

Subject: Equal Opportunity and Nondiscrimination Policy

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Purpose: The purpose of this policy is to affirm the commitment of the Workforce Development Council (BFWDC) to the principles of nondiscrimination and equal opportunity and to provide for the observance and enforcement of those principles in the administration and operation of the programs and activities under its oversight.

Background: All recipients under the Workforce Innovation and Opportunity Act (WIOA) Title I are responsible for ensuring equal opportunity (E.O.) and nondiscrimination in programs and activities funded in whole or in part under WIOA. This responsibility includes compliance with all nondiscrimination requirements in the administration and operation of programs, activities, and employment provided by WIOA Section 188 (Nondiscrimination and Equal Opportunity) and [29 CFR Part 38](#) (Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act). Recipients are defined in 29 CFR §38.4.

All recipients under WIOA Title I are directly responsible for compliance with

- Federal nondiscrimination laws, regulations, guidelines, and directives;
- State nondiscrimination laws, executive orders, regulations, and guidelines;
- Local nondiscrimination ordinances;
- Equal opportunity and nondiscrimination policies, procedures, administrative directives;
- and the Nondiscrimination Plan (NDP); and
- Terms and conditions of contracts and agreements established by the BFWDC.

POLICY

Washington is committed to providing equal opportunity and equal access in WIOA Title I programs and services to all individuals. The following requirements are provided in [29 CFR Part 38](#), the E.O./Nondiscrimination regulations for WIOA Section 188 (Nondiscrimination):

A. Notice and Communication

A recipient shall provide initial and continuing notice that it does not discriminate in the delivery of programs and services or employment on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, an applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

The following specific wording shall be placed on E.O. Notice posters and in written E.O. policy statements:

Equal Opportunity is the Law

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

Against any individual in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief or,

Against any beneficiary of, an applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

The recipient shall not discriminate in any of the following areas: Deciding who will be admitted, or have access, to any WIOA 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 or activity.

The recipient shall not discriminate in any of the following areas:

Deciding who will be admitted, or have access, to any WIOA 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 or activity.

Recipients of federal financial assistance shall take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

If you think that you have been subjected to discrimination under a WIOA 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 Officer (or the person whom the recipient has designated for this purpose); or the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue N.W., Room N-4123, Washington, DC 20210.

If you file your complaint with the recipient, you shall 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 may file a complaint with CRC before receiving that Notice. However, you shall 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 shall file your CRC complaint within 30 days of the date on which you received the Notice of Final Action."

This notice, in the form of Washington's WIOA EO Notice Poster, shall be posted prominently in reasonable numbers and places where customers and staff frequent, in both English and Spanish.

B. Affirmative Action

Recipients shall take appropriate steps to ensure that they are providing equal access to their WIOA Title I financially assisted programs and activities. These steps should involve reasonable efforts to include members of the various groups protected by these regulations, including but not limited to persons of different sexes, various racial and ethnic/national origin groups, various religions, individuals with limited English proficiency, individuals with disabilities, and individuals in different age groups.

Such efforts may include, but are not limited to:

- Outreach efforts by the recipient's programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations;
- Sending notices about openings in the recipient's programs and/or activities to schools or community service groups that serve various populations; and
- Consulting with appropriate community service groups about ways in which the recipient may improve its outreach and service to various populations.

C. Minimum Requirements for Ensuring Equal Opportunity and Nondiscrimination

The following E.O. and Nondiscrimination requirements will be followed:

1. Local E.O. Officer Responsibilities

The BFWDC has designated an E.O. Officer responsible for ensuring E.O. and Nondiscrimination in the administration and operation of programs and services at WorkSource Columbia Basin and T.C. Futures.

Job duties of the Local E.O. Officer include, in part:

- Conducting E.O. and Nondiscrimination monitoring reviews of One-Stop Centers, affiliates, and other service providers that are part of the local One-Stop system to ensure compliance with the provisions of this policy and 29 CFR Part 38 and adhering to the NDP;
- Conducting E.O. training for staff and service providers;
- Processing and investigating discrimination complaints;
- Reviewing local written policies to ensure they are nondiscriminatory;
- Developing or publishing local procedures for processing discrimination complaints;
- Coordinating responsibilities under [29 CFR Part 38](#);
- Reporting E.O. matters directly to their top official;
- Ensuring implementation of the NDP; and,
- Undergoing E.O. and Nondiscrimination training to maintain competency.

