

# PUBLIC SUBMISSION

**As of:** March 29, 2016

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**Comments Due:** March 28, 2016

**Docket:** [DOL-2016-0001](#)

Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act

**Comment On:** [DOL-2016-0001-0001](#)

Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act

**Document:** [DOL-2016-0001-0347](#)

Comment from Gladys Hall, Chicago Cook Workforce Partnership

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## Submitter Information

**Name:** Gladys Hall

**Organization:** Chicago Cook Workforce Partnership

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## General Comment

Comments from the Chicago Cook Workforce Partnership on the proposed regulations at 29 CFR Part 38. The comments are attached. Thank you for your consideration.

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## Attachments

NPRM - EO REGULATIONS COMMENTS

March 24, 2016

**NPRM – SECTION 188 WIOA NONDISCRIMINATION AND EQUAL OPPORTUNITY REGULATIONS (29 CFR PART 38)  
(RIN) 1291-AA36**

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**Chicago Cook Workforce Partnership LWIA-7:  
Comments:**

**1. Definition: 38.4**

**Vital Information 38.4(ttt)**

**“As a result, it has become necessary to define vital information to include information delivered orally, such as in a telephone recording or phone conversation with a recipient’s staff member, as well as electronically, such as contained in a recipient’s webpage or email”. The Department welcomes comments on this new definition.**

The definition is precise; it provides a clear description of the importance of providing program information in various formats thereby enabling recipients to comply with WIOA regulations.

**2. Discrimination prohibited based on sex 38.7**

**Sex Stereotypes: Sexual Orientation discrimination 38.7(d)**

**“We seek comment on the best way of ensuring that this rule includes the most robust set of protections supported by the courts on an ongoing basis”.**

The rule should clearly identify what actions made by the recipient of federal funds constitute discrimination on the basis of sex, in the area of sexual orientation. The rule should instruct the recipient to post a notice of the violation and include it in their orientation presentation. The notice should clearly identify to the individuals that they have a right to file a complaint with the USDOL Civil Rights Center (CRC).

**3. Accessibility requirements 38.13**

**“This new rule adds a new 38.13 Titled “Physical and programmatic accessibility requirements. The Department welcomes comments on this section.”**

The distinction between physical and programmatic accessibility requirements is well-defined and specific. It provides a clear foundation that will only strengthen the recipient’s ability to guarantee that their program and services are both physically and programmatically accessible for individuals with disabilities. In addition, it enables recipients to strengthen their continued commitments and responsibilities to comply with all regulations.

#### **4. Data and Information Collection and Maintenance**

##### **Collection and maintenance of equal opportunity data and other information 38.41**

**“Department seeks comments on the use of these terms as proposed in 38.41.” Limited English Proficiency and preferred language.**

##### **“Limited English Proficiency and preferred language” 38.41(b) (2)**

This requirement will be easy to incorporate into the recipient’s standard operations. Capturing and recording an individual that identifies in this area will allow recipients to determine the number of individuals that are receiving services in their workforce area, as well as enable the recipient the opportunity to assess if there is a need to establish an outreach campaign to inform communities about the program.

#### **5. Required maintenance of records by recipients 38.43**

**“Proposed 38.43 adds the preservation of “electronic records’ in addition to hard copies, keep the electronic records for the same three-year period.” “The Department welcomes comments on these proposed changes.”**

Generating and maintaining electronic records would provide additional support to the recipient’s current recordkeeping. It would enable a recipient to have a check and balance of their information and material, thereby allowing recipients to have their records and files easily available for discrimination complaint and compliance review.

