as their life complexities that might need to be accommodated, negotiated, or supported.

1.8.3.4 Employment Planning

- AJC program staff actively involves the job seeker in all elements of planning for employment included in the individual employment plan, recognizing that the customer with a disability is the decision-maker during the employment preparation process.

³⁰ See [Training and Employment Guidance Letter \(TEGL\) No. 31-10, "Increasing Enrollment and Improving Services to Youth with Disabilities"](#) (June 13, 2011).

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

1.8.3.5 Personal Representation Skills

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

1.8.3.6 Individualized Resource Mapping

Resource mapping is a process in which LWDB's work with AJC programs to develop and utilize partnerships to identify existing assets and resources (e.g. organizations, services, laws, policies, funding streams, and collaborations) that comprise a service-delivery system, elements of which may be leveraged on behalf of individual job seekers. Stakeholders analyze the information for gaps and overlaps to enhance coordination, collaboration, and cost sharing among stakeholders and to develop new policies to enhance employment opportunities for individuals with disabilities.³¹

- AJC programs increase access to services to job seekers with disabilities and other challenges to employment by offering all job seekers the opportunity to “map” career goals with available partners and resources.
- Job seekers are provided information on local labor-market conditions and their potential impact on the development of career goals and planning for implementing the requirements to achieve such goals.

³¹ See Training and Employment Guidance Letter [\(TEGL\) No. 17-16, “Infrastructure Funding of the One-stop Delivery System”](#) (January 18, 2017).

- Resource mapping occurs in the context of an Integrated Resource Team (IRT) (defined in Section 1.8.3.2 of this Part I of the Resource Guide) in a comprehensive manner that includes partner buy-in to the provision of resources.

1.8.4 Service Delivery, Training Services

- When providing training services for customers, the AJC programs collaborate with other agencies with knowledge of promising practices to address the unique needs of individuals with disabilities (e.g., physical, mental/cognitive, and sensory impairments).
- The LWDB develops policies that make Individual Training Accounts (ITAs) more flexible to use for training options to address the individual needs of individuals with disabilities, using a wide variety of training providers, including training providers and community colleges that provide individualized employment supports.
- AJC program staff utilizes customized employment, or a series of flexible, individualized strategies, leading to a negotiated relationship with an employer that focuses on addressing unmet needs and other specific value-added benefits to employers rather than solely relying on open, demand-job positions. Customized employment involves a highly individualized process of job seeker exploration, discovery, development of descriptive profile documents, customized employment planning, innovative representation methods, employer needs analysis, and representation by a job developer.³²
- AJC program staff offers training in self-employment strategies, including entrepreneurial training, to adult and dislocated workers with disabilities and entrepreneurial work experiences for youth with disabilities. National and local self-employment resources are identified for small business development.
- ITAs and other training and educational opportunities are available to all individuals with challenges to employment, including those with disabilities. These opportunities are available regardless of whether the job seeker’s ultimate goal is part-time or self-employment and such individuals are not “screened out” based on their preference.

1.8.5 Service Delivery, Youth

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

³² For a description and discussion of “Customized Employment” see footnote 22.

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

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

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

1.8.6 Service Delivery, Provider Network (Adequacy and Payment)

- Arrangements are made for an adequate supply of eligible training providers (including, but not limited to, specialized service providers) to partner with the AJC programs that have the requisite knowledge, expertise, and experience to address the needs of individuals with disabilities.
- The LWDB develops and uses payment mechanisms that incentivize eligible training providers to take into consideration the additional costs of providing the individualized services and supports that customers with disabilities or other particular challenges to employment may need. This may include a combination of the following strategies:
 - Reimbursement for the costs associated with providing reasonable accommodations, reasonable modifications, or specific auxiliary aids and services that a particular customer with a disability needs; and
 - The infusion of provider incentives and service delivery requirements into the contractual agreements between provider entities and the workforce investment system.

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

1.8.7 Service Delivery, Evacuation Procedures

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

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

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

benefits, services, training, support services and any rights, privileges, advantages, or opportunities enjoyed by others.

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

In addition, AJC programs are required to:

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

In addition, AJC programs are required to make all WIOA Title I-financially assisted programs and activities “programmatically accessible,” a new term specified in WIOA. Under WIOA, this includes providing reasonable accommodations for individuals with disabilities; making reasonable modifications to policies, practices, and procedures; administering programs in the most integrated setting appropriate; communicating with persons with disabilities as effectively as with other; and providing appropriate auxiliary aids and services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

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

2.1 Prohibit Discrimination Against Individuals With Disabilities

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

- AJC program staff rejects all job orders from any employer that specifies that it will not accept applications from individuals with disabilities or from applicants with certain disabilities. Under the law, individuals with disabilities must be referred to employers and placed in the same range of positions as any other qualified customers.
- AJC program staff does not stereotype individuals with disabilities when evaluating their skills, abilities, interests, and needs, and takes into consideration the requirement to provide reasonable accommodations, reasonable modifications, and auxiliary aids and services.
- In considering a site for a comprehensive AJC program, the LWDB coordinates with the broader community, including transportation agencies and existing public and private-sector service providers, to ensure that the centers and services are accessible to their customers, including individuals with disabilities. The law requires that AJC program sites or locations be selected so that they do not have the effect of excluding individuals with disabilities.
- If an AJC program is located in a service-delivery area with a public transportation system, the AJC program makes sure that the Center can be readily accessed by individuals with disabilities using public transportation.
- If an AJC program is located in a service delivery area without a public transportation system, the AJC takes steps to make all its programs and activities available to customers who do not drive or have a car. These steps may include providing information about alternative transportation options and resources or offering programs and activities in satellite locations such as shopping malls or other public facilities that are accessible by public transportation.
- AJC programs use assessment tools and tests and other processes that measure the ability of the individual to successfully participate in the program rather than the person's physical, mental/cognitive, or sensory impairment. The AJC programs must provide the legally required reasonable accommodations and reasonable modifications to the test or other protocols as necessary.

- The AJC program staff regularly reviews eligibility criteria for training and other services to eliminate criteria that screen out individuals with disabilities, unless such criteria are directly related to specific training or services and are essential. For example, AJC programs eliminate or modify:
 - Any requirement designating a driver's license as the only acceptable form of identification (unless the training program involves driving as an essential function for a job), because such a requirement would unnecessarily screen out individuals whose disabilities prevent them from obtaining drivers' licenses;
 - Any existing numeracy/literacy/reading level requirements that may unnecessarily prevent individuals with intellectual, cognitive, or developmental disabilities from accessing services available through the AJC programs;
 - Any existing numeracy and/or literacy requirements that are solely determined by norm-referenced tests that have not been standardized or normed for individuals with intellectual/cognitive/developmental disabilities; and
 - A requirement that a certain level of numeracy and/or literacy proficiency be achieved to participate in a program, if such level of proficiency has not been demonstrated to be necessary to effectively benefit from the program, as doing so will unnecessarily screen out individuals whose disabilities prevent them from obtaining such proficiency levels.

