

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

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INTRODUCTION

Section 188 of the Workforce Investment Act of 1998 (WIA) prohibits discrimination against individuals who apply to, participate in, work for, or come into contact with programs and activities that receive financial assistance from DOL, or, under certain circumstances, from other Federal agencies or are otherwise part of the American Job Center delivery 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.¹ Section 188 also requires that reasonable accommodations be provided to qualified individuals with disabilities in certain circumstances. On July 22, 2014, the President signed the Workforce Innovation and Opportunity Act (WIOA). In general, WIOA takes effect in July 2015, and supersedes WIA. Section 188 of WIOA contains provisions identical to those in Section 188 of WIA.

After the enactment of WIA, the U.S. Department of Labor (DOL) issued regulations implementing the Section 188 non-discrimination requirements that apply to programs or activities offered through the American Job Center (AJC) system (also referred to as the One-Stop delivery system and the One-Stop Career Center system).² The Department anticipates issuing regulations to implement WIOA Section 188 for WIOA Title-I financially assisted programs and activities in the near future. Until that time, the Section 188 regulations, currently at 29 CFR part 37, (“the current Section 188 regulations”) continue to apply.

This Reference Guide will use the acronym “AJC” to refer generically to recipients of financial assistance as well as partners of the workforce development system covered by the Section 188 nondiscrimination requirements of both WIA and WIOA.³

PURPOSE OF REFERENCE GUIDE

DOL has developed this Reference Guide to assist AJCs by providing promising practices that correlate with specific nondiscrimination requirements in Section 188 and the current Section 188 regulations. While this Reference Guide is focused on AJCs, it may be used as a resource document for anyone that desires to ensure universal access and

¹ Section 188 of WIA, [29 U.S.C. § 2938](#); Section 188 of WIOA, 29 U.S.C. § 3248.

² [29 CFR part 37](#). The interim final rule implementing Section 188 was published in the *Federal Register* on November 12, 1999 ([64 FR 61692-61738](#)).

³ Entities covered by the nondiscrimination requirements of Section 188 are considered “Local Workforce Development Area (LWDA) grant recipients.” [29 CFR 37.4](#). The term “recipient” is defined in the regulations. [29 CFR 37.4](#).

equal opportunity for individuals with disabilities in the workforce development system, including State Governors, State Administrators, State Workforce Agencies, Equal Opportunity Officers, and State and Local Workforce Development Agencies.⁴

The promising practices contained in this Reference Guide are not necessarily mandatory in every case under Section 188 or the regulations but may be considered by AJCs for the purpose of ensuring universal access and equal opportunity. 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 WIA/WIOA Title I grant recipients from devising alternative approaches to meeting their legal obligations. Adopting these possible approaches will not guarantee compliance with Section 188 of WIA and WIOA.⁵

ORGANIZATION OF REFERENCE GUIDE

This Reference Guide is divided into two parts. **Part I** of this Reference Guide includes promising practices that promote equal access for individuals with disabilities to the AJC system. It is divided into three sections:

Section 1: Describes promising practices related to the requirement that AJCs take appropriate steps to ensure **universal access** to programs and activities for all eligible individuals, including individuals with disabilities. In order to ensure universal access, an AJC must pay particular attention to the various functions it performs, 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 AJCs ensure **equal opportunity** for individuals with disabilities in the administration of programs and activities. Equal opportunity includes applying nondiscrimination prohibitions; providing reasonable accommodations and reasonable modifications; administering programs in the most integrated setting appropriate; engaging in effective communication; and ensuring accessibility of programs, facilities, and information and communication technology.

⁴ This Reference Guide does not address nondiscrimination and equal opportunity provisions of WIA/WIOA prohibiting discrimination on the other protected grounds of race, color, religion, sex, national origin, age, political affiliation or belief, and, for WIA/WIOA beneficiaries only, an individual's status as a citizen or national of the U.S., as an individual lawfully authorized to work in the U.S., or as a participant in any WIA/WIOA Title I-financially assisted program or activity. See [29 CFR 37.1](#); [37.6](#).

⁵ While this Reference Guide includes citations to the current Section 188 regulations, issued pursuant to Section 188 of WIA, we anticipate that the promising practices contained here will remain relevant and useful for the One Stop system under the forthcoming WIOA regulations.

Section 3: Describes promising practices related to governance requirements that promote effective implementation of universal access and equal opportunity, not mere paperwork compliance. Governance includes the designation of an equal opportunity 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 current Section 188 regulations and links to the correlating section of Part II of the Reference Guide.

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

The promising practices provided in Part I of the Reference Guide highlight some ways AJCs can meet their legal obligations. Note that AJCs 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 of this Reference Guide contains language from the current Section 188 regulations that form the basis of the promising practices in Part I. Part II also has links directly to the promising practices from Part I that correlate and to the text of the current Section 188 regulations.

SCOPE OF REFERENCE GUIDE

While this Reference Guide addresses the equal opportunity provisions of the current Section 188 regulations regarding ensuring equal opportunity for individuals with disabilities, many AJCs are also subject to the requirements of: (1) Section 504 of the Rehabilitation Act prohibiting discrimination against individuals with disabilities by recipients of Federal financial assistance,⁶ (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

⁶ See [29 CFR part 32](#). A recipient's compliance with [29 CFR part 37](#) 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 incorporated by reference into Part 37. Therefore, WIA/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 37.3\(a\) and \(b\)](#)]

governments and their departments, agencies, and instrumentalities, from discriminating on the basis of disability.⁷

In 2008, significant amendments were made to the ADA, which make it easier for an individual to establish that she or he has a disability, as defined under the statute.⁸ These changes to the ADA also apply to Section 504 of the Rehabilitation Act.⁹

DEFINITIONS OF INDIVIDUAL WITH A DISABILITY AND REASONABLE ACCOMMODATION

For the purposes of this Reference Guide the term “**individual with a disability**” is defined in the current Section 188 regulations as an individual with “a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.”¹⁰

AJCs are required to provide reasonable accommodation for individuals with disabilities to ensure equal access and opportunity.¹¹ The term “**reasonable accommodation**” is defined in the current Section 188 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 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,

⁷ Recipients that are also public entities or public accommodations, as defined by Titles II and III of the Americans with Disabilities Act of 1990 (ADA), 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.; [29 CFR 37.3\(b\) and \(c\)](#)] 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 37.3\(d\)](#) and [37.10\(e\)](#)] 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](#)]

⁸ See “Fact Sheet on the EEOC’s Final Regulations Implementing the ADA” available at http://www.eeoc.gov/laws/regulations/adaaa_fact_sheet.cfm.

⁹ 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.

¹⁰ [29 CFR 37.4](#).

¹¹ 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.

benefits, services, training, or employment as are enjoyed by other similarly situated qualified individuals without disabilities.”¹²

¹² [29 CFR 37.4](#) (“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.”).

