

<b>29 CFR -</b>	<b>Proposed Change</b>	<b>Comment</b>
<b>Part 38 – Summary</b>	<b>Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act Title I.</b>	<b>It has been noted that in reading all the proposals no reference has been made to any other title than Title 1 programs. Is the Nondiscrimination Plan to include programs other than Title I?</b>
<b>38.4-yy Reasonable Accommodation</b>	<b>A covered entity is required, absent undue hardship, to provide a reasonable accommodation to an otherwise qualified individual who has an actual disability or record of a disability but is not required to provide a reasonable accommodation to a individual who is only “regarded as having a disability”.</b>	<b>Define a covered entity. Define “regarded as having a disability” or provide examples.</b>
<b>38.9 National Origin, including LEP</b>	<b>Paragraph (g) (2) states that “for languages not spoken by a “significant number” or portion of the population eligible to be served, a recipient must make reasonable steps to meet the particularized language needs of LEP individuals who seek to learn about, participate in, and/o access services, benefits or trainings the recipient provides.</b>	<b>Define the determination made of a “significant number”.</b>
<b>38.15 Communications with Individuals with Disabilities</b>	<b>The proposed language states that when developing, procuring, maintaining, or using electronic and information technology, a recipient must utilize electronic and information technologies, applications, or adaptations which incorporate accessibility features for individuals with disabilities in order to achieve the goal of equally effective communication.</b>	<b>This could preclude training providers from listing their training programs because of the extra cost to provide accessibility to an individual with disabilities.</b>
<b>38.16 Service Animals</b>	<b>This proposal refers to ADA Title II as the direction that would obligate the recipients to change their policies, procedures or practices concerning the permit for individuals with disabilities to use service animals.</b>	<b>Since the term has been changed to “Service Dog” by the ADA then it should be in the regulations to stay uniform with the ADA.</b>

<b>38.28 Designation of EO Officer</b>	<b>This change is intended to address feedback from EO Officers at the State level that they lack sufficient authority to carry out their responsibilities. The rule also proposes that the Governor is responsible to making that designation, to avoid confusion about who is authorized to designate the EO officer for the Governor at the State level and in the Governor’s role as the recipient.</b>	<b>An alternative to this and the next line could be - The current regulations make it clear that an EO Officer must be a “senior-level” employee and must report “directly to the appropriate official.” The prior regulations also specified that the Equal Opportunity Officer must have “sufficient staff and resources” and “support of top management.” Arizona recommends that we make this change.</b>
<b>38.28 Designation of EO Officer (con’t)</b>	<b>Paragraph (a) stipulates that the EO Officer that reports directly to the Governor currently. Proposed change would also require that the State level EO Officer have sufficient staff and resources to carry out the requirements of this section.</b>	<b>States are structured differently. Suggest that the rule also stipulates that the Department (USDOL/CRC) is required to have sufficient staff to perform their duties in helping States with required technical assistance when needed.</b>
<b>38.30 Requisite Skill and Authority of the Equal Opportunity Officer</b>	<b>The proposal explains that the EO Officer must be a Senior Level employee or the recipient who processes the knowledge, skill and or abilities to carry out the responsibilities of the role in this subpart. The provision is intended to emphasize the level of authority that recipients must give to the EO Officer and the importance that the recipient places on the role of the EO Officer in effecting compliance with Sec. 188.</b>	<b>This could be a middle management position with access to a to the Governor’s designee. If this had be a Senior level employee with additional staffing, then it should this be shared funding.</b>
<b>38.30 Requisite Skill and Authority of the EO Officer (con’t)</b>	<b>Proposal for EO Officers to develop and publish the procedures for processing a discrimination complaint. This includes investigating, resolving and tracking complaints filed against the recipient.</b>	<b>CRC should provide the policy, procedure and forms on processing, investigating and tracking a complaint. This would unify the procedures and allow all States to provide a uniform result.</b>
<b>38.35 Equal Opportunity Notice/Poster</b>	<b>NPRM proposes language in the poster stating that CRC would accept complaints via U.S. Mail and email at an address provided by CRC’s website.</b>	<b>This proposal should require that recipients also accept complaints via email and without signature. This is the part of the validation of a submitted complaint should not be a requirement if an email is acceptable.</b>