- The AJC programs review applications to determine whether applicants can perform the essential functions of the training or other services with or without reasonable accommodations. AJC program staff understands that essential functions are those that an applicant must be able to perform on his/her own with or without a reasonable accommodation, and the AJC programs cannot refuse to select an applicant because disability prevents him or her from performing duties that are not essential to the training or other services.

2.2 Provide Reasonable Accommodation for Individuals With Disabilities³³

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

One key aspect of ensuring equal opportunity for individuals with disabilities who are applicants, registrants, and participants for employment with regard to aid, benefits, services, and training is the provision of reasonable accommodations. AJC programs are required to provide reasonable accommodations for individuals with disabilities to ensure equal access and opportunity. In general, a reasonable accommodation is a

³³ A mention of the applicability of the reasonable accommodation provision pertaining to employment practices is set out in Section 2.8 of this Guide.

modification or adjustment in the way the program is administered that enables an individual with a disability to receive any aid, benefit, service, training, or employment equal to those provided to individuals without disabilities.

Many forms of reasonable accommodations are available, and the individual with a disability and AJC programs should work together to identify the most effective reasonable accommodation for each individual. This identification is achieved through informal discussions known as the “interactive process.”³⁴ During this process, the individual and the AJC program staff should identify the precise impact(s) resulting from the disability and potential reasonable accommodations that could help to mitigate those issues. The process of identifying and providing a reasonable accommodation should be done as quickly as possible to avoid delaying access to services. Establishing and implementing an effective process for requesting, identifying, and providing a reasonable accommodation effectively and efficiently is essential to ensuring equal opportunity for individuals with disabilities.

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

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

- AJC programs have written policies requiring that reasonable accommodations or modifications be made for the known physical and/or mental impairments of an otherwise qualified individual with a disability who is an applicant, registrant, eligible applicant/registrant, participant, employee, or applicant for employment. The policy:
 - Includes processes for handling requests for reasonable accommodations: e.g., the procedure provides for designation of a specific supervisory staff member to coordinate the identification and provision of the reasonable accommodation, including the process of determining which accommodation is most effective and whether an accommodation is reasonable;
 - Provides for training of AJC program staff to recognize that an individual does not need to use the term “reasonable accommodation” when seeking

³⁴ [29 CFR 38.4\(y\)\(3\)](#).

- assistance; that the request does not have to be in writing; and that it may be made by a family member, friend, or other representative on their behalf;
- Provides for training and information regarding the process of identifying and providing reasonable accommodations including a description of the “interactive process” between the AJC program staff and the individual with a disability. The “interactive process” helps identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations. The goal of this dialogue is to identify the most effective accommodations and facilitate the provision of an accommodation as quickly as possible;
 - Explains the circumstances when reasonable accommodations must be provided: e.g., application, career services (which include WIA’s core and intensive services), training, and support services;
 - Provides training and policies regarding maintenance of records of the types of accommodations provided, including requirements regarding confidentiality and separation of files containing any medical or disability-related information obtained as the result of a request for or the provision of a reasonable accommodation;
 - Includes the definition of and examples of reasonable accommodations;³⁵
 - Explains that, in limited circumstances, the AJC programs may not be required to provide a specific reasonable accommodation if it can establish that doing so would cause undue hardship³⁶ for the AJC programs; and
 - Describes the appropriate process for reviewing a decision that a reasonable accommodation may cause an undue hardship. This process includes a review by senior AJC program staff and the EO Officer, who has expertise in the equal opportunity requirements under the law; an examination of alternative effective accommodations; and information about how an individual may request reconsideration.
- The policies and procedures for providing reasonable accommodations and modifications are posted on AJC programs’ websites and in public areas of the AJC programs, including waiting areas and the resource library, and are included in written outreach materials.

³⁵ See [29 CFR part 32, Appendix A](#) for examples of reasonable accommodations; See also [EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act](#).

³⁶ See [29 CFR 38.4 \(rrr\)\(1\)](#).

2.3 Provide Reasonable Modifications of Policies, Practices, and Procedures³⁷

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

- The AJC programs have written policies explaining their obligations to make reasonable modifications to their policies, practices, and procedures to ensure equal opportunity for individuals with disabilities, unless it can be demonstrated that making modifications would fundamentally alter³⁸ the nature of the service, program, or activity. The policy:
- Describes the procedures for handling requests for modifications and determining whether a modification would fundamentally alter the nature of the program and the consequences of such a determination.
- Reflects the following aspects of the AJC program's:
 - Registration and orientation;
 - Initial screening, assessment, and testing; and
 - Service delivery.
- Manuals, guidelines, or other materials used by AJC program staff (and used to train staff) include examples of reasonable modifications to ensure that individuals with disabilities are provided effective opportunity to benefit from all WIOA services available.
- The AJC programs anticipate necessary alterations to factors such as the place, time, and physical environment for individuals with disabilities. For example, access to a quiet environment is available for individuals with disabilities who require such a quiet environment to read and comprehend materials.
- The AJC programs modify their “no pets” policies, practices, and procedures to permit an individual with a disability to use his or her service animal in all areas of the facilities where the program is offered and where members of the public, AJC program participants in services, programs, or activities, or invitees are permitted to go.

³⁷ See [29 CFR 38.14\(b\)](#) and [Section 2.4 of Part 2](#) of this document for a discussion of the obligation to provide reasonable modifications to policies, practices, and procedures when necessary to avoid discrimination on the basis of disability.

³⁸ See [29 CFR 38.4\(z\)](#).

2.4 Administer Programs and Activities In the Most Integrated Setting Appropriate

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

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

2.5 Effectively Communicate With Individuals With Disabilities

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

2.5.1 Effective Communication, In General

- Technical assistance materials, guides, and training are provided to AJC program staff and staff of other entities participating in the AJC programs delivery system on topics such as:

- FAQs on providing effective communication, including the information that primary consideration must be given to the communication method requested by an individual with a disability;
 - Adaptive equipment available and processes for obtaining, testing, and using such equipment (including partnering with VR agencies, Assistive Technology Centers, Centers for Independent Living, and other subject matters experts);
 - Information on making websites accessible; and
 - Video Relay Services and Video Remote Interpreting (VRI).
- AJC program staff informs customers of the AJC programs' obligation to ensure effective communication and its obligation to provide appropriate auxiliary aids and services.
 - Each AJC program has a list, in an accessible format, of all currently available assistive technology devices and services. For example, the list might indicate that DVD players and video/TV monitors have closed caption capability; that ZoomText has been installed in computers available in resource areas; and that Pocket Talkers are provided for hard of hearing customers.³⁹
 - AJC program staff receives training on how to use equipment, ensure equipment is in good working condition, maintain an inventory of equipment, and closely monitor and test equipment.