PART I: PROMISING PRACTICES

INTRODUCTION AND OVERVIEW

Since the Workforce Investment Act was enacted on August 7, 1998, many AJCs around the country have adopted effective strategies and practices that promote universal access and equal opportunity to programs and services for all eligible individuals, including individuals with disabilities. In an effort to share lessons learned, this part of the Reference Guide includes promising practices that AJCs may adopt to assist in achieving universal access and equal opportunity to WIA/WIOA programs and services for individuals with disabilities. These promising practices include a continuum of examples ranging from practical steps, such as AJC staff conducting outreach to community-based organizations serving individuals with disabilities, to structural and systemic steps such as the Local Workforce Development Board 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 here is not to create new legal requirements or change current legal requirements, but instead to illustrate how AJCs might meet their obligations to ensure that individuals with disabilities have universal access and equal opportunity to 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. Nor does undertaking any or all of these examples ensure compliance with equal opportunity obligations for AJCs.

Part I is divided into three Sections:

Section 1: Describes promising practices related to the requirement that AJCs take appropriate steps to ensure **universal access** to programs and activities for all eligible individuals, including individuals with disabilities. In order to ensure universal access, an AJC must pay particular attention to the various functions it performs, 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 AJCs ensure **equal opportunity** for individuals with disabilities in the administration of programs and activities. Equal opportunity includes applying nondiscrimination prohibitions; providing reasonable accommodations and reasonable modifications; administering programs in the most integrated setting appropriate; engaging in effective communication; and ensuring accessibility of programs, facilities, and information and communication technology.

Section 3: Describes promising practices related to governance requirements that promote effective implementation of universal access and equal opportunity, not mere paperwork compliance. Governance includes the designation of an equal opportunity officer; assurances; notice and communication; data collection; monitoring and continuous improvement; complaint resolution; and corrective action.

Each Section includes references to Part II of the Reference Guide and hyperlinks to the text of the current Section 188 regulations that correlates to the promising practices in that Section.

PART I, SECTION 1: PROVIDING UNIVERSAL ACCESS TO PROGRAMS AND ACTIVITIES

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

AJCs are expected to meet the needs of their customers by ensuring universal access to their programs and activities for all eligible individuals. Universal access includes performance of the following functions:

- 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; and
- Service delivery.

The following are promising practices with regard to providing universal access to programs and facilities.

1.1 Understanding Local Needs

- The State and Local Workforce Development Boards 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 personnel to accomplish the objectives of the program.
- AJC staff obtains and reviews strategic plans developed by the State and Local Workforce Development Boards and the section in the State's Methods of Administration plan pertaining to Section 504 of the Rehabilitation Act that describes how the AJC will address the employment needs of individuals with disabilities. Policies, practices, and procedures adopted by the AJC are consistent with and facilitate achieving the outcomes contained in the strategic plans (if applicable) and Methods of Administration.
- AJC 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 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

- Networking opportunities within the business sector are used by AJC staff to make the business case for hiring individuals with disabilities, including the benefits of incorporating universal design¹³ 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.

¹³ “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 on best practices in disability employment and targeted resources are available to employers including resources describing relevant tax incentives.
- As part of the business services strategy, the AJC works 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 negotiation¹⁴;
 - 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; and
 - Promote paid and unpaid work experiences (e.g., on-the-job training, internships, apprenticeships, etc.) for individuals with disabilities.

1.2.3 Outreach

- When AJC 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, and programmatic, architectural and communication accessibility it provides.
- AJC 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 the AJC.

¹⁴ An essential element in "Customized Employment" is negotiating job duties or employee expectations to align the skills and interests of a job seeker with a disability to an employer's needs. This negotiation results in a job description that describes a customized relationship between employer and employee. Rather than trying to sell employers on the concept of hiring people with disabilities, it is better to appeal directly to the employers' needs. The goal is to negotiate Customized Employment options that benefit both the employer and the job seeker. "Customized Employment" is described and discussed at <http://www.dol.gov/odep/topics/CustomizedEmployment.htm>.

- When off-site presentations to the general public are held by AJC 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 the AJC 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 programs, services, and activities available through the AJC, as well as information to explain how customers can access these programs, services, and activities.

1.3 Involving Community Groups And Schools

- AJC 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 the AJC 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 law, employer resources on hiring job seekers with disabilities, reasonable accommodations, and valuable community resources.
- 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, AJC staff consults with and elicits 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 staff 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 the AJC to improve operational collaboration (e.g., establish partnerships and linkages through memoranda of understanding or other mechanisms) with entities that have experience working with individuals with

disabilities in order 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; and
- Performance measures and outcome data collection.

■ With respect to **COST SHARING**, the AJC:

- Coordinates the use of funds and in-kind resources available to/through AJCs 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 training; Medicaid may pay for personal assistance services on and off the job site; and 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, 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.

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

- Convenes an Integrated Resource Team (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.
- Incorporates dedicated staff, such as Disability Resource Coordinators, as part of the staffing structure of the AJC to facilitate linkages across partner organizations, establish 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 that can improve successful employment outcomes.

- Makes 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 staff of the AJC or other workforce organizations about these benefits issues.
- Maintains a list of agencies and other local resources designed to assist individuals with disabilities (e.g., agencies providing interpreters for individuals who are deaf; financial capability services; information on applying to the state Medicaid Buy-in program; 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

- The AJC provides training 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 staff are designated, such as a Disability Resource Coordinator, with training and expertise in providing services and supports to customers with disabilities. The dedicated AJC staff:
 - Increases the capacity of AJCs 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.
- Cross-training is conducted (by and for individuals in various roles such as State vocational rehabilitation agency counselors, job service personnel, job training staff, service coordinators (including case managers), local disability providers, etc.) to promote relationship-building between various partner agencies in areas such as job search techniques, job development, and employer negotiation, and job support strategies related to individualized employment services.
- 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.¹⁵ One such approach is known as “Customized Employment.”¹⁶ 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 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 assistance to customers who need assistance to access self-directed services, including assistance using computers and other forms of technology).
- AJC staff performance evaluations include requirements that staff have participated in disability-related training that emphasizes the need to effectively serve individuals with disabilities.
- The AJC staff uses [ETA’s Workforce3 One website](#) Disability and Employment Community of Practice, which is an online learning destination for public workforce system staff and partners, jobseekers, 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.

1.6 Intake, Registration and Orientation, Disclosure of Disability

1.6.1 With respect to INTAKE:

- AJC staff uses a common intake form for new jobseekers 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 WIA/WIOA, and dislocated workers and veterans workforce programs under Title I) and other service delivery systems including benefits and assistance provided by

¹⁵ Negotiation with employers is an essential element of “Customized Employment.”

¹⁶ See footnote 14 for a description and discussion of “Customized Employment.”

State VR agencies, Medicaid agencies, Mental Health agencies, and Intellectual and Developmental Disabilities agencies.

- The AJC develops and uses a common release-of-information form across WIA/WIOA partners and other service delivery systems that allows the customer to agree to disclose personal information and identify the particular partner agencies that may receive the information in order to promote integrated service delivery strategies.
- The AJC develops and implements data-sharing agreements among WIA/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 privacy and confidentiality policies.