#### **6. Governor’s oversight and monitoring responsibilities for State Programs 38.51**

##### **“Limited English Proficiency” 38.51 (b) (1)**

**“CRC invites comment on the addition of “primary language” to the list of categories of records and data that must be analyzed, including whether there is a more effective method or term to use to determine or measure the relevant population of limited English proficient individuals and the language services to be provided.”**

- a. The addition of “primary language” will enable recipient the opportunity to record the number of individuals that are enrolled in their WIOA program, as well as acquire the number of language services needs to provide services to individuals seeking WIOA services. It will enable recipient to produce comprehensive reports that highlight and show the diversity of the recipient workforce area.
- b. To ascertain the quantity of language services needed to assist individuals, recipients should establish a process to conduct periodic reports from their service providers. This effort would help to ensure that data is being recorded correctly and that it matches with the area data that has been entered into their system.

## **Appendix**

### **III. Rulemaking Analyses and Notices**

**“The Department requests comment on the costs and benefits of this NPRM with the goal of ensuring a thorough consideration and discussion at the Final Rule state.”**

#### **a. “The Need for the Regulation”.**

Section 188 of the Workforce Innovation and Opportunity Act (WIOA) guarantees and strengthens the assurance that the WIOA program is both programmatically and physically accessible to all customers seeking job training and placement services and assistance through the WIOA programs. It provides a template and framework that recipients must follow thereby ensuring that programs funded by the government provide equal opportunities to all eligible citizens.

**b. Request for Comments**

**“This NPRM implements the nondiscrimination and equal opportunity provisions of Section 188 of WIOA and requests comments about the burden and costs associated with this NPRM including from..... recipients of WIOA Title-1 financial assistance.”**

Integrating and adopting these new rules into the unchanged regulations will take time; how much time cannot be measured given the size and volume of each recipient within their State. The implementation of the new rule may produce some misinterpretation if the language and instruction provided by the State is delayed or awaiting approval. State EO Officers, therefore, should be mandated to hold training sessions for local equal opportunity officers on a quarterly basis. This would help to lessen any misinterpretation of the new rule and would help to unify the State objective to ensure that the State EO Officer is providing the best oversight and implementation of Section 188 of the WIOA Title I financial assistance program. For these reasons, we believe that a six (6) month implementation period is too short; even a year may be a challenge for a State and LWIA of our size. The cost of printing incorrect posters and other collateral material can be avoided with additional time for planning and implementation.

**c. Subpart A –General Provisions**

**Discrimination prohibited based on national origin, including limited English proficiency 38.9**

**“The Department seeks comment on the current compliance status of recipients as to their LEP obligations, the availability of data related to the languages for which translations would be required, and a method by which to estimate the quantity of vital information that recipients generally will need to translate to be in compliance.”**

- i. The diversity of the Chicago Cook Workforce Partnership’s (LWIA 7) One Stop Center’s employees enables the center staff to provide on-site translation, in addition to utilizing the language services provided by the State-contracted service provider.
- ii. The State of Illinois has an existing procedure in place regarding requests for language services assistance. This process should enable customers to acquire data upon request from the service provider. A recipient that provides on-site language services (translation) has a reporting process to capture the number of services needed.
- iii. The quality services (On-site translation and language services) used to provide vital information to individuals can be relayed through orientation, resource room activity and, if needed, job club and rapid response. During registration, the individual can be identified and LEP/LP captured in the database. The process enables recipients to capture real numbers that addresses the quantity of services provided by the workforce area.

**FACT SHEET**

**Outline protections for transgender and gender non-conforming people.**

**“The NPRM acknowledges that interpretations flowing from this area of the law, particularly with regard to discrimination based on sexual orientation, may continue to develop in rapid fashion, CRC request comment on this matter”.**

Any individual who is subject to discrimination on the basis of sexual orientation should have the same rights as an individual who claims sex discrimination on the basis of their gender. Moreover, to adequately address the subject of discrimination based on sexual orientation, recipients must have a clear understanding of subject matter and what is defined as sexual orientation and what actions toward an individual who has displayed their preference are prohibited. Training on this subject would enforce recipients’ knowledge and understanding of

the subject matter and help to teach and prepare a recipient on how to adequately respond to individuals who have displayed their personal preference and/or life style during their process to obtain WIOA services.