

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION OWI
	CORRESPONDENCE SYMBOL OWI
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ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 05-23

TO: AMERICAN JOB CENTERS
STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
STATE AND LOCAL EQUAL OPPORTUNITY OFFICERS
STATE LABOR COMMISSIONERS
WORKFORCE INNOVATION AND OPPORTUNITY ACT SECTION 166
INDIAN AND NATIVE AMERICAN GRANTEES
WORKFORCE INNOVATION AND OPPORTUNITY ACT SECTION 167
MIGRANT AND SEASONAL FARMWORKER JOBS PROGRAM
GRANTEES
SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM GRANTEES
JOB CORPS CONTRACTORS
RECIPIENTS OF DEPARTMENT OF LABOR FINANCIAL ASSISTANCE
SUB-RECIPIENTS OF DEPARTMENT OF LABOR FINANCIAL
ASSISTANCE

FROM: BRENT PARTON /s/
Principal Deputy Assistant Secretary
Employment and Training Administration

NAOMI BARRY-PÉREZ /s/
Director
Civil Rights Center

SUBJECT: Complying with Nondiscrimination Requirements: Discrimination Based on Actual or Perceived Religion, Shared Ancestry, or Ethnic Characteristics are Prohibited Forms of Discrimination in the Workforce Development System

- Purpose.** The purpose of this Training and Employment Guidance Letter (TEGL) is to provide information to the public workforce system and other entities that receive federal financial assistance under Title I of the Workforce Innovation and Opportunity Act (WIOA), as well as education and training programs or activities receiving Department of Labor (DOL) financial assistance, regarding the prohibition on discrimination based on actual or perceived religion, shared ancestry, or ethnic characteristics.
- Action Requested.** DOL is requesting that American Job Centers and other recipients of federal financial assistance in the public workforce system take the following actions:

RESCISSIONS None	EXPIRATION DATE Continuing
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- a. American Job Centers and other recipients of federal financial assistance in the public workforce system should use Attachment I when reviewing their existing policies and procedures and should make any changes necessary to implement protections from discrimination under Title VI of the Civil Rights Act of 1964 (Title VI), protections from discrimination under Section 188 of WIOA, and religious accommodations under Section 188 of WIOA.
- b. Equal Opportunity (EO) Officers should carefully investigate complaints by customers or employees alleging discrimination based on actual or perceived religion, shared ancestry, or ethnic characteristics to determine whether discrimination prohibited under Title VI or Section 188 of WIOA has occurred, as discussed in the Attachment.

3. Summary and Background.

- a. Summary – This TEGL and the related attachment explain the legal authorities for the prohibitions, give some examples that may be prohibited discrimination, and suggest ways to prevent, identify and address discrimination.
- b. Background - The United States has recently experienced an alarming increase in acts of hatred based on religion. These incidents happen in public, at schools and in the workplace. It is important to ensure that all people, regardless of their race, color, religion, national origin, or other protected characteristics, have full access to the services provided by the public workforce system, to help overcome barriers they may encounter.

4. Nondiscrimination Requirements. The nondiscrimination provisions that apply to recipients of federal financial assistance, including recipients in the public workforce system, prohibit discrimination on the basis of religion, race, color, and national origin, among other bases.

- a. WIOA, 29 U.S.C. § 3101 *et seq.*, is the key source of federal financial assistance for state and local workforce development activities. Religion is an explicitly protected basis under WIOA. Section 188 of WIOA states that “[n]o individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity” on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, among other bases. 29 U.S.C. § 3248(a)(2). The regulations implementing this provision are administered and enforced by the Department of Labor’s Civil Rights Center (CRC). 29 C.F.R. § 38.20.

The WIOA nondiscrimination regulations prohibit recipients from using standards, procedures, criteria, or administrative methods that subject individuals to discrimination on a prohibited basis due to the recipient’s administration of programs or activities providing aid, benefits, services, training, or facilities. 29 C.F.R. § 38.6.

The WIOA regulations also provide that recipients must accommodate an individual's religious practices or beliefs unless doing so would result in "undue hardship" to the recipient. *See* 29 C.F.R. § 38.6(c)(2). *See also Groff v. DeJoy*, 600 U.S. 447 (2023).

These obligations apply to recipients of WIOA Title I funding and programs and activities that are part of the public workforce system and are operated by American Job Center partners, to the extent the programs are being conducted as part of the one-stop delivery system. 29 C.F.R. § 38.2(a)(2).

Under the Wagner-Peyser Act regulations, states are required to assure that "no individual be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration or in connection with any services or activities authorized under the Wagner-Peyser Act in violation of any applicable nondiscrimination law." 20 C.F.R. § 652.8(j)(1). In addition, the Wagner-Peyser Act regulations specifically require states to "[a]ssure that discriminatory job orders will not be accepted, except where the stated requirement is a bona fide occupational qualification (BFOQ)." 20 C.F.R. § 652.8(j)(2).

- b. Title VI, 42 U.S.C. § 2000d *et seq.*, applies to all programs or activities receiving federal financial assistance, including, but not limited to, the entities referred to in this TEGL that receive financial assistance under WIOA and/or the Wagner-Peyser Act. Title VI and its implementing regulations prohibit any program or activity receiving federal financial assistance from excluding from participation in or denying the benefits of the program, or otherwise subjecting anyone to discrimination, on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Though Title VI does not expressly protect individuals from discrimination based solely on religion (*i.e.*, religious beliefs, observances, or practices), its prohibition on discrimination based on race, color, or national origin includes discrimination (including harassment) based on actual or perceived: (i) shared ancestry or ethnic characteristics; or (ii) citizenship or residency in a country with a dominant religion or distinct religious identity.

As a condition of initiating or continuing federal financial assistance, under 29 C.F.R. § 31.6(a) and (b), recipients must provide assurances that "the program will be conducted or the facility operated in compliance with all requirements imposed by" the Department's Title VI regulations. In addition, under the Department's Title VI regulations, the "selection, and referral of individuals for job openings or training opportunities and all other activities performed by or through employment service offices" must be done without regard to race, color, or national origin. 29 C.F.R. § 31.3(d)(1)(i).

5. **Inquiries**. Inquiries about civil rights issues in the public workforce system should be addressed to CRC, by phone at 202-693-6502 (voice) or by e-mail at CivilRightsCenter@dol.gov. Individuals who are deaf, hard of hearing, or have a speech-related impairment may dial 7-1-1 to access telecommunications relay services.

Complaints alleging discrimination by entities in the system may be filed with CRC by postal mail, e-mail, or fax, addressed to Director, Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N4123, Washington, DC 20210, CRCEXternalComplaints@dol.gov, 202-693-6505 (fax). Further information about the discrimination complaint process is available on CRC's website at <http://www.dol.gov/oasam/programs/crc/external-enforc-complaints.htm>.

6. References.

- WIOA. 29 U.S.C. § 3248 *et seq.*
- WIOA nondiscrimination regulations. 29 C.F.R. § 38.6
- Wagner-Peyser Act regulations. 20 C.F.R. § 652.8(j)
- Title VI. 42 U.S.C. § 2000d *et seq.*
- Nondiscrimination in federally assisted programs of the Department of Labor—effectuation of Title VI. 29 C.F.R. Part 31
- *Groff v. DeJoy*,

7. Attachment.

- Fact sheet: *Protecting Individuals from Discrimination Based on Actual or Perceived Religion, Shared Ancestry, or Ethnic Characteristics*