

Benton-Franklin Workforce Development Council

Policy No. 55-015
Date: 08/27/02
Amended: 08/28/13

SUBJECT: EQUAL OPPORTUNITY AND NONDISCRIMINATION POLICY

ORIGINATOR: WIA Title IB

Grantees, subrecipients, and contractors funded under the Workforce Investment Act (WIA), whether in whole or in part, must abide by the Workforce Investment Act of 1998, the WIA Regulations, all applicable Office of Management and Budget (OMB) Circulars, state regulations in laws and rules (Revised Code of Washington and Washington Administrative Code), Office of Financial Management (OFM) policies, and the Washington State WIA policies.

BACKGROUND

All recipients under WIA Title I are responsible for assuring Equal Opportunity (EO) in programs and activities funded under the Workforce Investment Act (WIA) of 1998. This responsibility includes compliance with all equal opportunity requirements and implementation of policies in the administration and operation of programs and activities, including employment in the administration, operation of programs, and participation in programs and activities.

Equal Opportunity Compliance Standards

All recipients under WIA Title I are directly responsible for compliance with:

- Applicable Equal Opportunity and Nondiscrimination mandates.
- Federal laws and regulations, guidelines, and directives.
- State laws and executive orders, regulations, and guidelines.
- Local laws and ordinances related to Equal Opportunity and nondiscrimination in employment, training, and services.
- Policies and procedures, administrative directives, and the Washington State's Methods of Administration (MOA) as applicable, implemented for WIA Title I by the Employment Security Department (ESD), and
- Terms and conditions of contracts and agreements established by the ESD.

POLICY

The Benton-Franklin Workforce Development Council is committed to ensuring Equal Opportunity (EO) in programs and activities funded under the Workforce Investment Act (WIA) of 1998. This includes compliance with all equal opportunity requirements and implementation of policies in the administration and operation of programs and activities, including employment in the administration, operation of programs, and participation in programs and activities.

The following requirements are taken from Section 188 of Title I, which contains the statute's equal opportunity and non-discrimination provisions (29 CFR Part 37). A recipient must provide initial and continuing notice that it does not discriminate on any prohibited ground. The following wording should be contained in the posters and written EO policy statement.

A. Equal Opportunity is the Law

"It is against the law for this recipient of Federal financial assistance to discriminate on the following basis:

Against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and

Against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas: Deciding who will be admitted, or have access, to any WIA Title I-financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program activity.

If you think that you have been subjected to discrimination under a WIA Title I-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either: the recipient's Equal Opportunity Office (or person whom the recipient has designated for this purpose); or the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).

If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with CRC. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).

If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action."

This information will be posted in all facilities.

To demonstrate compliance, every reasonable action shall be taken to assure that members of protected groups are given maximum opportunity as:

- Applicants and participants of employment and training services provided by the Act.
- Members of councils and boards formed in conjunction with the Act.
- Applicants for employment and employees in the administration and operation of programs and activities funded by the Act.
- Recipients of procurement contracts for purchase of goods and services.

B. Minimum Requirements for Implementing Equal Opportunity and Nondiscrimination:

In conjunction with the requirements of applicable mandates, an EO program will be implemented which includes the following components:

1. Local Equal Opportunity Officer

All recipients will designate an EO Officer who is responsible for equal opportunity in the administration and operation of WIA Title I.

The job duties of the local WDC EO Officer will in part, include:

- Coordinating responsibilities under 29 CFR Part 37;
 - Liaison with State/ESD EO Officer and or/designee and CRC;
 - EO monitoring and investigations; coordinating with State EO Officer/designee regarding mediation and investigation;
 - Reporting EO matters directly to top officials;
 - Ensuring implementation of the EO Methods of Administration (MOA) requirements, e.g. training staff, participating in mediation; and
 - Mandatory participation in on-going training.
2. At least annually, the WDCs will disseminate the EO policy statement to the public and other community organizations, including those who are advocates for the hearing or vision impaired, as well as to unions and professional organizations holding collective bargaining or professional agreements with the recipients.
3. All brochures or publications distributed to applicants, registrants, eligible applicants/registrants, participants, applicants for employment, employees and employers or the general public will include a statement (also known as an “EO Tagline”) which states, *“WorkSource Washington (name of recipient) is an equal opportunity employer and provider of employment and training services. Auxiliary aids and services are available upon request to persons with disabilities.”* If a phone number is noted, a TDD number must also be provided.
4. If a TDD phone is not available, you may use the services of the Washington State Telecommunications Relay Services. The hearing-impaired person can call 1-800-833-6388.
5. Where a significant number of the eligible population needs information in a language other than English to be effectively informed of the program, materials will be translated and available. At a minimum, this will include the EO Policy and the EO Complaint Processing Procedures. Considering the reasonableness of the situation (size of program, number of people effected), other program materials and information/services will also be translated to other languages. When a less than significant number of people is affected or requirement for written translation is not reasonable, interpreters can be used to communicate with applicants and participants.
6. A review of all policies, procedures, and practices will be conducted to identify their effect on members of protected groups. Where appropriate, policies, procedures, and practices will be modified to eliminate any potential adverse effect on protected groups. In addition, if policies, practices, or procedures have resulted in discrimination, corrective action will be taken to correct the effects of past discrimination.

7. Ensure adherence to EO/nondiscrimination requirements and program and architectural accessibility for individuals with disabilities.
8. Ensure that each application for financial assistance under Title I of WIA include the following EO assurance language (29 CFR Part 37.20(a):

“As a condition to the award of financial assistance from the Department of Labor under Title I of WIA, the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

Section 188 of the Workforce Investment Act of 1998 (WIA) Title I, which prohibits discrimination against all individuals in the United States on the basis of race, color religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I-financially assisted program or activity;

Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;

Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in education programs.

The grant applicant also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. The assurance applies to the grant applicant’s operation of the WIA Title I-financially assisted program and activity, and to all agreements the grant application makes to carry out the WIA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.”

C. Compliance Monitoring

Programs, services and activities will be monitored by the State/ESD EO Officer and local WDC EO Officers to assure nondiscrimination with respect to staffing, contracting, and program participation.

Complaint logs must be maintained with information regarding the basis of the alleged discrimination, e.g. race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIA Title I financially assisted program or activity. Refer to WIA Policy # 3450 Revision 1– Discrimination Complaint Processing Policy and Procedures.

D. Corrective Action and Sanctions

Recipients will apply corrective actions or sanctions, as necessary, when violations of WIA Title I, Section 188 or 29 CFR Part 37 are found. Corrective actions are designed to completely address each violation. Timeframes will be established as necessary that set the minimum time necessary to completely redress the violation. Follow-up monitoring will occur to ensure that commitments to take corrective and remedial actions are fulfilled. Local areas and other recipients are required to establish policies and procedures for obtaining prompt corrective action, or as required, applications of sanctions when a training provider or other

recipient is not in compliance with the nondiscrimination and equal opportunity provisions of the WIA Title I, related regulatory requirements, and applicable state and local policies.

Corrective Action would be indicated in the following circumstances:

- The assessment of the circumstances surrounding a complaint and/or grievance, and/or the use of desk audits, on-site review, investigation, or other fact-finding tools in conjunction with the assessment process, reveals barriers to equal opportunity or access.
- The local WDC EO Officer of the State/ESD EO Officer's periodic monitoring identifies a technical deficiency, a failure to follow through on written assurance, a barrier to universal access to or disparate impact in programs or services. In addition, deficiencies may be identified during a monitoring review.
- A WIA Title I recipient refuses to implement voluntary corrective action, submit requested data or documentation, or provide access to premises or records during a compliance review.

When the need for corrective action is identified by the local EO Officer, s/he will be expected to recommend to the WDC voluntary correction action(s) and a reasonable minimum timeframe to completely correct each situation for which corrective action is recommended. S/he will notify the State/ESD EO Officer of the situations(s) discovered, the corrective action(s) being implemented, and the timeframe(s) for completion of each.