1.6.2 With respect to REGISTRATION:

- AJC staff asks all registrants (including individuals with disabilities) whether they need assistance during the application/registration process.
- 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 With respect to ORIENTATION:

- As required by regulation, every orientation session hosted by the AJC 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 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 services, highlighting the modifications/assistance/accommodations that are available for customers who may have disabilities.

1.6.4 With respect to DISCLOSURE OF DISABILITY:

- The AJC develops written policies for staff regarding discussion and disclosure of a customer's disability and provides training to staff regarding the applicability of these 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 customers that describes disability disclosure rights, considerations, and obligations by the AJC 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 the AJC has specific programs for customers with disabilities, it provides information 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 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 conducted by qualified personnel to make a determination for the purposes of determining eligibility for other services and/or for identifying appropriate accommodations and modifications.

- AJC 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 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.
- 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, education, TANF, and/or Medicaid funds. Staff are also provided training about how to access these funds and coordinate the process of referral for diagnostic assessment.
- Working with all partners, the AJC 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 such customers alongside other customers to the extent appropriate to the *needs of the customers* (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, In General

- To the extent the AJC provides 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 that they can effectively benefit from such services (including assistance in using computers and other forms of technology).
- AJC staff roles and responsibilities are flexible enough to allow employees to provide individualized services responsive to customers' unique needs.

1.8.1 Service Delivery, Funding

- AJC 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 staff conducts meetings of mandated and non-mandated AJC partners to identify potential funding options, including both general resources available to all customers and specific program funds.
- The AJC collaborates 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 provides information to all front-line and executive staff about the 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 separately *but* simultaneously are utilized to purchase and provide specific services.

1.8.2 Service Delivery, Career Services¹⁷

1.8.2.1 In General

The AJC:

- Employs dedicated staff, such as Disability Resource Coordinators, with expertise on disability-related issues as part of its core staff and information on their availability is provided to all job seekers.
- Advises customers that information on Ticket to Work (TTW) and [Employment Network](#) (EN) services authorized under the Social Security Act, including benefits planning, are available to customers who are SSI and SSDI beneficiaries.
- Makes available to all customers, especially customers with complex challenges to finding a job, such as individuals with disabilities, classes in Group Discovery, conducted by trained facilitators to go through discovery in small groups of 6-10 other job seekers. Group Discovery results in a profile of each job seeker listing the job seeker's interests, skills, needs and conditions of employment that can be used to create a portfolio and employment plan.
- Informs customers about the nondiscrimination and affirmative action responsibilities of employers in the area doing business with the federal government

¹⁷ 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.

(*i.e.*, government contractors) to hire, retain, and advance in employment qualified individuals with disabilities under Section 503 of the Rehabilitation Act.

- Provides workshops on interviewing and self-representation skills, including the ability to negotiate certain features of the job.
- Provides 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.
- Provides or makes arrangements (including referral to other entities) for the provision of benefits counseling for individuals with disabilities, particularly those individuals currently receiving/eligible for SSI or SSDI benefits and Medicaid or Medicare.
- Offers 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.
- Offers asset development and financial capability strategies to enhance long-term economic self-sufficiency, including financial literacy training, the use of individual development accounts, tax and work incentives, and other strategies for encouraging economic advancement.
- Offers 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.

1.8.2.2 Person-Centered Services

- In interacting with customers with disabilities, AJC 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.
- The AJC convenes an Integrated Resource Team (IRT) comprised of representatives from different agencies and service systems (both general workforce and disability-specific) that coordinates services and leverage funding to meet the employment needs of an individual jobseeker with a disability to reach their training and employment goals. IRTs 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.

1.8.2.3 Career Exploration and Discovery

- Plans for employment are developed based on AJC customers' individual strengths, needs, and interests. AJC staff explores all facets of the individual's life in various contexts in order 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 peer groups of job seekers (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 is 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 staff to reach out to additional entities as customers' needs dictate.
- A lead AJC 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.

1.8.2.4 Employment Planning

- AJC 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.
 - AJC 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 Local Workforce Development Board 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 areas for negotiation with a particular employer that are based on both individual contributions and employer needs; and
 - The opportunity to prepare resource plans that includes an explanation of available resources, including community resources.
- The individual plan for employment is consistent with and can be utilized for purposes of acceptance to 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 the use of 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 Account, Pell Grant, 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 staff in the development of a customized job.
- Jobseekers with disabilities are provided access to information regarding: financial capability assessments and resources; utilization of the Ticket to Work program authorized under the Social Security Act; 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.

1.8.2.5 Personal Representation Skills

- AJC 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 or a partner agency provides 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 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, history of incarceration) 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.

1.8.2.6 Individualized Resource Mapping

Resource mapping is a process in which AJCs 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 in order to enhance coordination, collaboration and cost sharing among stakeholders and to develop new policies to enhance employment opportunities for individuals with disabilities.

- The AJC increases 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 with information on local labor market conditions and their potential impact on the development of career goals and planning for implementing the requirements to achieve such goals.
- Resource mapping occurs in the context of an Integrated Resource Team (defined in Section 1.8.2.2 of this Part I of the Resource Guide) partner involvement in a comprehensive manner that includes partner buy-in to the provision of resources.

1.8.3 Service Delivery, Training Services

- When providing training services for customers, the AJC collaborates with other agencies that have knowledge of promising practices for addressing the unique

needs of individuals with disabilities (e.g., physical, mental/cognitive, and sensory impairments).

- The Local Workforce Development Board develops policies that make Individual Training Accounts (ITAs) more flexible so that they can be used 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 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.¹⁸
- AJC 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.

1.8.4 Service Delivery, Youth

- The AJC uses the [Guideposts for Success](#), which are a set of key educational and intervention strategies derived from both research and practice 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; and
 - Access to individual learning accommodations.

¹⁸ For a description and discussion of "Customized Employment" see footnote 14.

- 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; and
 - 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 AJCs; and
 - 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; and
 - Access to qualified individuals to provide benefits 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; and
 - Soliciting input from parents and other caring adults about the youth's strengths and interests related to career development.

- The AJC creates 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; and
 - Providing youth services in satellite areas where youth naturally congregate such as community centers and malls.

1.8.5 Service Delivery, Provider Network (Adequacy and Payment)

- Arrangements are made for an adequate supply of qualified providers (including specialized service providers) to partner with the AJC that have the requisite knowledge, expertise, and experience to address the needs of individuals with disabilities.
- The Local Workforce Development Board develops and uses payment mechanisms that incentivize providers that serve individuals with disabilities and others with particular challenges to employment by taking into consideration the additional costs of providing the individualized services and supports that these customers need. This may include a combination of the following three 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;
 - The introduction of one or more funding methods (including milestone payments, increased rates for preferred services, or outcome-based reimbursement models) to encourage the provision of specialized, innovative services and supports that result in competitive, integrated employment opportunities for workers with significant disabilities; and
 - The infusion of provider incentives and service delivery requirements into the contractual agreements between provider entities and the workforce investment system.
- The AJC considers becoming an [Employment Network](#) under the SSA Ticket to Work program or collaborates with the State VR agency through the Partnership Plus option under the Ticket to Work program as a means of obtaining resources that can benefit SSI and SSDI beneficiaries, as well as enhancing services to all customers as Ticket to Work reimbursements are received.
- The AJC provides for a wide range of individualized services, including financial capability services, self-employment, supported employment and customized

employment, to respond to customer needs. This mechanism includes a clear set of qualifications for the providers that will supply each type of service, including an emphasis that all services be provided in the most integrated setting appropriate.

- The AJC recruits and assists traditional and nontraditional organizations that provide training within the local community to register and qualify as eligible training providers.
- The AJC is knowledgeable about training and service providers in their local area that have expertise in providing training service 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 in addition to other resources available to everyone, regardless of disability.

1.8.6 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.

PART 1, SECTION 2: ENSURING EQUAL OPPORTUNITY

AJCs are required to ensure that individuals with disabilities have equal opportunity to access their programs, benefits, and activities. AJCs 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 accommodation, modifications, and auxiliary aids and services, as appropriate. This includes access to employment opportunities and all functions performed by AJCs, including: registration for and provision of aid, benefits, services, training, support services and any right, privilege, advantage, or opportunity enjoyed by others.

AJCs are prohibited not only from adopting policies that on their face treat individuals with disabilities differently than those without disability, but from taking actions that have the effect of limiting access to 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, AJCs are required to:

- Provide reasonable accommodations or reasonable modifications of policies, practices and procedures for individuals with disabilities;
- 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;
- Ensure effective communication, including by providing auxiliary aids and devices where necessary; and
- Provide program and architectural accessibility and access to information and communication technology.

This section highlights some practices that AJCs may adopt to take steps to effectuate the above legal obligations. Note that while this is a list of promising practices, AJCs 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.

- The AJC 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 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, the Local Workforce Development Board 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 sites or locations be selected so that they do not have the effect of excluding individuals with disabilities.
- If the AJC is located in a service delivery area that has a public transportation system, the AJC makes sure that the Center can be readily accessed by individuals with disabilities using public transportation.
- If the AJC is located in a service delivery area that does not have public transportation, 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.

- The AJC uses 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 must provide the legally required reasonable accommodations and reasonable modifications to the test or other protocols as necessary.
- The AJC 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 essential. For example, the AJC eliminates or modifies:
 - 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 AJCs;
 - 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 reviews applications to determine whether applicants can perform the essential functions of the training or other services with or without reasonable accommodations. AJC staff understand 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 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 Disabilities¹⁹

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, participants and applicants for employment with regard to aid, benefits, and training is the provision of reasonable accommodations. AJCs are required to provide reasonable accommodations for individuals with disabilities to ensure equal access and opportunity. A reasonable accommodation is a change in the way the program is administered that enables an individual with a disability to receive benefits, services and training equal to those provided to individuals without disabilities. There are many forms of reasonable accommodations and the individual with a disability and the AJC should work together to identify the most effective reasonable accommodation for each individual through informal discussions known as the “interactive process” whereby the individual is provided the opportunity to articulate their needs and the AJC is able to determine how best to meet those needs. 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 means that all medical information an AJC obtains in connection with a request for a reasonable accommodation must be kept in a separate file from the individual’s 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 staff who obtains this information must follow these confidentiality guidelines.

AJCs must ensure that they have policies and procedures in place regarding the provision of reasonable accommodations, that AJC staff receives regular training, and that the procedures and policy are publicized widely in the AJC 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.

- The AJC has a written policy requiring that reasonable accommodations or modifications be made for the known physical and/or mental impairments of an

¹⁹ A discussion of the applicability of the reasonable accommodation provision pertaining to employment practices is set out in Section 2.7 of this Guide.

otherwise qualified individual with a disability who is an applicant, registrant, eligible applicant/registrant, or participant. 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 staff to recognize that an individual does not need to use the term “reasonable accommodation” when seeking assistance, that the request does not have to be in writing and that it may be made by a family member, friend, or other representative on their behalf;
- Provides for training and information regarding the process of identifying and providing a reasonable accommodations including a description of the “interactive process” between the AJC staff and the individual with a disability that begins when an individual requests a reasonable accommodation and the most effective accommodation is identified and provided as quickly as possible;
- Explains the circumstances when reasonable accommodation 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 confidentiality and separation of files containing any medical information obtained in the process of considering a request for an accommodation and providing that accommodation including the request for and any provision of a reasonable accommodation;
- Includes the definition of and examples of reasonable accommodations;²⁰
- Explains that, in limited circumstances, the AJC may not be required to provide a reasonable accommodation if it can establish that doing so would cause undue hardship²¹ for the AJC; and
- Describes the appropriate process for reviewing a decision that a reasonable accommodation may cause an undue hardship that includes a review by senior AJC staff and the Equal Opportunity officer who has expertise in the equal opportunity requirements under the law, an examination of alternative effective

²⁰ See [29 CFR part 32, Appendix A](#) for examples of reasonable accommodations.

²¹ See [29 CFR 37.4](#).

accommodations, and communicates how an individual may request reconsideration;

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

2.3 Provide Reasonable Modifications of Policies, Practices, and Procedures²²

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 has a written policy explaining its obligation to make reasonable modifications to its policies, practices, and procedures to ensure equal opportunity for individuals with disabilities, unless it can be demonstrated that making modifications would fundamentally alter²³ 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's program:
 - Registration and orientation;
 - Initial screening, assessment, and testing; and
 - Service delivery.
- Manuals, guidelines, or other materials used by AJC staff (and used to train staff) include examples of reasonable modifications to ensure that individuals with disabilities are provided effective opportunity to benefit from career services (which include WIA's core and intensive services), and training services.
- The AJC anticipates 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 in order to read and comprehend materials.

²² See [29 CFR 37.8\(b\)](#) and [Section 2.3 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.

²³ See [29 CFR 37.4](#).

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 staff communicates to individuals with disabilities that they are entitled to universal access to programs and services of the AJC, but are not required to take advantage of all of the separate or different services for which they may be eligible.
- AJC staff does not automatically refer job seekers with disabilities to State vocational rehabilitation programs, and makes referrals based on whether the individual would benefit from such services in addition to the other programs and services available in the AJC.
- The AJC administers programs so that individuals with disabilities have access to the full range of services available to all customers.
- AJC staff ensures that individuals with disabilities, including individuals with significant disabilities, are provided services that lead to competitive, integrated employment.
- AJC 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 staff identifies other resources that may help an individual with a disability achieve an employment outcome in the most integrated setting appropriate.