2.5.2 Individuals Who Are Deaf or Hard of Hearing

- For individuals who are deaf or hard of hearing, effective communication may include the use of the following auxiliary aids, devices, and strategies:
 - Qualified interpreters on-site or through video remote interpreting (VRI) services
 - Notetakers
 - Real-time computer-aided transcription services
 - Written materials and the exchange of written notes
 - Telephone handset amplifiers
 - Assistive listening systems
 - Telephones compatible with hearing aids
 - Closed caption decoders
 - Open and closed captioning, including real-time captioning
 - Voice, text and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones or equally effective telecommunications devices
 - Videotext displays
 - Accessible electronic information and communication technology

³⁹ For descriptions of these and other assistive technology devices and other reasonable accommodations, see www.askjan.org.

- Other effective means of making aurally delivered materials available to individuals with hearing impairments
- The individual with a disability determines which communication method should be used
- Designated AJC program staff members receive training on how to use a TTY and the telephone relay service to make and receive calls, the TTYs are maintained in good working order, and test calls are made on a periodic basis to ensure that TTY calls are answered to the same extent as voice calls
- If the AJC program has courtesy telephones that the public may use for outgoing calls, it considers making available a portable TTY or texting device for public use (as currently required for some entities subject to Titles II and III of the ADA), and if the AJC program does make such equipment available, it posts a notice at the location of each courtesy telephone advising the public on how the equipment may be obtained, and instructs staff on the location of the equipment and its use

2.5.3 Individuals Who Are Blind or Visually-Impaired

- For individuals who are blind or visually-impaired, effective communication may include the use of the following auxiliary aids and devices and strategies:
 - Qualified readers
 - Taped texts
 - Audio recordings
 - Brailled materials and displays
 - Screen reader software
 - Magnification software
 - Optical readers
 - Secondary auditory programs (SAP)
 - Large print materials
 - Accessible electronic and information technology
 - Other effective methods of making visually delivered materials available to individuals who are blind or low vision
 - If the recipient has a video library for public use, the videos purchased are available with audio descriptions

2.5.4 Individuals with Intellectual and Developmental Disabilities

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

- AJC program staff members provide a quiet environment for individuals to read materials if the public area has distractions

2.5.5 Individuals with Mobility Impairments

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

2.5.6 Individuals with Speech Impairments

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

2.6 Provide Electronic and Information Technology Accessibility

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

Accessible EIT⁴⁰ (also sometimes referred to as “information and communication technologies,” or ICT) enable and enhance the opportunities of individuals with disabilities to fully participate in programs and services.

2.6.1 Leadership and Team Approach

- Secure support from leadership at the highest levels of the AJC program to facilitate “buy-in” and establish and sustain organizational commitment.
- Establish a network of individuals responsible for implementation (e.g., an accessibility team composed of managers across divisions, including ICT, procurement, education and training, financial and marketing, Equal Opportunity compliance, and human resources).
- Make the “business case” for ensuring that technology procured and used by your AJC program is accessible to the largest possible number of customers. The business case includes meeting legal requirements, improving efficiency by addressing the needs of all EIT users (including individuals with disabilities), supporting workforce diversity, and enhancing team collaboration and communication among all employees and customers with disabilities.

2.6.2 Needs Assessment and Priorities

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

2.6.3 Formal Policies and Procedures

- Adopt specific technical EIT accessibility standards and functional performance criteria regarding websites, web-based Intranet and Internet information

⁴⁰ Information technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content used to enhance opportunities for people with disabilities to fully participate in programs and services. Examples include computers and peripheral equipment; information kiosks and transaction machines; software; applications; Web sites; videos; and electronic documents.

applications, software, computers, telecommunication equipment, video and multimedia products, multi-function office machines (e.g., copiers and printers), and information kiosks and transaction machines. Consistent with the WIOA Section 188 regulations, adopt technical standards and functional performance criteria that incorporate accessibility features for individuals with disabilities that align with modern accessibility standards, such as Section 508 standards and the [World Wide Web Consortium's](#) (W3C's) Web Content Accessibility Guidelines (WCAG) 2.0 AA. In addition, follow relevant State guidance and criteria for certifying the physical and programmatic accessibility of AJCs.

2.6.4 Agency-Wide Infrastructure

- Delineate the respective roles and responsibilities of key personnel within your AJC programs, including, where applicable, your chief acquisition officer, chief information officer (CIO), chief accessibility officer (CAO), and EO Officer.⁴¹
- In organizations that choose to appoint a CAO, the CAO role differs from that of the CIO in that it is specifically focused on accessibility. In a technology company, a CAO is focused on how users experience the company's products and services, ensuring that they are accessible when they go to market. In all workplaces, the CAO sets the tone for the organization's accessibility mindset, establishes accessibility goals, and ensures the organization builds and buys accessible EIT for its employees and other stakeholders. CAOs often report to CIOs, and the individuals should work collaboratively, as well as with EO Officers.
- Appoint an advisory or working group, which should include individuals with disabilities and their representatives, responsible for:
 - Making recommendations regarding the adoption of procurement protocols and procedures that are consistent with federal and State policies;
 - Evaluating and certifying accessible and usable EIT;
 - Outlining planning, training, and technical assistance; and
 - Monitoring, reporting, and enforcement.
- Conduct training for in-house staff, including program managers, contracting and procurement officers, and, where applicable, software developers, web developers, video-multimedia developers, and IT help desk staff.

⁴¹ See "[American Job Centers and Digital Access: A Guide to Accessible ICT](#)" prepared by the Partnership on Employment and Accessible Technology (PEAT), which is funded by ODEP.

- Provide outsourcing guidelines to suppliers, vendors, and partners, including copies of the EIT accessibility standards. Ensure contracts stipulate that suppliers will, where relevant, apply EIT accessibility standards.
- Establish clear procurement policies, including a solicitation policy indicating that EIT must be accessible, the accessibility standards that apply, and that deliverables will be inspected based on those standards.

2.6.5 Evaluation and Accountability

- Appoint a CAO.
- Ensure that the CIO/CAO or EO Officer notifies managers and employees about your AJC's EIT accessibility policy.
- Adopt complaint resolution procedures under which anyone may file a complaint alleging that the AJC has failed to comply with the EIT accessibility and usability requirements and standards, including denial of access for individuals with disabilities to EIT or denial of access to information and data.⁴²
- Design and implement an audit and reporting system that measures the effectiveness of your AJC program's strategic EIT management plan with regard to accessibility, including:
 - Testing of EIT accessibility to determine the degree to which its goals, priorities, and objectives have been attained;
 - Any need for remedial action;
 - Where the strategic EIT management plan is found to be deficient; and
 - Necessary action to bring the program into compliance.
- Track issues and trends that could be used to assess and make informed decisions about the effectiveness of your accessible EIT policies.
- Create an EIT Accessibility Checklist that may serve as a benchmarking tool and provide a framework to build into your AJC program's self-assessment and strategic plans.
- Establish a continuous feedback mechanism that includes a state-of-the-department briefing to the CIO/CAO/EO Officer (or other staff responsible for accessible EIT) every six months with respect to the accessibility and usability of EIT. Report annually to your AJC's director with respect to progress made in implementing accessible EIT policies, including reaching benchmarks.