2. E.O. Tagline and Washington Relay Service

Recruitment brochures and other materials, including pamphlets, flyers, and other publications distributed or communicated in written or oral form, electronically or on paper, for customers, staff, or the general public that describe programs financially assisted under Title I of WIOA or the requirements for participation by recipients and participants will include the following E.O. Tagline:

"(name of recipient) is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities."

Program information broadcast in the news media and electronically, such as on television and radio or on a large screen monitor, shall also include the tagline.

If a phone number is included, the Washington Relay Service number shall also be provided. This should be Washington Relay Service: 711, which can alternatively be placed at the end of the E.O. tagline.

3. Language Services

Language services, interpretation, or translation shall be made available free of charge for limited English proficient (LEP) individuals. When a significant number or proportion of the eligible population needs information in a language other than English to be effectively informed about the program or to be able to participate, the following four factors shall be considered in determining the language services to provide:

- The number or proportion of LEP persons served or encountered in the eligible service population;
- The frequency with which LEP individuals come in contact with the program;
- The nature and importance of the program, activity, or service provided; and,
- The resources available and costs.

It may be determined, as a result of the analysis, that different language assistance measures are sufficient for the different programs or activities provided.

Regardless of the number or proportion of individuals, reasonable efforts shall be made to meet the particular language needs of LEP individuals.

4. Assurance Language

Each contract, agreement, or application for financial assistance under Title I of WIOA will include, in its entirety without changes, the following E.O./Nondiscrimination assurance language found at [29 CFR Part 38.25](#) (a)(ii):

(a) Grant applicant's obligation to provide a written assurance.

(1) Each application for financial assistance, under Title I of WIOA, as defined in § 38.4, must include the following assurance:

(i) As a condition to the award of financial assistance from the Department of Labor under Title I of WIOA, the grant applicant assures that it has the ability to comply with the nondiscrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the award of federal financial assistance:

(A) Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I-financially assisted program or activity;

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

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

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

(E) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

(ii) The grant applicant also assures that, as a recipient of WIOA Title I financial assistance, it will comply with 29 CFR part 38 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I-financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA 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.

Or a citation to the assurance language:

“The nondiscrimination assurances at 29 CFR Part 38.25 (a) through (ii) apply to this contract/agreement /etc.”

5. Programmatic and Architectural Accessibility

Each program or activity shall be operated in a manner that makes it readily accessible to qualified individuals with a disability. A qualified individual with a disability is an individual who, with or without reasonable accommodation for their disability, meets eligibility requirements.

Program accessibility requires the provision of 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.

In determining what types of auxiliary aids and services are necessary, a recipient shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services shall be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. Some examples include qualified interpreters, video remote interpreting services, text and video-based telecommunications products and systems, videotext displays, and telephone handset amplifiers.

Regarding physical accessibility, no qualified individual with a disability may be excluded from participation in or be denied the benefits of a recipient's service, program, or activity or be subjected to discrimination by any recipient because a recipient's facilities are inaccessible or unusable by individuals with disabilities. Facilities shall comply with the applicable federal accessible design standards, such as the ADA Standards for Accessible Design (1991 or 2010) or the Uniform Federal Accessibility Standards, and recipients shall meet their accessibility obligations under Section 504 of the Rehabilitation Act the implementing regulations at [29 CFR Part 32](#).

6. Testing Accommodations for Individuals with Disabilities

Testing accommodations are changes to the regular testing environment and auxiliary aids and services that allow individuals with disabilities to demonstrate their true aptitude or achievement level on standardized exams or other high-stakes tests. All recipients under WIOA Title I are responsible for providing fully accessible services and reasonable accommodation for individuals with disabilities.

Examples of the wide range of testing accommodations that may be required include:

1. Braille or large-print exam booklets;
2. Screen reading technology;
3. Extended time;
4. Wheelchair-accessible testing stations;
5. Distraction-free rooms;
6. Physical prompts (such as for individuals with hearing impairments); and
7. Permission to bring and take medications during the exam (for example, for individuals with diabetes who must monitor their blood sugar and administer insulin).