2.5 Effectively Communicate With Individuals With Disabilities

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

Effective Communication Through Accessible Information and Communication Technology (ICT)

- Technical assistance materials, guides and training are provided to AJC staff and staff of other entities participating in the AJC delivery system on topics such as:
 - FAQs on physical, communication, and programmatic accessibility;

- Adaptive equipment available and processes for obtaining and using such equipment;
 - How to make websites accessible; and
 - Video Relay Services and Video Remote Interpreting.
- AJC staff informs customers of their obligation to ensure effective communication and its obligation to provide appropriate auxiliary aids and services.
- The AJC has a list, in an accessible format, of all currently available assistive technology devices and services. For example, the list might indicate that VCRs or DVD players and 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.²⁴
- **For individuals who are deaf and 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;
 - Real-time computer-aided transcription services;
 - Written materials and the exchange of written notes;
 - 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;
 - The individual with a disability determines which communication method should be used;
 - Designated AJC staff members receive training on how to use a TTY and the telephone relay service to make and receive calls and 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; and
 - If the AJC 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 Americans with Disabilities Act) and if the AJC 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.

²⁴ For descriptions of these and other assistive technology devices and other reasonable accommodations, see www.askjan.org

■ **For individuals who are blind or visually-impaired, effective communication may include the use of the following auxiliary aids and devices and strategies:**

- Qualified readers;
- Taped texts;
- Audio recordings;
- Braille materials and displays;
- Screen reader software;
- Magnification software;
- Optical readers;
- Secondary auditory programs (SAP);
- Large print materials;
- Other effective methods of making visually delivered materials available; and
- If the recipient has a video library for public use, the videos purchased are available with audio descriptions.

■ **For individuals with intellectual and developmental disabilities (I/DD), the following strategies are adopted to ensure effective communication:**

- AJC staff members offer assistance with and/or extra time for the completion of forms and written instructions;
- AJC staff members repeat instructions, provide information in a slower voice, and use simple sentences and words and use graphics, e.g., symbols, pictures; and
- AJC staff members provide a quiet environment for individuals to read materials if the public area has distractions.

■ **For individuals with mobility impairments, the following strategies are adopted to ensure effective communication:**

- AJC staff members put themselves at the wheelchair user's eye level (if possible, sit next to the customer when having a conversation);
- AJC 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 side of the desk/counter during interaction;
- AJC staff members provide seating if long lines queue up and the person cannot stand for long periods of time;
- AJC 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; and
- If the individual with a disability is unable to access to the AJC program office, AJC staff offers to meet them in offices that are accessible.

■ **For individuals with speech impairments, the following strategies are adopted to ensure effective communication:**

- If an AJC staff member does not understand something the individual is communicating, he or she does not pretend to understand and instead the staff member asks the customer to repeat what he or she said and then repeats it back;
- AJC staff members ask questions that require only short answers, or a nod of the head; and
- If an AJC 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 Program, Architectural, and Information and Communication Technology Accessibility

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

Program accessibility 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. AJCs 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.

Technology accessibility refers to the utilization of available technologies to enable and enhance the opportunities of individuals with disabilities to fully participate in programs and services. While technology accessibility itself is not explicitly included in the current Section 188 regulations, other related requirements obligate AJCs to make their technology accessible (including the obligation to provide effective communication and the obligation to provide program accessibility).²⁵ Compliance with this obligation is required even without an accommodation request. For example, websites should be

²⁵ Under Section 101(d)(7)(D) of Title I of WIOA, functions performed by State Workforce Development Boards include technological improvements to ensure such technology is accessible to individuals with disabilities. A similar provision (Section 107(d)(7)) is applicable to Local Workforce Development Boards.

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.

- Equal Opportunity Officers are involved from the beginning of any physical site planning (including moving, opening new sites, and modifying existing space) and in technology acquisitions to ensure equal access and opportunity, including for individuals with disabilities.
- AJC staff involved in site planning and program development is trained in the equal opportunity and access requirements of Section 188.
- Individuals with disabilities and their representatives are included on advisory committees and/or review teams when conducting accessibility surveys or developing plans for new AJCs and affiliate sites.
- The AJC makes technology accessible.
 - Section 508 standards apply to electronic and information technology (also referred to as information and communication technology or ICT) procured by the federal government.²⁶ They were issued under Section 508 of the Rehabilitation Act, which requires federal agencies to ensure their electronic and information technology is accessible to both members of the public and Federal employees with disabilities. While only federal agencies are obligated to comply with Section 508, the lessons learned, the standards applied, and the technical resources developed may be used by AJCs. See materials developed by the General Service Administration's at www.Section508.gov and by the United States Access Board at www.access-board.gov.
 - AJCs should go beyond minimum technical accessibility requirements to ensure that technology-based applications provide effective usability for individuals with various physical, mental, and/or sensory disabilities. This includes the design, procurement, use, and maintenance of information and communication technology that is accessible to and usable by individuals with disabilities.

2.7 Prohibit Discrimination in Employment Practices

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

²⁶ Accessible ICT includes websites (Intranet and Internet), web-based forms and web-based applications; computers; software applications and operating systems; telecommunication products; video and multimedia products; copiers, printers, and fax machines; and user guides.

Whether AJC 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 and AJC Staff Acting as Employment Agencies Are Generally Prohibited from Pre-Service and Pre-Employment Disability Inquiries

Employers, employment agencies, and AJC staff acting in an employment agency role by doing things such as screening employees, making job referrals, and recruiting employees on behalf of employers are most limited in their ability to make disability-related inquiries.²⁷ 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 stage.

In the Pre-Offer Stage

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

- Employers, employment agencies, and AJC 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;

²⁷ For more on this topic, see [“A Description of Rules Related to Disability-Related Information.”](#)

- Medical history;
 - Previous workers' compensation claims; and
 - Prior health insurance claims.
- Applicants for employment and/or training at AJCs and AJC partners are not required to take any of the following tests as part of the application process:
- Physical exam;
 - Alcohol test;
 - HIV test; and
 - Psychological tests that are designed to identify a mental impairment.
- Employers, employment agencies, and AJC 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 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.

In the Post-Offer, Pre-Hire Stage

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

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

After the Job Seeker Begins Work

The employer 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.

AJC Staff Providing General Services for the Job Seeker May Make Pre-Employment and Pre-Training Disability-Related Inquiries

Where AJC staff do not act in an employment agency capacity for employers 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), disability-related inquiries are legal and in fact often necessary to provide effective service delivery. When AJC staff provide these types of services, it is 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. AJC staff may also need to look for symptoms of hidden, previously undiscovered disabilities that are barriers to employment success, and to refer customers who have such symptoms for disability-related assessments or evaluations.

In addition, the current Section 188 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 37.37\(b\)\(2\).](#))

Confidentiality and Non-Disclosure of Disability and Medical Information

- To ensure the confidentiality of disability and medically related information, the AJC has a written policy regarding access to and storage of customer medical information. For example, all non-medical records 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 staff who work with employers and AJC staff who provide 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 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 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.