⁴² These complaint resolution procedures must comply with the requirements of the WIOA nondiscrimination regulations. [See 29 CFR 38.69 through 38.74.](#)

- In strategic plans and related quarterly reports, identify completion dates, managers responsible for accessibility-related action items, and whether action items are completed in a timely manner.
- Terminate any contract or procurement for default if the contractor fails to cure a breach of the EIT accessibility policy within a reasonable time.

2.7 Provide Physical Accessibility

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

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

The regulations implementing Section 504 and Title II of the ADA include the concepts of "program accessibility" to address accessibility in existing facilities.⁴³ "Program accessibility"⁴⁴ means that, when viewed in its entirety, the AJC program or activity is readily accessible to qualified individuals with disabilities. This requirement must be implemented even if there are no specific requests made by individuals.

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

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

- Involving EO Officers from the beginning of any physical site planning (including moving, opening new sites, and modifying existing space) to ensure equal access and opportunity, including for individuals with disabilities.

⁴³ See Department of Labor's Section 504 regulation related to existing facilities at [29 CFR 32.27](#). See also the Department of Justice's regulation implementing Title II of the ADA regarding existing facilities at [28 CFR subpart D "Program Accessibility."](#)

⁴⁴ The reader should be careful to note that the terms "program accessibility" (discussed here) and "programmatically accessible" (discussed earlier) have very different meanings.

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

2.8 Prohibit Discrimination in Employment Practices and Employment-Related Training

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

Under regulations implementing Section 188 of WIOA, the recipient may not discriminate in its employment practices on the ground of, among other things, disability. The recipient must provide reasonable accommodations for individuals with disabilities unless providing such accommodation would cause an undue hardship for the recipient. The recipient must also provide for and adhere to a schedule to evaluate job qualifications.

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

Employers, employment agencies, and AJC program staff acting in an employment agency role by doing things such as screening employees, making job referrals, recruiting employees on behalf of employers, or selecting job seekers for/providing employment-related training are most limited in their ability to make disability-related inquiries.⁴⁵ In these contexts, the permissibility of disability-related inquiries depends on whether the questions are being asked in the pre-offer, post-offer, or employment/training stage.

⁴⁵ For more on this topic, [see](#) “Strategies and Practices for Effectively Serving All One-stop Customers—A Framework for Systems Change. Appendix A: [A Description of Rules Related to Disability-Related Information.](#)” ⁴⁶ The term “employment-related training” is defined in [29 CFR 38.4\(t\)](#).

2.8.1 In the Pre-Offer Stage

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

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

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

However, employers, employment agencies, and AJC program staff serving as employment agencies may not ask disability-related inquiries or require medical examinations prior to an offer of employment or training.⁴⁶ AJC program staff must also advise AJC program partners to abide by these requirements to ensure equal opportunity for individuals with disabilities.

- Employers, employment agencies, and AJC program staff serving as employment agencies do not ask questions that elicit information about the following topics from applicants or customers during the pre-offer stage (unless an exception applies):
 - Health or physical condition;
 - Medical history;
 - Previous workers’ compensation claims; and
 - Prior health insurance claims.
- Applicants for employment and/or training by the AJC programs and AJC program partners are not required to take any of the following tests as part of the application process:
 - Physical exam;
 - Alcohol test;
 - HIV test; and
 - Psychological tests that are designed to identify a mental impairment.

⁴⁶ The term “employment-related training” is defined in [29 CFR 38.4\(t\)](#).

- Employers, employment agencies, and AJC program staff serving as employment agencies do not ask applicants or customers during the pre-offer stage whether they will need reasonable accommodations to perform the essential functions of the job, except if one of the following limited circumstances applies:
 - The job seeker has an obvious disability, and there is a reasonable belief that the applicant will need reasonable accommodation because of that obvious disability.
 - The job seeker has voluntarily disclosed that s/he has a hidden disability, and there is a reasonable belief that the applicant will need reasonable accommodation because of that hidden disability.
 - The job seeker has voluntarily disclosed that s/he needs reasonable accommodation to perform the job.

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

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

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

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

2.8.3 After the Job Seeker Begins Work or Training

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

2.8.4 AJC Program Staff Providing General Services for the Job Seeker May Make Disability-Related Inquiries

Where AJC program staff do not act in an employment agency capacity and instead provide general services focused on the job seeker (such as assessing a customer's skills, prior work experience, or employability; creating a service strategy; or providing supportive services such as child care or transportation), they may make disability-

related inquiries, which are legal and in fact may be helpful to the individual to provide effective service delivery. When AJC program staff provide these types of services, it may be appropriate for them to ask whether someone has a disability and to help the person determine whether a particular disability-related accommodation, auxiliary aid or service, assistive technology, or program modification would be helpful to the person. It may also be appropriate for AJC program staff to recognize previously undiscovered disabilities that are barriers to employment success, and to ask the customers whether they may want to consider a referral to experts that perform disability-related assessments or evaluations. However, it is ultimately up to the individual to decide whether or not they wish to (a) discuss whether they have a disability, and (b) whether they want to further pursue the issue.

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

2.8.5 Confidentiality and Non-Disclosure of Disability and Medical Information

- To ensure the confidentiality of disability and medically related information, AJC programs have written policies regarding access to and storage of customer medical information. For example, all non-medical records must be kept separately from medical records. (Medical records include insurance application forms as well as health certificates, results from physical exams, etc.)
- Where possible, a clear firewall is instituted between AJC program staff who work with employers and AJC program staff who provide general services to job seekers, to ensure that those who work with employers do not inappropriately receive information about a particular job seeker's disability status.
- AJC program staff may disclose disability-related or other medical information about a particular job seeker to an employer **only where all of the following circumstances are satisfied**: (1) the job seeker has made an independent decision to disclose such information to the employer; (2) the job seeker has specifically asked the AJC program or its staff to make the disclosure on his or her behalf; and (3) the request has been initiated by the job seeker, not by the AJC program.

PART I, SECTION 3: ADDITIONAL AFFIRMATIVE OBLIGATIONS

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

3.1 Designation of Qualified Equal Opportunity Officer

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

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

- The EO Officer may also be the Section 504 Coordinator (required by DOL's regulations implementing Section 504). If not, a Section 504 Coordinator is appointed, who has the education, training, and experience to perform assigned duties and works closely with the EO Officer.⁴⁷
- The EO Officer and all AJC program staff receive regular training regarding development in ensuring universal access and equal opportunity for individuals with disabilities.

Note: Small recipients [as defined by [29 CFR 38.4\(hhh\)](#) and [29 CFR 32.3](#)] are not required to appoint an EO Officer [[29 CFR 38.28\(b\)](#) and [38.32](#)] or a Section 504 Coordinator. [[29 CFR 32.7](#)] Service providers are not required to appoint an EO Officer. [[29 CFR 38.28\(b\)](#) and [38.33](#)]

3.2 Notice and Communication

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

- The obligation to effectively communicate with individuals with disabilities rests with AJC programs, and AJC program staff must inform the public of this obligation and that auxiliary aids and services are provided to customers free of charge.
- AJC program staff must give everyone the **Equal Opportunity is the Law Notice** and post the notice prominently in the AJC program's facilities and on its web site.⁴⁸
- The Notice must be made available in alternate formats, such as Braille or large print, taped texts, or audio recordings.
- The Notice is routinely read or explained to individuals with intellectual impairments at intake or other regular points of interaction on request.