Corrective actions should be completed within 45 days from the date of initial notification of the violation.

Sanctions will be considered a last resort. The Benton-Franklin Workforce Development Council may secure voluntary compliance with the recipient through a written assurance and/or conciliation agreement. Technical assistance, clarification, and reasonable corrective action opportunities will be offered first, depending on the circumstances. The precise nature of the sanction will be determined by the deliberateness, seriousness, and/or frequency of the violation. In situations where sanctions are applied, the grantee will be notified and will be provided with an opportunity to respond.

Sanctions which may be imposed by the state upon grantees include, but are not limited to:

- Reduction in funding
- Restriction from bidding on competitive or discretionary funds
- Disallowance of costs associated with the particular violation or deficiency
- Termination of future funding

DEFINITIONS

None.

REFERENCES

Programs and activities funded or otherwise financially assisted in whole or in part under the Workforce Investment Act (WIA) , Title I of 1998 are subject to federal Equal Opportunity (EO) laws and regulations and other federal laws that impact the operations of the State and local level WIA, Title I programs. These laws and regulations include, but are not limited to the following:

1. P.L. 105-220, Workforce Investment Act, Section 188 of WIA, Title I of 1998;
2. Federal Regulations at 29 CFR Part 37, "Implementation of the Nondiscrimination Provisions of the Workforce Investment Act" (issued November 12, 1999); This rule does not add significantly to the responsibilities of WIA Title I recipients. Rather, this generally codifies and consolidates requirements to which WIA Title I recipients are subject under Section 188 of the Act;
3. Title VI of the Civil Rights of 1964, as amended (P.L.88-352) and regulations established by DOL (29 CFR Part 31);
4. Title VI of the Civil Rights Act as amended by the Equal Opportunity Act (P.L.92-261) and the Pregnancy Discrimination Act (P.O.95-555), and the guidelines established by the Equal employment Opportunity Commission (EEOC) including
 - "Guidelines on Sexual Harassment in the Workplace" (29 CFR Part 1604);
 - "Guidelines on Discrimination on the Basis of Religion" (29 CFR Part 1605);
 - "Guidelines on Discrimination on the Basis of National Origin" (29 CFR Part 1606);
 - "Guidelines of Employee Selection Procedures" (29 CFR Part 1607);
 - Non-discrimination on the Basis of Age in programs receiving federal assistance (45 CFR, Part 90);
 - The Rehabilitation Act of 1973 as amended (P.L.92-112) and regulations established by DOL (29 CFR Part 32);
 - The Age Discrimination (P.L. 94-135) and, in the absence of DOL regulations, regulations established by the Department of Health, Education and Welfare (HEW) (45 CFR, Part 90);
 - The Age Discrimination in Employment Act of 1967, as amended (P.L. 95-256) and regulations established by the EEOC (29 CFR, Parts 1625 and 1627);
 - Title IX of Education Amendments of 1972, as amended (Title IX)(20 U.S.C. 1681); (P.L.88-38) and regulations established by DOL (29 CFR, Part 800); and
 - American with Disabilities Act of 1990, as amended (P.L.101-336).

Other Federal laws, regulations, guidelines, and directives may also apply and their omission here is not be construed as exclusions.

State Laws, Executive Orders, Regulations, and Guidelines:

1. The Washington State Law Against Discrimination (RW 49.60) and regulations established by the Washington State Human Rights Commission, including:
 - Pre-Employment Inquiries (WAC 162.2);
 - Employment Discrimination (WAC 162.16);
 - Discrimination on the Basis of Age (WA 162.20);
 - Public Accommodations (WAC 162.26); and
 - Discrimination on the Basis of Sex (WA 162.30)
2. With respect to the architectural standards for accessibility under Section 504 of the Rehabilitation Act; Washingtonian state Building Code, (RCW 19.27); and the Washington State Rules and Regulations for Barrier Free Design, (W 51.10)

NOTE: The 1992 Washington State Legislature has enacted changes to some of these laws.

DIRECT INQUIRIES TO:
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 Employment Security Department

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