All recipients under WIOA Title I shall ensure that all Adult Basic Education (ABE), Adult Secondary Education (ASE), and English Language Learner (ELL) individuals with disabilities have equal access to test accommodations, have equal opportunities to test, and receive equal treatment in testing situations.

Individuals are not required to reveal their disability and may elect to participate in a program without special accommodation.

7. E.O. and Nondiscrimination Compliance Monitoring

The Local E.O. Officer will monitor all service provider programs, services, and activities annually. The purpose of the review is to ensure programs are administered in a nondiscriminatory manner in compliance with the E.O. and Nondiscrimination requirements of this policy and [29 CFR Part 38](#) and that adheres to the NDP. The Local E.O. Officer shall use a monitoring instrument approved by the State-Level EO Officer and shall develop review reports that include any findings and due dates for corrections. Local E.O. Officers shall submit review reports with follow-up actions to the State-Level EO Officer prior to the State-Level EO Officer's monitoring review.

E.O. data will be collected for all WIOA Title I financially assisted programs for applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment by race/ethnicity, sex, age, and, where known, disability status. While it is required that the data is requested from the individual, the person cannot be required to provide the information.

Monitoring reviews shall include a statistical analysis of records and data, including analyses by race/ethnicity, sex, age, and disability status. The analyses shall determine if there are any significant differences in participation in programs in services. An investigation of significant differences will be conducted to determine if these differences may be caused by adverse impact discrimination. Adverse impact

discrimination is non-intentional discrimination occurring when a neutral policy or practice has an adverse effect on a demographic group. If found and unless adequate justification is provided, the effects shall be eliminated or mitigated.

Discrimination complaints shall be investigated or mediated by, or under the direction of, the Local E.O. Officer.

The Local E.O. Officer shall maintain discrimination complaint logs with the name and address of the complainant, the basis of the alleged discrimination (e.g., race, color, religion, sex, national origin, etc.), a brief description of the complaint, the date filed and the disposition of the complaint.

The State-Level EO Officer will monitor the BFWDC, ESD programs, and the operation of the State Workforce Development Board annually to meet the nondiscrimination requirements of this policy and [29 CFR Part 38](#).

8. Corrective Actions and Sanctions

Recipients at the state and local levels will apply corrective actions or sanctions if voluntary efforts in seeking compliance fail when they find violations of this policy or [29 CFR Part 38](#). Corrective actions must be designed to completely address each violation and result from an E.O. and Nondiscrimination monitoring review, a discrimination complaint, or both. Timeframes shall be established to set the minimum time necessary to completely redress the violation. Follow-up monitoring will occur as necessary to ensure that commitments to take corrective and remedial actions have been fulfilled. Local areas must establish policies and procedures for obtaining prompt corrective action. The Local E.O. Officer will notify the State-Level EO Officer of the violation(s) discovered, corrective action(s) implemented, and timeframe(s) for completion.

Corrective action is indicated in the following circumstances:

- An assessment of the circumstances surrounding a discrimination complaint investigation reveals barriers to equal opportunity or equal access.
- A Local E.O. Officer or the State-Level EO Officer's monitoring review identifies a violation, a failure to follow through on written assurances, a barrier to accessibility, or significant differences in participation in programs services without investigation, mitigation, or justification.

Corrective actions should be completed by the date(s) provided in the review report. A conciliation agreement should be initiated and completed if a recipient does not undertake the corrective actions specified. Instructions on developing and implementing a conciliation agreement are found in the NDP and [29 CFR part 38.93](#).

Sanctions will be considered as a last resort. Sanctions may be necessary when a recipient refuses to implement voluntary corrective action, submit requested data or documentation or refuses to provide access to premises or records during an E.O. and Nondiscrimination compliance review.

At the state level, after all, efforts for voluntary compliance have been exhausted, the State-Level EO Officer notifies the ESD Commissioner in writing. This request for a final determination specifies the following:

- Efforts made to achieve voluntary compliance, along with the areas of disagreement (if known);
- The apparent violation(s) and relevant E.O. and Nondiscrimination provision(s) of this policy and [29 CFR Part 38](#) and conflict with the NDP;
- The corrective action the recipient shall take to address the violation(s).