⁴⁷ See [29 CFR 32.7](#).

⁴⁸ The notice must contain the specific wording found at [29 CFR 38.35](#).

- When a telephone number is included in official AJC programs' stationery, business cards, civic newsletters, web sites, social media, posters, and other materials, the materials must indicate a TTY number or an equally effective means of communication with individuals who are deaf or hard of hearing (e.g., the number for the telephone relay service).
- AJC programs must include language indicating that the WIOA Title I-financially assisted program or activity in question is an "equal opportunity employer/program," and that "auxiliary aids and services are available upon request to individuals with disabilities," in any recruitment brochures or other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public at large.
- AJC programs that publish or broadcast program information in the news media must ensure that such publications and broadcasts state that the WIOA Title I-financially assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIOA Title I-financially assisted program or activity is prohibited by Federal law), and indicate that auxiliary aids and services are available upon request to individuals with disabilities.
- During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title I-financially assisted program or activity, AJC programs must include a discussion of rights under the nondiscrimination and equal opportunity provisions of WIOA, including the right to file a complaint of discrimination with the recipient or the Director of the U.S. DOL Civil Rights Center.

3.3 Assurances

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

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

In addition to the general assurances listed in the regulation,⁴⁹ a specific assurance is included that specifies that the recipient, sub-recipients, and others are able to provide physical and programmatic accessibility for individuals with disabilities.

A specific assurance might include the following language:

⁴⁹ [29 CFR 38.25-.27](#).

We understand and agree that:

- As a condition of receiving financial assistance from the U.S. Department of Labor, compliance with the nondiscrimination and equal opportunity laws that apply to the grant program, including providing equal access and opportunity for individuals with disabilities, is required.
- All partners in the workforce system will ensure physical and programmatic accessibility of facilities, programs, services, technology, and materials for individuals with disabilities in AJC programs.
- We implement universal access to programs and activities to ensure equal access by all individuals through reasonable recruitment targeting, outreach efforts, assessments, services delivery, partnership development, and numeric goals.
- We are responsible for covering the costs of taking these required actions. In preparing our grant application, we have taken those costs into consideration, and have accounted for them in our proposed budget and our funding request.
- We must inform any agencies, organizations, training providers, other types of contractors or service providers, or any other persons or entities, with which we work to carry out our proposed program that they are also responsible for complying with these legal requirements.

3.4 Data and Information Collection, Analysis, and Maintenance

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

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

- AJC programs have a written policy stating the requirements for notification of CRC of allegations of discrimination, and relevant AJC program staff is trained on the policy. The written policy states that such notification must be accomplished in a timely manner, and outlines the specific information that must be sent to the CRC, including names of the parties and the location where the action was filed.
- AJC program staff collects and regularly analyzes data regarding job seeker satisfaction and success in meeting the objectives of collaborating partners and other entities providing financial assistance.

- Data on participant demographics and services are analyzed by AJC program staff to determine:
 - Whether individuals with disabilities participate in programs and activities, including whether they participate in available career and training services, to assess compliance with the requirement that equal access to WIOA Title I financially-assisted programs and activities be provided to individuals with disabilities; and
 - Whether various diverse populations participated in programs and activities in a meaningful and effective fashion.
- Management information systems used by AJC program staff comply with legal requirements relating to storage and confidentiality of information, including information concerning disability.
- If an AJC program is an [Employment Network](#) under the SSA's Ticket to Work program, it collects data that tracks job seekers with disabilities who have assigned their Ticket to the AJC program to analyze employment outcomes and eligibility for milestone payments under the Ticket to Work program.

3.5. Monitor for Compliance and Continuous Improvement

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

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

3.5.1 Monitoring

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

- Policies and procedures, instruments, surveys, checklists, and other processes are used for monitoring compliance with the nondiscrimination/equal opportunity provisions, including a review of policies, practices, and procedures to ensure equal opportunity for individuals with disabilities.
- AJC program staff recruits a team comprised of local stakeholders with specialized knowledge and expertise, including diverse community members, to assess implementation of policies and procedures related to effective and meaningful access to and use of programs, projects, activities, services and supports for individuals with disabilities (including physical and programmatic

accessibility and the provision of auxiliary aids and services). Constructive recommendations are then implemented at the AJC that will help improve problem areas and achieve compliance.

- Efforts to broaden the composition of the applicant, registrant, and participant pools are evaluated. Any groups or populations that are being underserved are identified and plans are developed to address significant findings with regard to universal access.

3.5.2 Continuous Improvement

Implementation of the following strategies can help promote continuous improvement:

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

3.6 Certification of AJCs

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

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

- Evaluations of physical accessibility should take into account both external accessibility and internal accessibility. For example, evaluations of external accessibility could include a review of the availability of transportation to the AJC and access into the site location via ramps that comply with the applicable accessibility standards. An evaluation of internal accessibility could include a review of the AJC's bathrooms, adjustable work stations, and appropriate signage.
- In general, programmatic accessibility refers to the extent to which the full range of services is available to all AJC customers regardless of disability. Examples of customer service and service design principles and resources on accessibility are included in this Section 188 Disability Reference Guide.
- Accessibility subject matter experts can work in conjunction with AJC staff to assess physical and programmatic accessibility of workforce centers. Areas in need of improvement should then be reviewed with the AJC administrative staff, as well as recommendations and solutions to any barriers. An action plan and timeframe for corrective action should be put in place in conjunction with the AJC.
- Certification policies, practices, and procedures may include:
 - Articulation of principles that underlie AJC certification, such as integrated system, accountability, universal access, continuous improvement, partnership, and regional strategy.
 - Examination and assessment of how people with disabilities are gaining meaningful participation in workforce services as part of AJC Certification, including:
 - Policy Review to update all language pertaining to Section 188 and ADA to ensure level of consistency across programs.
 - Information Gathering to survey all AJC staff, partners, and customers to reveal training needs, what is working around accessibility and service delivery and what areas are in need of improvement.
 - Training for Continuous Improvement – Information gathered by AJC staff and partners is analyzed to develop training and identify top level priorities and scenarios related to disability access and employment outcomes for people with disabilities.

- Use of a checklist and documentation that includes minimum requirements needed for certification, minimum criteria to become certified, and indicators of compliance as well as best practices.
- Use of a two-tier certification process, with Tier 1 consisting of satisfying minimum criteria using indicators of compliance and Tier 2 “Hallmark of Excellence” using characteristics of a high quality AJC.
- Use of certifications teams responsible for making recommendations to the LWDB. The teams may be comprised of LWDB members and staff, representatives from VR and Education, and individuals representing local partners with specific expertise serving individuals with disabilities and may utilize local experts who represent targeted populations but have no ties with the AJC.
- Consultation with state, regional, and national projects and experts focused on accessibility and effective service delivery in order to identify, adopt, and implement best disability-related strategies. For information about technical assistance initiatives in each State, see <http://drivedisabilityemployment.org/>.

