
**Workforce Investment Act
State Compliance Policies**

**WIA Program Provisions Including Employment
Opportunities and Accessibility for
Individuals with Disabilities**

Section: 4.2

March, 2000

(See Section 7 - Glossary for Definitions)

I. GENERAL:

WIA provisions prohibit discriminatory actions against individuals with disabilities in compliance with the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the rehabilitation Act of 1973, as amended. [' 37.7]

II. WIA GRANTEES SHALL PROHIBIT DISCRIMINATORY ACTIONS BY:

- A. Having safeguards in place to ensure that all employment decisions are made without discrimination on the basis of disability and that such decisions do not limit, segregate or classify applicants or employees based on disability in a way that adversely affects their opportunities. [' 37.7(b)]
- B. Having procedures in place to ensure that there are no formal relationships regarding employment (e.g. those with labor unions, employment agencies, and so forth) that have the effect of discriminating against qualified persons with disabilities. [37.7(g)]
- C. Ascertaining that the employment functions listed below do not discriminate against individuals with disabilities.
 - 1. recruitment, advertising and the processing of applications for employment;
 - 2. hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
 - 3. rates of pay or any other form of compensation and changes in compensation;
 - 4. job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
 - 5. leaves of absence, sick leave or any other leave;

6. fringe benefits available by virtue of employment, whether or not administered by the recipient;
7. selection and financial support for training, including apprenticeship, professional meetings, conferences or other related activities, and selection for leaves of absence to pursue training;
8. employer-sponsored activities, including social and recreational programs; and any other term, condition or privilege of employment.

III. WIA PROGRAM ACCESSIBILITY:

- A. When eligibility for a specific program is based upon disability status, then it is legitimate to question an individual's disability status in order to determine eligibility. Once the individual is determined eligible and enrolled in the program, the grantee may make inquiries into the type of accommodation or special services needed to participate in the program.
- B. Grantees and their contractors shall have effective application procedures for persons with disabilities (including those with hearing and vision impairments). Procedures shall be established to ensure that testing and all criteria does not have a disproportionate, adverse impact on disabled program applicants. Alternative methods may need to be used to ensure nondiscrimination or, in limited instances, discontinued use of a criterion or test.
- C. Special services or programs for individuals with disabilities are not prohibited under ADA but:
 1. individuals with disabilities cannot be forced to participate in these programs or use these special services; [' 37.7(c)]
 2. services are to be equal to those provided to others, and the aids, benefits, and services as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those provided to others; [' 37.7(a)(2)] and
 3. if the individual elects not to participate in the special/separate program, the recipient's obligations regarding auxiliary aids and services still apply.

IV. EMPLOYMENT RELATED PLACEMENTS:

- A. Grantees and their contractors shall have effective application procedures for persons with disabilities (including those with hearing and vision impairments). Procedures shall be

established to ensure that testing and all criteria does not have a disproportionate, adverse impact on disabled employment applicants. Alternative methods may need to be used to ensure nondiscrimination or, in limited instances, discontinued use of a criterion or test. [' 37.7(e)]

- B. Grantees shall not accept discriminatory job orders and are prohibited from aiding or perpetuating discrimination by providing assistance to an agency, organization or person that discriminates against beneficiaries of the entity's program on the basis of disability. [' 37.7(e)]
- C. Grantees/OJT contractors shall not discriminate against an individual with a disability in hiring or promotion if the person is otherwise qualified for the job. If medical exams are given for employment related placement, all participants shall be subject to the same exam. [' 37.10(b)]
- D. Grantees/OJT contractors may ask about one's ability to perform a job, but cannot inquire if someone has a disability or subject a person to tests that tend to screen out people with disabilities.
- E. Grantees/OJT contractors do not need to provide accommodations that impose an "undue hardship" on business operations. [' 37.8(a)]
- F. Grantees/OJT contractors shall ensure the essential functions of the position have been clearly identified, and presented to each person being considered. Files should document the basis for final candidate selection.
- G. By July 26, 1994, all employers with 15 or more employees must be in compliance; therefore grantees shall ensure work related placements of participants are with employers that are in compliance.
- H. Job application and interview questions shall not include asking about the existence of (or nature, or severity of) a disability; however, grantees can inquire about the candidate's ability to perform the essential job functions;

V. FACILITY ACCESSIBILITY:

- A. Facilities shall be accessible to people with disabilities, including people who use wheelchairs. Steps shall be taken to ensure, initially and on a continuing basis, that persons or organizations do not discriminate on the basis of disability in the provision of any aid, benefit or service to program participants. See ADA Accessibility Guidelines (ADAAG) or Uniform Federal Accessibility Standards (UFAS).