The ESD Commissioner may secure voluntary compliance with the recipient through a written assurance and/or conciliation agreement. The ESD Commissioner considers sanctions only if the recipient does not agree to take voluntary corrective action.

Sanctions that may be imposed include, but are not limited to:

- Termination of future funding;
- Disallowance of selected costs;
- Restriction from bidding on competitive or discretionary funds; and
- Reduction in funding

If sanctions are necessary, the precise nature of the sanction will be determined by the deliberateness, seriousness, and frequency of the violation. In situations where sanctions are to be applied, the recipient will be notified and provided an opportunity to respond prior to sanctions being applied. At the local level, it is the responsibility of the Executive Director to implement sanctions if needed. The BFWDC will follow the above model for applying corrective actions and sanctions.

DEFINITIONS:

- **Participant:** an individual who has been determined to be eligible to participate in, and is receiving any aid, benefit, service, or training under a program or activity financially assisted in whole or in part under Title I of WIOA. "Participant" includes, but is not limited to, individuals receiving any service(s) under State Employment Service programs and claimants receiving any service(s) or benefits under State Unemployment Insurance programs.
- **Recipients:** an entity to which financial assistance under Title I of WIOA is extended directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient). The term excludes any ultimate beneficiary of the WIOA Title I-financially assisted program or activity. In instances in which a Governor operates a program or activity, either directly or through a State agency, using discretionary funds apportioned to the Governor under WIOA Title I (rather than disbursing the funds to another recipient), the Governor is also a recipient. In addition, for purposes of this part, one-stop partners, as defined in section 121(b) of WIOA, are treated as "recipients" and are subject to the nondiscrimination and equal opportunity requirements of this part to the extent that they participate in the one-stop delivery system. "Recipient" includes, but is not limited to:

1. State-level agencies that administer or are financed in whole or in part with WIOA Title I funds;
2. State Workforce Agencies;
3. State and Local Workforce Development Boards;
4. Local Workforce Development Area grant recipients;
5. One-Stop Operators;
6. Service providers, including eligible training providers;
7. On-the-Job Training (OJT) employers;
8. Job Corps contractors and center operators;
9. Job Corps national training contractors;
10. Outreach and admissions agencies, including Job Corps contractors that perform these functions;
11. Placement agencies, including Job Corps contractors that perform these functions;
12. Other National Program recipients.

- **Complainant:** a person, group, or company that makes a complaint, as in legal action.

REFERENCES

- WIOA Section 188
- [29 CFR Part 38](#), "Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act" (December 2, 2016);
- Title VI of the Civil Rights of 1964, as amended (P.L. 88-352) and USDOL regulations at [29 CFR Part 31](#);
- Title VII 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](#));
- The Rehabilitation Act of 1973, as amended (P.L. 93-112) Section 504 and regulations established by USDOL at [29 CFR Part 32](#);
- The Age Discrimination Act (P.L. 94-135) and USDOL regulations at [29 CFR Part 35](#);
- The Age Discrimination in Employment Act of 1967, as amended (P.L. 95-256) and regulations established by the U.S. EEOC ([29 CFR, Parts 1625](#) and [1627](#));
- [Title IX of Education Amendments of 1972](#), as amended (P.L. 92-318);
- [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 to be construed as exclusions.

State Laws, Executive Orders, Regulations, and Guidelines:

- The Washington Law Against Discrimination (RCW 49.60) and regulations established by the Washington State Human Rights Commission, including:
 - Pre-Employment Inquiries ([WAC 162.12](#));
 - Employment Discrimination ([WAC 162.16](#));
 - Age Discrimination in Public Employment ([WAC 162.20](#));

- Public Accommodations, Disability Discrimination ([WAC 162.26](#)); and
- Sex Discrimination ([WAC 162.30](#))
- Washington State Building Code ([RCW 19.27](#));
- Washington State Rules and Regulations for Barrier-Free Design ([Title 51 WAC](#))

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