3.7 Complaint Processing Procedures

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

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

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

3.8 Corrective Actions/Sanctions

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

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

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

PART II: SECTION 188 DISABILITY NONDISCRIMINATION AND EQUAL OPPORTUNITY REGULATIONS

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

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

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

EQUAL ACCESS TO PROGRAMS AND ACTIVITIES

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

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

PART II, SECTION 2: NONDISCRIMINATION AND EQUAL OPPORTUNITY

2.1 DEFINITIONS

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

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

2.2 GENERAL PROHIBITIONS

The recipient must prohibit discrimination on the basis of disability, including the specific discriminatory actions listed in [29 CFR 38.12](#).⁵⁰ The discriminatory actions listed in [29 CFR 38.12](#) are set out below.

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

⁵⁰ See also [29 CFR 32.12\(a\)](#) and [29 CFR 32.26](#).

- A recipient must administer WIOA Title I-financially assisted programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.⁵¹
- A recipient must not, directly or through contractual, licensing, or other arrangements, use standards, procedures, criteria, or administrative methods that have the purpose or effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability; that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of WIOA Title I-financially assisted program or activity with respect to individuals with disabilities; or that perpetuate the discrimination of another entity if both entities are subject to common administrative control or are agencies of the same State.
- In determining the site or location of facilities, a grant applicant or recipient must not make selections that have any of the following purposes or effects on the basis of disability: excluding qualified individuals from a WIOA Title I-financially assisted program or activity; denying qualified individuals the benefits of such a program or activity; or subjecting qualified individuals to discrimination; or defeating or substantially impairing the accomplishment of the disability-related objectives of either: the WIOA Title I-financially assisted program or activity; or the nondiscrimination and equal opportunity provisions of WIOA or [29 CFR part 38](#).
- A recipient, in the selection of contractors, must not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.
- A recipient must not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a recipient establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. The programs or activities of entities that are licensed or certified by a recipient are not, themselves, covered by [29 CFR part 38](#).
- A recipient must not impose or apply eligibility criteria that screen out or tend to screen out individuals with disabilities or any class of individuals with disabilities from fully and equally enjoying any aid, benefit, service, training, program, or activity, unless such criteria can be shown to be necessary for the provision of any aid, benefit, service, training, program, or activity being offered.

⁵¹ The provisions related to "most integrated setting" are restated and specifically addressed in [Section 2.5](#) of the Reference Guide.

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

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

2.3 PROVIDE REASONABLE ACCOMMODATION FOR INDIVIDUALS WITH DISABILITIES⁵²

With regard to any aid, benefit, service, 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. [[29 CFR 38.14\(a\)](#); [29 CFR 38.4\(rrr\)\(1\)](#); See also Exceptions (Section 2.9 below). See also [29 CFR 32.13](#).]

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

2.4 PROVIDE REASONABLE MODIFICATIONS OF POLICIES, PRACTICES, AND PROCEDURES, INCLUDING THOSE RELATED TO SERVICE ANIMALS AND MOBILITY AIDS AND DEVICES

With regard to any aid, benefit, service, training, and employment, a recipient must provide reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity. [[29 CFR 38.14\(b\)](#); See the definition of “fundamental alteration” in [29 CFR 38.4\(z\)](#). See also Exceptions (2.9).

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

A recipient must permit individuals with mobility disabilities to use wheelchairs and manually-powered mobility aids designed for use by individuals with mobility disabilities, in any areas open to pedestrian use. A recipient must make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless the recipient can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the recipient has adopted. This assessment must be made based on consideration of factors specified in the regulations. [[29 CFR 38.17](#)] See also Exceptions (2.9).

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

⁵² A discussion of the applicability of the reasonable accommodation provision pertaining to employment practices is set out in [Section 2.9](#) of the Reference Guide.

2.5 ADMINISTER PROGRAMS AND ACTIVITIES IN THE MOST INTEGRATED SETTING APPROPRIATE

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

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

2.6 EFFECTIVELY COMMUNICATE WITH INDIVIDUALS WITH DISABILITIES

- A recipient must take appropriate steps to ensure that communications with individuals with disabilities, including companions, are as effective as communications with others. For purposes of this section, “companion” means a family member, friend, or associate of an individual seeking access to an aid, benefit, service, training, program, or activity of a recipient, who, along with such individual, is an appropriate person with whom the recipient should communicate. [[29 CFR 38.15\(a\)\(1\)](#)]; See also [29 CFR 38.34\(b\)](#).
- A recipient must furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, a WIOA Title I-financially assisted service, program, or activity of a recipient. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a recipient must give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. [[29 CFR 38.15\(a\)\(2\)](#)]

- A recipient must not require an individual with a disability to bring another individual to interpret for him or her. A recipient must not rely on an adult accompanying an individual with a disability to interpret or facilitate communication except in specified circumstances. A recipient must not rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public, where there is no interpreter available. [[29 CFR 38.15\(a\)\(3\)](#)]
- A recipient that chooses to provide qualified interpreters via Video Remote Interpreting services must ensure that the services meet specified criteria. [[29 CFR 38.15\(a\)\(4\)](#)]
- Where a recipient communicates by telephone with beneficiaries and others, text telephones (TTYs) or equally effective telecommunication systems must be used to communicate with individuals who are deaf or hard of hearing or have speech impairments. When a recipient uses an automated-attendant system, including, but not limited to voicemail and messaging, or an interactive voice response system for receiving and directing incoming telephone calls, that system must provide effective real-time communication with individuals using auxiliary aids and services, including TTYs and all forms of FCC-approved telecommunication relay systems, including Internet-based relay systems. A recipient must respond to telephone calls from a relay service in the same manner that it responds to other telephone calls. [[29 CFR 38.15\(b\)](#)]
- A recipient must ensure that interested individuals, including individuals with visual or hearing impairments, can obtain information as to the existence and location of accessible services, activities, and facilities. [[29 CFR 38.15\(c\)\(1\)](#)] A recipient must provide signage at the public entrances to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities, consistent with ADA standards for accessible design or equivalents. [[29 CFR 38.15\(c\)\(2\)](#)]

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

2.7 PROVIDE ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY

- When developing, procuring, maintaining, or using electronic and information technology (EIT), a recipient must utilize EIT, applications, or adaptations which:
 - Incorporate accessibility features for individuals with disabilities;
 - Are consistent with modern accessibility standards, such as Section 508 Standards (36 CFR part 1194) and W3C Web Content Accessibility Guidelines (WCAG) 2.0 AA; and

- Provide individuals with disabilities access to, and use of, information, resources, programs, and activities that are fully accessible, or ensure that the opportunities and benefits provided by the electronic and information technologies are provided to individuals with disabilities in an equally effective and equally integrated manner. [[29 CFR 38.15\(a\)\(5\)](#)]
- Also, other related requirements obligate AJCs to make their technology accessible (including the obligation to provide effective communication and the obligation to provide programmatic accessibility).⁵³ Compliance with this obligation is required even without an accommodation request. For example, web sites should be designed for screen readers. See the General Service Administration’s materials at [www.Section508.gov](#) and the United States Access Board’s materials at [www.access-board.gov](#).