NOTE: The definition of "facility" under ADA includes all or any portion of buildings,

structures, equipment, roads, walks, parking lots or other real or personal property or interest in such property, owned, operated or leased.

- B. Grantee shall conduct self-evaluations of their facilities to identify and correct any facilities that do not meet the requirements of Title II of the ADA. If a move, or a new facility is leased or purchased, the grantee shall complete a new evaluation prior to the lease or purchase.
- C. Grantees shall allow disabled people and disability organizations the opportunity to comment on the self-evaluation. The grantee may also consider including disabled individuals from the community on the committee, team or group conducting the self-evaluation.
- D. Grantees shall make the self-evaluation file available to the public for three years. The file shall include:
 - 1. a list of people consulted for the self-evaluation;
 - 2. a description of areas examined and any problems identified; and
 - 3. a description of any modifications made.
- E. Grantees shall provide "reasonable accommodation" to individuals with disabilities. This might include job restructuring and modification of equipment. Grantees shall establish procedures for the concept of "reasonable accommodations as it applies to program applicants and participants. [' 37.8]
- F. Grantees do not need to provide accommodations that impose an "undue hardship" on business operations. [' 37.8(a)]
- G. All future construction and renovation work shall be carried out in conformance with the ADA Accessibility Guidelines or UFAS. Nonstructural measures that can be taken to ensure accessibility when the program is "viewed in its entirety", include:
 - 1. relocating the activity to accessible space;
 - 2. being able to relocate the activity to accessible space,
 - 3. upon notice of the needs of a qualified disabled person;
 - 4. revising the structure or format of the activity so the space is not needed;
 - 5. modifying or redesigning equipment;
 - 6. making home visits or other alternative delivery services; or

7. otherwise achieving program accessibility, which may include providing an aide or personal assistant to enable an individual with a disability to obtain service.

VI. COMMUNICATION ISSUES (NOTICE OF RIGHTS AND PROTECTIONS) [' 37.9, ' 37.29(b), ' 37.30, ' 37.31(a&b) and ' 37.34]:

- A. Section 35.106 of ADA's title II requires grantees to inform applicants, participants, beneficiaries and other interested parties of their rights and protections afforded by the ADA. This can be achieved by:
 - 1. publishing handbooks, pamphlets and manuals for the public that describe their programs and activities;
 - 2. displaying posters in service centers or other public places; or
 - 3. airing public service announcements on radio and television.
- B. Grantees shall ensure that all staff involved in any aspect of WIA programs are informed periodically of, and understand fully, policies of nondiscrimination on the basis of disabilities.
- C. Grantees shall ensure that communication with disabled individuals is as effective as communication with non-disabled people.
- D. Grantees shall provide information to individuals with disabilities including signage at all inaccessible entrances that directs them to an accessible entrance.
- E. Grantees may adapt auxiliary aids and services for a particular situation.
- F. TDD or telephone relay services shall be accessible. The relay service may alleviate some of the communication barriers hearing and speech-impaired people face. [' 37.34]

VII. INFORMATION AND SIGNAGE [' 37.30, ' 37.31, ' 37.34 and ' 37.9(e)]:

- A. Methods of providing information include: audio-visual materials, pamphlets, manuals, electronic bulletin boards, checklists, and training.
- B. Grantees shall provide information to individuals with disabilities about accessible services, activities and facilities. This includes providing signage at all inaccessible entrances to each of its facilities that directs people to an accessible entrance.

VIII. AUXILIARY AIDS AND SERVICES [' 37.8 and ' 37.9]:

- A. Auxiliary aids and services shall be provided to individuals with vision and hearing impairments or other individuals with disabilities, unless an undue burden would result.

- B. Grantees shall provide auxiliary aids and services for disabled individuals as accommodations for the programs they offer. This obligation does not extend to devices or services of personal nature, such as eyeglasses, a wheelchair or readers for personal use or study. This applies as well to modifications in policies, practices and procedures. Short-term loans of personal receivers that are part of an assistive listening system are not precluded.

- C. A partial list of auxiliary aids and services that can be provided to accommodate speech, hearing and visual impairments include:
 - Videotext displays, qualified interpreters, telephone handset amplifiers and closed caption decoders, qualified readers, taped texts, large print materials and braille. Unless the grantee can show another effective method exists or providing the desired aid would be an undue burden, the requests for such services should be honored.

- D. Grantees may not impose a surcharge for providing auxiliary aids.