

Subpart A—General Provisions**§ 38.1 Purpose.**

The purpose of this part is to implement the nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA), which are contained in section 188 of WIOA (29 U.S.C. 3248). Section 188 prohibits discrimination on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title I—financially assisted program or activity. This part clarifies the application of the nondiscrimination and equal opportunity provisions of WIOA and provides uniform procedures for implementing them.

§ 38.2 Applicability.

(a) *Applicability.* This part applies to:

- (1) Any recipient, as defined in § 38.4;
- (2) Programs and activities that are part of the one-stop delivery system and that are operated by one-stop partners listed in section 121(b) of WIOA, to the extent that the programs and activities are being conducted as part of the one-stop delivery system; and
- (3) As provided in § 38.18, the employment practices of a recipient and/or one-stop partner, to the extent that the employment is in the administration of or in connection with programs and activities that are being conducted as a part of WIOA Title I or the one-stop delivery system.

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

- (1) Programs or activities that are financially assisted by the U.S. Department of Labor (Department) exclusively under laws other than Title I of WIOA, and that are not part of the one-stop delivery system (including programs or activities implemented under, authorized by, and/or financially assisted by the Department under the Workforce Investment Act of 1998 (WIA));
- (2) Contracts of insurance or guaranty;
- (3) The ultimate beneficiary to a program of Federal financial assistance; and

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

§ 38.3 Effect on other obligations.

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

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

(c) This part does not invalidate or limit the obligations, remedies, rights, and procedures under any Federal law, or the law of any State or political subdivision, that provides greater or equal protection for the rights of persons as compared to this part:

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

(2) Similarly, recipients that are also employers, employment agencies, or other entities covered by Title I of the ADA should be aware of obligations imposed by that title.

(d) Compliance with this part does not affect, in any way, any additional obligations that a recipient may have to comply with applicable federal laws and their implementing regulations, such as the following:

- (1) Executive Order 11246, as amended;
- (2) Executive Order 13160;
- (3) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793 and 794);

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

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

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

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

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

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

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

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

§ 38.4 Definitions.

For the purpose of this part:

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

(b) *Aid, benefit, service, or training* means WIOA Title I-financially assisted services, financial or other aid, training, or benefits provided by or through a recipient or its employees, or by others through contract or other arrangements with the recipient. "Aid, benefit, service, or training" includes, but is not limited to:

(1) Career Services;

(2) Education or training;

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

(4) Work opportunities;

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

(6) Any aid, benefits, services, or training provided in or through a facility that has been constructed, expanded, altered, leased, rented, or otherwise obtained, in whole or in part, with Federal financial assistance under Title I of WIOA.

(c) *Applicant* means an individual who is interested in being considered for

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any WIOA Title I-financially assisted aid, benefit, service, or training by a recipient, and who has signified that interest by submitting personal information in response to a request by the recipient. *See also* the definitions of "application for benefits," "eligible applicant/registrant," "participant," "participation," and "recipient" in this section.

(d) *Applicant for employment* means a person or persons who make(s) an application for employment with a recipient of Federal financial assistance under WIOA Title I.

(e) *Application for benefits* means the process by which information, including but not limited to a completed application form, is provided by applicants or eligible applicants before and as a condition of receiving any WIOA Title I-financially assisted aid, benefit, service, or training from a recipient.

(f) *Assistant Attorney General* means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

(g) *Assistant Secretary* means the Assistant Secretary for Administration and Management, United States Department of Labor.

(h) *Auxiliary aids or services* includes:

(1) Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective means of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs