

**INSTRUCTION LETTER**

**INSTRUCTION NUMBER:** WIOA 16-16

**TO:** To Upstate WB Staff and All Contractors

**SUBJECT:** Facility and Program Accessibility under WIOA

**DATE**  
**ISSUED:** June 19, 2017

**DATE**  
**EFFECTIVE:** Immediately

**DATE**  
**EXPIRES:** Indefinitely

**PURPOSE:** To transmit updated guidance on the requirement to ensure program and facility accessibility to individuals with disabilities and to transmit evaluation instruments.

**BACKGROUND:** 29 CFR 38.13 stipulates that no qualified individual with a disability may be excluded from participation in, or be denied the benefits of a service, program, or activity or be subjected to discrimination because facilities are inaccessible or unusable by individuals with disabilities. In addition, all WIOA Title-I financially assisted programs and activities must be programmatically accessible.

Regarding physical accessibility, there is no "grandfather clause" in the ADA that exempts older facilities. If a facility was in compliance with the 1991 Standards or Uniform Federal Accessibility Standards (UFAS) as of March 15, 2012, a public entity is not required to make changes to meet the 2010 Standards, until the public entity decides to alter a facility for reasons other than the ADA. Elements and spaces being altered must comply with the 2010 Standards. For definitions of alteration, refer to ([https://www.ada.gov/regs2010/title11\\_2010/titleiiprimer.html](https://www.ada.gov/regs2010/title11_2010/titleiiprimer.html)).

29 CFR 38.28 (b ) requires that LWDBs designate a Local Equal Opportunity Coordinator/Officer responsible for coordinating the EO responsibilities within the local workforce area with the State Equal Opportunity Officer.

*\*Dana Wood, Upstate Workforce Board Associate Director has been designated as local EO Officer.*

**POLCIY:** Facilities must be accessible or usable by individuals with disabilities. In each local workforce area, government buildings in which staff is located, services provided, and/or programs conducted are subject to Title II of the ADA. Therefore, new facilities or alterations of facilities that began construction after January 26, 1992, must comply with the applicable federal accessible design standards, such as the ADA Standards for

Accessible Design (1991 or 2010) or the UFAS. In addition, recipients/subrecipients that receive federal financial assistance must meet their accessibility obligations under Section 504 of the Rehabilitation Act and the implementing regulations at 29 CFR part 32. Recipients/subrecipients utilizing commercial facilities to locate staff, provide services, and/or conduct programs may be subject to additional accessibility requirements under other statutory authority, including Title III of the ADA that is not enforced by U.S. Department of Labor Civil Rights Center (CRC). As indicated in 29 CFR 38.3(d)(10), compliance with this part does not affect a recipient's/subrecipient's obligation to comply with the applicable ADA Standards for Accessible Design.

All WIOA Title I-financially assisted programs and activities must be programmatically accessible, which includes: providing reasonable accommodations for individuals with disabilities; making reasonable modifications to policies, practices, and procedures; administering programs in the most integrated setting appropriate; communicating with persons with disabilities as effectively as with others; and providing appropriate auxiliary aids or services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

**ACTION:** The Local EO Coordinator/Officer must ensure completion of the two evaluation instruments for each of the following : local fiscal/ administrative entity, comprehensive SC Works centers, satellite SC Works centers, and access points open to WIOA applicants, participants and the public at-large , and submit the evaluations to the DEW Office of Equal Opportunity annually by March 31<sup>st</sup>. Copies of the completed evaluations must be kept on file by the Local EO Coordinators/Officers for availability at time of monitoring. The two required evaluation instruments are as follows:

1. The Disability Access Checklist, attached. Links can be found on the SC Works Document Directory page at <https://www.scworks.org/docs.asp>.
2. The ADA Checklist for Existing Facilities, which can be found at the ADA website at <http://www.adachecklist.org/>. This assessment can be completed by in-house staff or can be competitively outsourced.

LWDBs are responsible for ensuring compliance with the equal opportunity provisions in Section 188 of WIOA; 29 CFR part 38; section 504 of the Rehabilitation Act of 1973, as amended; and Title II of the ADA, as amended.



**INQUIRIES:** Questions may be directed to Dana Wood [wood@upstateworkforceboard.org](mailto:wood@upstateworkforceboard.org).



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Ann Angermeier, Director

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**Source: State Instruction 16-12**