PART I, SECTION 3: IMPLEMENTING UNIVERSAL ACCESS AND EQUAL OPPORTUNITY

The AJC must ensure effective implementation of universal strategies and equal opportunity. Effective implementation includes the designation of an equal opportunity officer; assurances; notice and communication; data and information collection, analysis, and maintenance; monitoring and continuous improvement; complaint resolution; and corrective action.

3. Designation of Qualified Equal Opportunity Officer

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

An effective equal opportunity program includes an equal opportunity (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.

- The EO Officer may also be the Section 504 Coordinator (Section 504 of the Rehabilitation Act). 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.²⁸
- EO Officer and all AJC 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 37.4](#) and [29 CFR 32.3](#)] are not required to appoint an EO Officer [[29 CFR 37.23](#) and [37.27](#)] or a Section 504 Coordinator. [[29 CFR 32.7](#)] Service providers are not required to appoint an EO Officer. [[29 CFR 37.23](#) and [37.28](#)]

4. 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.

²⁸ See [29 CFR 32.7](#).

- The obligation to effectively communicate with individuals with disabilities rests with the AJC and AJC staff must inform the public of this obligation and that services for individuals with disabilities, including reasonable accommodations, are provided to customers free of charge.
- AJCs must give everyone the **Equal Opportunity is the Law Notice** and post the notice prominently in the AJC and on its website.
- The Notice is made available in Braille or large print, taped texts, audio recordings, or posted in an electronic format in a conspicuous location and format on the website.
- The Notice is read or explained to individuals with intellectual impairments as a matter of routine at intake or other regular points of interaction on request.
- When a telephone number is included in official AJC stationary, business cards, civic newsletters, web sites, social media, posters, and other materials, the materials indicate a TTY number or an equally effective means of communication with individuals who are deaf and hard of hearing (e.g., the number for the telephone relay service).
- AJCs must include language indicating that the WIA/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.
- AJCs that publish or broadcast program information in the news media must ensure that such publications and broadcasts state that the WIA/WIOA Title I-financially assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIA/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 WIA/WIOA Title I-financially assisted program or activity, AJCs must include a discussion of rights under the nondiscrimination and equal opportunity provisions of WIA/WIOA, including the right to file a complaint of discrimination with the recipient or the Director of the Civil Rights Center.

5. Assurances

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

Similar to a contract clause, assurances are used to communicate the Section 188 equal opportunity obligations and legally bind recipients of WIA/WIOA Title I-financial assistance. AJCs 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,²⁹ a specific assurance is included that specifies that the recipient, subrecipients, and others are able to provide programmatic, technological, communications, and architectural accessibility for individuals with disabilities.

A specific assurance might include the following language:

We understand and agree that:

- As a condition of receiving financial assistance from the U.S. Department of Labor, compliance with the nondiscrimination and equal opportunity laws that apply to the grant program, including providing equal access and opportunity for individuals with disabilities, is required.
- All partners in the workforce system will ensure the architectural, programmatic, and communications accessibility of facilities, programs, services, technology, and materials for individuals with disabilities in AJCs.
- 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

²⁹ [29 CFR 37.20-.22.](#)

work to carry out our proposed program that they are also responsible for complying with these legal requirements.

6. 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.

AJCs are required to collect demographic data from participants; maintain the data so that the Governor and Civil Rights Center can access the information; and analyze the data to identify potential discrimination. If an analysis identifies potential discrimination, the AJC must investigate.

- The AJC has a written policy stating the requirements for notification of the Civil Rights Center of allegations of discrimination by customers, and relevant AJC 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 Civil Rights Center, including names of the parties and the location where the action was filed.
- AJC 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 staff to determine:
 - Whether individuals with disabilities participate in programs and activities, including whether they participate in available career and training services, in order to assess compliance with the requirement that universal access to WIA/WIOA Title-I-financially-assisted programs and activities is 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 staff comply with legal requirements relating to storage and confidentiality of information, including information concerning disability.
- If the AJC is an [Employment Network](#) under the Social Security Act's Ticket to Work program, it collects data that tracks job seekers with disabilities who have assigned their Ticket to the AJC to analyze employment outcomes and eligibility for milestone payments under the Ticket to Work program.

7. 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.

The AJC, through its Equal Opportunity Officer, is responsible for verifying compliance with Section 188 equal opportunity requirements, including ensuring equal access and opportunity for individuals with disabilities by monitoring all AJC programs and activities.

Monitoring

- Policies, instruments, checklists, and other processes used for monitoring compliance with the nondiscrimination/equal opportunity provisions include a review of policies, practices, and procedures to ensure equal opportunity for individuals with disabilities.
- AJC staff recruits a team comprised of local stakeholders, 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. 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.

Continuous Improvement

- A process is in place for continuously reviewing the progress of individuals with disabilities through their programs and activities at the AJC.
- Data and information submitted to the State by the AJC is used to prepare annual performance reports of individuals served and outcomes, as well as demographic data to continuously improve the effectiveness of its program of services and supports for individuals with disabilities.
- To the extent customer satisfaction surveys are used by AJC 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 particular 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 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.

8. 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.

AJCs 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 regulations.

- A written policy for resolving complaints is in place at the AJC setting forth the procedures prescribed by the regulations, including the means by which complaint processing procedures are made available to individuals with disabilities (including individuals with visual and cognitive impairments).
- All customers of the AJC 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.
- Written policies are developed and published setting forth the resolution procedures for program-related grievances and discrimination complaints. These policies should be made available in accessible formats for individuals with various types of impairments, such as visual and cognitive impairments.
- Logs are kept by AJC staff of complaints alleging discrimination. There are written policies in place to ensure that these logs are kept secure in a confidential fashion.

9. 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.

AJCs, One-Stop partners, eligible training providers, and subrecipients must comply with Section 188 equal opportunity requirements. If the AJC staff identifies violations of these requirements, the AJC must take corrective action to ensure compliance.

- If, in the past, all or most individuals with disabilities were referred by the AJC to other agencies such as vocational rehabilitation without also considering and providing other AJC programs and services that could benefit the jobseeker, this practice has ceased. If the AJC generally did not serve individuals with disabilities, it is taking 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.
- The AJC implements corrective action that achieves system wide and sustainable change such as training, policy development, and communication in order to ensure that discrimination does not reoccur.
- A benchmark is adopted by the AJC prescribing 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 EQUAL OPPORTUNITY REGULATIONS

The foundation for the promising practices described in Part I is the universal access and equal opportunity requirements set forth in Section 188 of the Workforce Investment Act (WIA), and, effective July 1, 2015, its successor, the Workforce Innovation and Opportunity Act (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 WIA/WIOA Title I-financially assisted programs and activities (recipients).³⁰ Just like Part I, Part II describes and provides hyperlinks to the text of the current Section 188 regulations that require universal access and equal opportunity for individuals with disabilities. As noted above, all regulations cited are promulgated pursuant to WIA. The Department of Labor anticipates promulgating new regulations pursuant to WIOA Section 188, but, until that time, the current Section 188 regulations cited herein remain in force. The Section 188 regulatory requirements are organized into three Sections:

- Providing Universal Access to Programs and Activities
- Ensuring Equal Opportunity
- Implementing Universal Access and Equal Opportunity

PART II, SECTION 1: PROVIDING UNIVERSAL ACCESS TO PROGRAMS AND ACTIVITIES

1. UNIVERSAL ACCESS.

The recipient must take appropriate steps to ensure that it is providing universal access to its WIA/WIOA Title I-financially assisted programs and activities. These steps involve reasonable efforts (including advertisement, recruitment, outreach, and targeting) to include participation of individuals with disabilities in the recipient's programs and following activities. [[29 CFR 37.42](#); *see also* Section 188 Guidance, [65 FR at 51987](#)].