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

2.8 PROVIDE PHYSICAL AND PROGRAMMATIC ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES

2.8.1 Physical Accessibility

- No qualified individual with a disability may be excluded from participation in, or be denied the benefits of a recipient’s service, program, or activity or be subjected to discrimination by any recipient because a recipient’s facilities are inaccessible or unusable by individuals with disabilities. Recipients must also comply with physical accessibility standards specified in regulations implementing Title II and Title III of the ADA, if applicable, and Section 504 of the Rehabilitation Act. [[29 CFR 38.13\(a\)](#) and [29 CFR 38.3\(b\)](#)]
- Under Section 504, with respect to existing facilities, a recipient must operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to individuals with disabilities. [[29 CFR 32.27\(a\)](#)] The recipient may comply with this obligation through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternative accessible sites, alteration of existing facilities and construction of new facilities in conformance with standards for new construction, or any other method that results in making its program or activity accessible to individuals with disabilities. In choosing among available methods, the recipient must give priority to those methods that offer programs and activities to individuals with disabilities in the most integrated setting appropriate. [[29 CFR 32.27\(c\)](#)]

⁵³ Under Section 101(d)(7)(D) of Title I of WIOA, functions performed by SWDBs include technological improvements to ensure such technology is accessible to individuals with disabilities. A similar provision (Section 107(d)(7)) is applicable to LWDBs. [See [29 CFR 679.130\(c\) and \(e\)](#) and [29 CFR 679.550](#)]

- Under Section 504, each facility or part of a facility constructed by, on behalf of, or for the use of a recipient must be designed and constructed in such a manner that the facility or part of the facility is readily accessible to and usable by qualified individuals with disabilities, if the construction was commenced after November 6, 1980. [[29 CFR 32.28\(a\)](#)]
- Under Section 504, each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after November 6, 1980, in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such a manner that the altered portion of the facility is readily accessible to and usable by qualified individuals with disabilities. [[29 CFR 32.28\(b\)](#)]
- With respect to Section 504, the design, construction, or alteration of facilities must meet the most current standards for physical accessibility prescribed by the General Services Administration under the Architectural Barriers Act or the recipient may adopt alternative standards when it is clearly evident that equivalent or greater access to the facility or part of the facility is thereby provided. [[29 CFR 32.28\(c\)](#)]

For additional guidance see United States Access Board website www.access-board.gov.

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

2.8.2 Programmatic Accessibility

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

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

2.9 EMPLOYMENT PRACTICES⁵⁴

2.9.1 Ensure Equal Opportunity and Nondiscrimination

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

2.9.2 Provide Reasonable Accommodations for Individuals with Disabilities

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

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

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

2.9.4 Limit Pre-employment/Employment Medical Inquiries/Confidentiality

- With limited exceptions, the recipient may not conduct pre-employment inquiries or medical examinations in order to determine whether an applicant is a person

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

with a disability or the nature or severity of his or her disability. [[29 CFR 38.18\(d\) and \(e\)](#) and [29 CFR 32.15](#)]

Note: Pre-employment and pre-selection inquiries are permissible if they are required or necessitated by another federal law or regulation. In addition, an employer may ask applicants to voluntarily self-identify as individuals with disabilities for purposes of the employer's affirmative action program that is being undertaken pursuant to Federal, state, or local law, if the individual is clearly informed that (a) the information requested is solely for purposes of the affirmative action effort and refusal to provide it will not subject the individual to any adverse treatment and (b) the information is being requested on a voluntary basis and will be used in accordance with the provisions of federal law governing the confidentiality of medical information. Furthermore, if the same notice is given that self-disclosure of a disability is voluntary, that refusal to disclose will not subject the individual to any adverse treatment, that medical information will be kept confidentially and will be used solely for remedial efforts, an employer may ask applicants to self-identify if it is voluntarily using the information to benefit individuals with disabilities by attempting to overcome the effects of conditions that resulted in limited participation in its federally-assisted program or activity. [[29 CFR 38.18\(d\) and \(e\)](#) and [29 CFR 32.15\(b\)](#)]

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

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

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

- A recipient must provide a reasonable accommodation unless providing the proposed accommodation would cause undue hardship. The recipient has the burden of proving that the proposed accommodation would result in undue hardship. The regulations also specify the factors relating to the decision whether an accommodation would result in an undue hardship and the obligation to take other actions that would ensure that the individual with a disability receives the aid, benefits, services, training, or employment to the maximum extent possible, but would not result in an undue hardship, after consulting with the individual with a disability. [[29 CFR 38.14\(a\)](#)]
- A recipient must make reasonable modifications unless making the modification would fundamentally alter the nature of the service, program, or activity. The recipient has the burden of proving that the modifications would result in a fundamental alteration. The regulations also specify the factors relating to the decision whether a modification would result in a fundamental alteration and the obligation to take other actions that would not result in a fundamental alteration,

but would ensure that the individual with a disability receives the aid, benefits, services, training, or employment to the maximum extent possible. [[29 CFR 38.14\(b\)](#)]

- A recipient must take appropriate steps to ensure effective communication (including the provision of auxiliary aids and services, interpreters, video remote interpreting, electronic and information technology, telecommunications, and information and signage), unless the recipient can demonstrate that a particular action would result in a fundamental alteration in the nature of the financially-assisted service, program, or activity. The recipient has the burden of proving that the compliance would result in a fundamental alteration. The regulations also specify the factors relating to the decision whether compliance would result in a fundamental alteration and the obligation to take other actions that would not result in a fundamental alteration, but would ensure that the individual with a disability receives the benefits or services to the maximum extent possible. [[29 CFR 38.15](#)]
- An employee, applicant, or beneficiary with a disability who needs to use a service animal in a food preparation area must be allowed to do so unless the employer recipient, after an individualized assessment, can demonstrate, that the presence of the service animal presents a direct threat to health or safety that cannot be eliminated or reduced by a reasonable accommodation to the applicant, employee, or beneficiary. [[29 CFR 38.16\(g\)\(2\)](#)]
- The recipient must make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with disabilities, unless the recipient can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the recipient has adopted. [[29 CFR 38.17\(b\)\(1\)](#)]