<b>38.36 Recipient's Obligation to Publish EO Notice</b>	<b>Paragraph (a) (4) is updated so that the notice must be made a part of each participant's and employee's electronic and paper file, if one of each is kept.</b>	<b>This is not the function of a EO Officer to look at personnel files and should be the requirement of the Human Resource Department of the recipient to ensure this is done.</b>
<b>38.44 Access to Information and Information Sources</b>	<b>Propose revising paragraph (a) to require each grant applicant and recipient must permit access by the Director "or Director's designee" to premises, employees, and participants for the purpose of conducting investigations, compliance reviews and monitoring activities, or other similar activities outlined in the section.</b>	<b>I suggest that this would include "sub-recipients" also since a recipient may not have the means to provide such access.</b>
<b>38.51 Governor's Oversight and Monitoring Responsibilities</b>	<b>Proposed 38.51 (b) would require the Governor to monitor on a "annual" basis the compliance of the State programs with WIOA Section 188 and under this part.</b>	<b>This should make a "Desk Review" that includes data and statistical analysis be acceptable for the annual monitoring?</b>
<b>38.52 Governor's liability for Actions of Recipients the Governor has Financially Assisted Under Title I of WIOA</b>	<b>In addition, proposed title changes, in title only, the term "Methods of Administration" to "Nondiscrimination Plan". The new title is more descriptive of its purpose.</b>	<b>This document should have a response of validation sent to the Governor by CRC. This would confirm acceptance and should include any discrepancies found that is not accepted by CRC as a noncompliant policy, process or procedure adapted by the State.</b>
<b>38.65 Authority to Monitor the Activities of a Governor</b>	<b>The CRC Letter of Findings must advise the Governor of the preliminary finding, the proposed remedial or corrective action and the timeframe for that action, whether it will be necessary for the Governor to enter into a conciliation agreement, and the opportunity to conciliate. Since 2010, CRC has found during compliance reviews that no State has complied fully with its monitoring and</b>	<b>CRC must be required to provide options of technical assistance to the Governor to become compliant and be given a timeframe in which CRC is required to respond to the requests, questions, results provided by the Governor or designee. The timeframes to be agreed on within reason for both parties. Require CRC to start establishing the</b>

	oversight responsibilities.	development of “Good Practices or useful tools” that States could use as a template in building compliance. Also, CRC should use a similar process as DOL Regional Offices by where preliminary findings are reviewed with a state and allow states the opportunity to provide additional information to rectify or lead toward resolution of the proposed finding.
<b>38.70 Required Contents of a Complaint</b>	Proposed changes to this regulation is the merging of 38.73 and 38.74 into 38.70. This provides complainants the choice between filing complaints electronically for by hard copy, request that complainants provide in the complaint their email address, where available, in addition to their mailing address, and state the complaint forms are available on the CRC Website.	This would again waive the current requirement of a “signature” in order for the electronically filed complaint to be a legally filed document. The hard copy being filed should still have this requirement in order to be considered a filed complaint.
<b>38.93 Required Elements of a Conciliation Agreement</b>	The NPRM proposes a new paragraph (g) to require that the conciliation agreement provide that nothing in the agreement prohibits CRC from sending it to the complainant, making it available to the public or posting it on the CRC or the recipient’s website. Also proposes a paragraph (h) to require that the conciliation agreement provide that in any proceeding involving an alleged violation of the conciliation agreement, CRC may seek enforcement of the agreement itself and shall not be required to present proof of the underlying violations resolved by the agreement.	This would preclude CRC seeking out and providing this information to the media as a leverage against the State. Publication to the media or on a website should only be done after the CRC and the state have completed all negotiations and have signed the Conciliation Agreement.