Examples of promising practices related to [universal access](#) to programs and activities are included in Part I of the Reference Guide.

³⁰ The term "recipient" is defined in the regulations. [29 CFR 37.4](#).

PART II: SECTION 2: ENSURING EQUAL OPPORTUNITY

2.1 GENERAL PROHIBITIONS

The recipient must prohibit discrimination in the registration for and the provision of aid, benefits, services or training, including career, training, and support services, on the basis of disability, including the specific discriminatory actions listed in [29 CFR 37.7](#).³¹ The discriminatory actions listed in [29 CFR 37.7](#) are set out below.

- In providing any aid, benefits, services, or training, a recipient must not deny any qualified individual with a disability the opportunity to participate in or benefit from the aid, benefits, services, or training; afford a qualified individual with a disability an opportunity to participate or benefit from programs that is not equal to that afforded others, or not as effective in affording equal opportunity; provide a qualified individual with a disability different, segregated or separate aid, benefits, services, or training unless such actions are necessary to provide effective opportunity; 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.
- The recipient must not aid or perpetuate discrimination against qualified individuals with disabilities by providing significant assistance to a person or an entity that discriminates on the basis of disability.
- The recipient must not deny a qualified individual with a disability the opportunity to participate in WIA/WIOA Title I-financially assisted programs or activities despite the existence of permissibly separate programs or activities.
- The recipient must administer its programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.³²
- The recipient must not use standards, procedures, criteria or administrative methods that have the purpose or effect of discriminating against qualified individuals with disabilities on the basis of disability; defeating or substantially impairing the accomplishment of the objectives of WIA/WIOA Title I-financially assisted programs or activities; or perpetuating discrimination of another entity if both entities are subject to common administrative control.

³¹ See also [29 CFR 32.12\(a\)](#) and [29 CFR 32.26](#).

³² The provisions related to "most integrated setting" are restated and specifically addressed in [Section 2.4](#) of the Reference Guide.

- In determining the site or location of a facility, the recipient must not make selections that have a discriminatory or exclusionary effect on individuals with disabilities, or impair the accomplishment of the objectives of WIA/WIOA.
- The recipient, in the selection of contractors, must not use criteria that discriminate against qualified individuals with disabilities.
- The recipient must not administer a licensing or certification program in a manner that discriminates on the basis of disability, or establish requirements for programs or activities of licensed or certified entities that discriminate on the basis of disability.
- The recipient must not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless such criteria can be shown to be necessary for the provision of the aid, benefit, service, training, program or activity being offered.
- The recipient must not require an individual with a disability to cover the cost of reasonable accommodations or modifications made by the recipient to ensure equal opportunity and access to its programs and activities, such as provision of auxiliary aids and services.
- The recipient must not discriminate against 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.
- An individual with a disability is not required to accept an accommodation, modification, aid, benefit, service, training, or opportunity offered by a recipient.

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

2.2 PROVIDE REASONABLE ACCOMMODATION FOR INDIVIDUALS WITH DISABILITIES³³

The recipient must provide reasonable accommodation for individuals with disabilities regarding application and registration for and the provision of aid, benefits, services or training, including career services (which include WIA's core and intensive services), training, and support services to qualified individuals with disabilities, unless providing the accommodation would cause undue hardship. [[29 CFR 37.8](#); *see also* [29 CFR 32.13](#)]

³³ A discussion of the applicability of the reasonable accommodation provision pertaining to employment practices is set out in [Section 2.7](#) of the Reference Guide.

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

2.3 PROVIDE REASONABLE MODIFICATIONS OF POLICIES, PRACTICES, AND PROCEDURES

The recipient must provide reasonable modifications regarding its policies, practices, and procedures for the registration for and provision of career, training, and support services to individuals with disabilities, unless making the modifications would fundamentally alter the nature of the service, program, or activity. [[29 CFR 37.8](#)]

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

2.4 ADMINISTER PROGRAMS AND ACTIVITIES IN THE MOST INTEGRATED SETTING APPROPRIATE

- The recipient must administer its programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities [[29 CFR 37.7\(d\)](#)]
- The 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 aid, benefits, services, or training that are as effective as those provided to others [[29 CFR 37.7\(a\)\(4\)](#)]
- The recipient must permit individuals with disabilities the opportunity to participate in WIA/WIOA Title I-financially assisted programs and activities despite the existence of permissibly separate or different programs or activities. [[29 CFR 37.7\(c\)](#)]

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.

2.5 EFFECTIVELY COMMUNICATE WITH INDIVIDUALS WITH DISABILITIES

- The recipient must take steps to ensure that communications with individuals with disabilities are as effective as communications with others. [[29 CFR 37.9](#) and [.29\(b\)](#). See also Section 188 Guidance, [65 FR at 51986](#)]

- The 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 WIA/WIOA Title I-financially assisted program or activity. The recipient must give primary consideration to the requests of the individual with a disability when determining what type of auxiliary aid or service is appropriate. [[29 CFR 37.9\(b\)](#)]
- Where a recipient communicates by telephone with beneficiaries and others, the recipient must use telecommunication devices for individuals with hearing impairments (TDDs/TTYs) or equally effective communication systems, such as telephone relay services. [[29 CFR 37.9\(c\)](#)]
- The recipient must ensure that interested individuals, including individuals with visual and hearing impairments, can obtain information as to the existence or location of accessible services, activities, and facilities. [[29 CFR 37.9\(d\)](#)] The recipient must provide appropriate signage at the primary entrances to its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. [[29 CFR 37.9\(e\)](#)]

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

2.6 PROVIDE PROGRAMMATIC, ARCHITECTURAL, AND TECHNOLOGY ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES

- The 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\(a\)](#) and [29 CFR 37.3\(b\)](#).] 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\(c\)](#)]
- 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. [[29 CFR 32.28\(a\)](#)]

- Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient in a manner that affects or could affect the usability of the facility or part of the facility must 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\(b\)](#)]
- 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 must 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.