PART II, SECTION 3: ADDITIONAL AFFIRMATIVE OBLIGATIONS

3.1 DESIGNATION OF QUALIFIED EQUAL OPPORTUNITY OFFICER

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

Note: Small recipients [as defined by [29 CFR 38.4\(hhh\)](#) and [29 CFR 32.3](#)] are not required to appoint an EO Officer [[29 CFR 38.28](#)] or a Section 504 Coordinator [[29 CFR 32.7](#)], but they must still designate an individual who will be responsible for developing and publishing complaint procedures, and processing

complaints. [\[29 CFR 38.32\]](#) Service providers are not required to appoint an EO Officer. [\[29 CFR 38.28 and 38.33\]](#)

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

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

3.2 NOTICE AND COMMUNICATION

- A recipient must provide initial and continuing notice that it does not discriminate on the basis of disability, among other bases. [\[29 CFR 38.34\(a\)\]](#).
- This notice must be provided to registrants, applicants, and eligible applicants/registrants; participants; applicants for employment and employees; unions or professional organizations that hold collective bargaining or professional agreements with the recipient; sub-recipients that receive WIOA Title I-financial assistance from the recipient; and members of the public, including those with impaired vision or hearing. [\[29 CFR 38.34\(a\)\]](#)
- The notice must meet the general posting and dissemination requirements [\[29 CFR 38.36\(a\)\]](#) and the notice must be provided in appropriate formats to individuals with visual impairments. Where the notice has been given in an alternate format to a participant with a visual impairment, a record that such notice has been given must be made a part of the participant's file. [\[29 CFR 38.36\(b\)\]](#)
- The recipient must take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others. [\[29 CFR 38.15 and 38.34\(b\)\]](#)⁵⁵
- The recipient must indicate in recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public, that the WIOA Title I-financially assisted program or activity is an "equal opportunity employer/program" and that "auxiliary aids and services are available upon request to individuals with disabilities." [\[29 CFR 38.38\(a\)\]](#)
- Where such materials indicate that the recipient may be reached by telephone, the materials must state the telephone number of the TTY or relay service used by the recipient. [\[29 CFR 38.38\(a\)\]](#)

⁵⁵ The recipient's responsibilities to ensure effective communications pursuant to [29 CFR 38.15](#) are set out under [Section 2.6](#).

- A recipient that publishes or broadcasts program information in the news media must ensure that such publications and broadcasts state that the WIOA Title I-financially assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIOA Title I-financially assisted program or activity is prohibited by federal law), and indicate that auxiliary aids and services are available upon request to individuals with disabilities. [[29 CFR 38.38\(b\)](#)]
- During each presentation (in person, over the internet, or using other technologies) to orient new participants, new employees, and the general public, a recipient must include a discussion of rights and responsibilities under the nondiscrimination and equal opportunity provisions of WIOA and 29 CFR part 38, including the right to file a complaint of discrimination. This information must be communicated in formats accessible for individuals with disabilities. [[29 CFR 38.39](#)]

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

3.3 ASSURANCES

Each grant applicant's application for WIOA Title I-financial assistance must include the specific assurance not to discriminate on the basis of disability under Section 188 of WIOA and Section 504 of the Rehabilitation Act of 1973, and to comply with 29 CFR Part 38 and 29 CFR Part 32, as provided in [29 CFR 38.25](#). [[29 CFR 38.25-38.27](#)]⁵⁶

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

3.4 DATA AND INFORMATION COLLECTION, ANALYSIS, AND MAINTENANCE

The recipient must comply with the requirements of [29 CFR 38.41 through 38.45](#) related to data and information collection and maintenance and confidentiality responsibilities. Each grant applicant and recipient must promptly notify the Director of the CRC when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the basis of disability, as well as information about any civil

⁵⁶ Note that the required assurance goes beyond discrimination on the basis of disability, and also covers discrimination on a variety of other bases under Section 188, Title VI of the Civil Rights Act of 1964, as amended, the Age Discrimination Act of 1975, as amended, and Title IX of the Education Amendments of 1972, as amended. [[29 CFR 38.25\(a\)\(1\)](#)] Note also that this assurance to comply with these nondiscrimination and equal opportunity laws is judicially enforceable [[29 CFR 38.25\(a\)\(1\)](#)] and is incorporated into any arrangement where federal financial assistance is made available under Title I of WIOA, whether there is a physical agreement or not. [[29 CFR 38.25\(a\)\(2\)](#)].

rights compliance review or complaint investigation by any other federal agency that resulted in a finding of noncompliance. [[29 CFR 38.42](#)]

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

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

3.5 MONITORING FOR COMPLIANCE

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

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

3.6 CERTIFICATION OF AJCs

The SWDB, in consultation with chief elected officials and LWDBs, must establish objective criteria and procedures for LWDBs to use when certifying AJCs. The criteria must evaluate AJCs and AJC delivery systems, for, among other things, physical and programmatic accessibility. [[20 CFR 678.800](#); [One-stop Operations Guidance for American Job Centers, TEGL 16-16](#) (January 18, 2017)] All AJCs must comply with applicable physical and programmatic accessibility requirements as set forth in regulations implementing Section 188. [[29 CFR part 38](#)]

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

3.7 COMPLAINT PROCESSING PROCEDURES

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

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

3.8 CORRECTIVE ACTIONS/SANCTIONS

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

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

APPENDIX ACRONYMS

ADA: Americans with Disabilities Act of 1990, as amended
ADAAA: ADA Amendments Act of 2008
AJC: American Job Center
CAO: Chief Accessibility Officer
CIO: Chief Information Officer
CFR: Code of Federal Regulations
CRC: Civil Rights Center, Department of Labor
DOJ: Department of Justice
DOL: Department of Labor
DRCs: Disability Resource Coordinators
EEOC: Equal Employment Opportunity Commission
EIT: Electronic and Information Technology
EITC: Earned Income Tax Credit
EN: Employment Network
EO Officer: Equal Opportunity Officer
ETA: Employment and Training Administration, Department of Labor
FAQs: Frequently Asked Questions
FCC: Federal Communication Commission
FR: Federal Register
ICT: Information and Communication Technology
IRT: Integrated Resource Team
ITA: Individual Training Account
LWDB: Local Workforce Development Board
ODEP: Office of Disability Employment Policy, Department of Labor
PASS: Plan for Achieving Self-Support
SAP: Secondary Auditory Program
Section 188: Section 188 of the Workforce Innovation and Opportunity Act
Section 503: Section 503 of the Rehabilitation Act of 1973, as amended
Section 504: Section 504 of the Rehabilitation Act of 1973, as amended
Section 508: Section 508 of the Rehabilitation Act of 1973, as amended
SSA: Social Security Act
SSDI: Social Security Disability Insurance
SSI: Supplemental Security Income
SWDB: State Workforce Development Board
TANF: Temporary Assistance for Needy Families
TTW: Ticket to Work
TTY: Teletypewriter, Text telephones
U.S.C.: United States Code
VR: Vocational Rehabilitation
VRI: Video Remote Interpreting
WCAG: Web Content Accessibility Guidelines
W3C: World Wide Web Consortium
WIA: Workforce Investment Act
WIOA: Workforce Innovation and Opportunity Act
WIPA: Work Incentives Planning and Assistance