2.7 EMPLOYMENT PRACTICES³⁴

Ensure Equal Opportunity and Nondiscrimination

- The recipient may not discriminate in its employment practices on the ground of disability, or on the grounds of race, color, religion, sex, including pregnancy, sexual identity, being a victim of sexual violence, national origin, age, or political affiliation or belief. All employee selection procedures must comply with the Uniform Guidelines on Employee Selection Procedures. [[29 CFR 37.10\(b\)](#)]

Provide Reasonable Accommodation for Individuals with Disabilities

- The recipient must provide reasonable accommodation for individuals with disabilities unless providing such accommodation would cause an undue hardship for the recipient. [[29 CFR 37.8](#), [37.10\(b\)](#); [29 CFR 32.13](#)]

³⁴ 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 incorporated into [29 CFR part 37](#) by reference. Therefore, recipients must comply with the requirements set forth in those regulations, in addition to the specific requirements listed in 29 CFR 37.10. [*See* [29 CFR 37.3\(b\)](#) and [10\(d\)](#)] In addition, recipients covered by Titles I and II of the ADA, including employers and programs that engaged in employment placement and referrals or employment training, should be aware of obligations imposed by those Titles. [[29 CFR 37.10\(e\)](#); *see also* [29 CFR part 1630](#) and [28 CFR part 35](#)]

Provide for and Adhere to a Schedule to Evaluate Job Qualifications to Ensure That the Qualifications Do Not Discriminate on the Basis of Disability

- 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 37.10\(d\)](#) 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 37.10\(d\)](#) and [29 CFR 32.14](#)]

Limit Preemployment/Employment Medical Inquiries/Confidentiality

- The recipient may not conduct preemployment inquiries or medical examinations in order to determine whether an applicant is a person with a disability or the nature or severity of his or her disability. [[29 CFR 37.10\(d\)](#) and [29 CFR 32.15](#)]

Note: Preemployment 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 for purposes of the affirmative action effort and (b) the information will be used in accordance with the provisions of Federal law governing the confidentiality of medical information. Furthermore, an employer may ask applicants to self-identify if it is voluntarily using the information to benefit individuals with disabilities. [[29 CFR 37.10\(d\)](#) 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.

PART II, SECTION 3: IMPLEMENTING UNIVERSAL ACCESS AND EQUAL OPPORTUNITY

3. DESIGNATION OF QUALIFIED EQUAL OPPORTUNITY OFFICER

- The recipient must (except small recipients and service providers--see **Note** below) designate an Equal Opportunity 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 37.23-.28](#); *see also* Section 188 Guidance, [65 FR at 51985](#)]

Note: Small recipients [as defined by [29 CFR 37.4](#) and [29 CFR 32.3](#)] are not required to appoint an EO Officer [[29 CFR 37.23](#)] 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 37.27](#)] Service providers are not required to appoint an EO Officer. [[29 CFR 37.23](#) and [37.28](#)]

- The recipient must satisfy the certain obligations relating to the Equal Opportunity Officer set forth in the regulations, including making public EO Officer's TTY number, assigning sufficient staff and resources and ensuring training necessary and appropriate to maintain competency. [[29 CFR 37.26](#)]

Examples of promising practices related to designation of a [qualified equal opportunity officer](#) are included in Part I of the Reference Guide.

4. NOTICE AND COMMUNICATION

- The recipient must provide for initial and continuing notice that it does not discriminate on the basis of disability. [[29 CFR 37.29](#)]. *See also* Section 188 Guidance, [65 FR at 51985-51986](#)
- Such notice must be provided to registrants, applicants, eligible applicants/registrants; participants; applicants for employment and employees; unions or professional organizations that hold collective bargaining or professional agreements with the recipient; WIA/WIOA Title I sub-recipients; and members of the public, including those with impaired vision and hearing. [[29 CFR 37.29\(a\)](#)]
- The Notice must meet the general posting and dissemination requirements [[29 CFR 37.31\(a\)](#)] 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 37.31\(b\)](#)]

- The recipient must take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others. [[29 CFR 37.9\(a\)](#) and [37.29\(b\)](#)]³⁵
- The recipient must indicate in recruitment brochures and other materials that are ordinarily distributed or communicated orally or in writing to staff, clients, or the public, that the WIA/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 37.34\(a\)](#)]
- 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 37.34\(a\)](#)]
- A recipient that publishes or broadcasts program information in the news media must state that the WIA/WIOA Title I-financially assisted program is an equal opportunity employer/program, and indicate that auxiliary aids and services are available upon request to individuals with disabilities. [[29 CFR 37.34\(b\)](#)]

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

5. ASSURANCES

Each application for WIA/WIOA Title I financial assistance must include the specific assurance not to discriminate on the basis of disability under Section 188 of WIA/WIOA and Section 504 of the Rehabilitation Act of 1973 and to comply with 29 CFR Part 37 and 29 CFR Part 32, as provided in 29 CFR 37.20. [[29 CFR 37.20-.22](#); *see also* Section 188 Guidance, [65 FR at 51986](#)]³⁶

³⁵ The recipient's responsibilities to ensure effective communications pursuant to [29 CFR 37.9](#) are set out under [Section 2.5](#).

³⁶ 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 37.20\(a\)\(1\)](#)] Note also that this assurance to comply with these nondiscrimination and equal opportunity laws is judicially enforceable [[29 CFR 37.20\(a\)\(1\)](#)] and is incorporated into any arrangement where Federal financial assistance is made available under Title I of WIA/WIOA, whether there is a physical agreement or not. [[29 CFR 37.20\(a\)\(2\)](#)].

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

6. DATA AND INFORMATION COLLECTION, ANALYSIS, AND MAINTENANCE

The recipient must comply with the requirements of [29 CFR 37.37 through 37.41](#) related to data and information collection and maintenance. Each grant applicant and recipient must promptly notify the Director of the Civil Rights Center when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the basis of disability, as well as information about any civil rights compliance review or complaint investigation by any other federal agency that resulted in a finding of noncompliance. [[29 CFR 37.38](#)]

Note: 29 CFR 37.38 also requires grant applicants and recipients to notify the Director of the Civil Rights Center when administrative enforcement actions or lawsuits are filed against it alleging discrimination on the basis of race, color, religion, sex, national origin, age, political affiliation or belief, and for beneficiaries only, citizenship (on the basis of an individual's status as a citizen or national of the U.S., or as an individual lawfully authorized to work in the U.S.), or participation in a WIA/WIOA Title I-financially assisted program or activity.

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

7. MONITORING FOR COMPLIANCE

- The EO Officer must monitor and investigate the recipient's activities and the activities of the entities that receive WIA/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 37.25\(b\)](#); *see also* [37.7\(e\)](#)]
- 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.

8. 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 37.25\(d\)](#); [37.70-37.80](#)]

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

9. CORRECTIVE ACTIONS/SANCTIONS

The EO Officer, after monitoring and investigating the recipient's activities and the activities of the entities that receive WIA/WIOA Title I financial assistance from the recipient, must take corrective action to ensure that the recipient and its subrecipients are not violating their nondiscrimination and equal opportunity obligations. [[29 CFR 37.25\(b\)](#); *see also* [37.7\(e\)](#)]

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