

Workforce Innovation Opportunity Act Equal Opportunity Policy Manual

Office of Diversity and Equal Opportunity

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Alternative Formats

This manual is available in alternative format(s) upon request. To arrange to receive this guide in an alternative format, please contact Karen Lilledahl, karen.lilledahl@state.mn.us, 651-259-7089.

Introduction

This manual identifies the Minnesota Department of Employment and Economic Development's (DEED's) and its WIOA Title I recipients, including CareerForce programs, the equal opportunity and nondiscrimination obligations to ensure compliance with the nondiscrimination and equal opportunity provisions of WIOA Title I and its implementing regulations.

Each Governor must establish and adhere to a Nondiscrimination Plan (NDP) for WIOA programs. The NDP is designed to give a reasonable guarantee that all recipients will comply and are complying with the nondiscrimination and equal opportunity provisions as required under Section 188 of WIOA, 29 CFR 38.

In Minnesota, the Governor designated the DEED as the entity to implement the WIOA programs. Within DEED, the Office of Diversity and Equal Opportunity (ODEO) has been designated by DEED's Commissioner to carry out matters regarding equal opportunity and nondiscrimination.

DEED is committed to ensuring that no WIOA recipients are discriminated in any of the following areas: deciding who will be admitted or having 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 of making employment decisions in the administration of, or in connection with such a program or activity because 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, application to, or participant in programs financially assisted under Title I of the WIOA, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity. Minnesota WIOA participants also have additional protections under the Minnesota Human Rights Act.

Chapter 1: Assurances (29 CFR 38.25 through 38.27)

Summary

This chapter identifies DEED's compliance with Element 1 of the Nondiscrimination Plan which requires that recipients of Workforce Innovation and Opportunity Act (WIOA) Title I funds incorporate an assurance of nondiscrimination and equal opportunity when contracting for WIOA Title I services. Each application for financial assistance under Title I of WIOA, as defined in 29 CFR 38.4, must include the assurance.

Relevant Laws, Rules, or Policies

[Section 188 of WIOA; 29 CFR 38.25 – 38.26; 38.92](#)

[Title VI of the Civil Rights Act of 1964, as amended](#)

[Section 504 of the Rehabilitation Act of 1973, as amended](#)

[The Age Discrimination Act of 1975, as amended](#)

[Title V of the Older Americans Act of 1965](#)

[Section 508 of the Rehabilitation Act of 1973, as amended](#)

[Title I \(Employment\) Americans with Disabilities Act \(ADA\)](#)

[Title II \(State and Local Governments\) Americans with Disabilities Act \(ADA\)](#)

[Executive Order 13166](#)

[Executive Order 13160](#)

[Executive Order 13279](#)

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Policy

The assurance language of the Master Grant between the Employment and Training Programs (ETP) division of the Minnesota Department of Employment and Economic Development (DEED), the Workforce Development Areas (WDAs), and other providers, including any sub-grantees, must include language pertaining to Civil Rights obligations as required by the Director of Civil Rights of the U.S. Department of Labor. As a condition to the award of financial assistance under Title I of WIOA, as defined in 29 CFR 38.4, the grant applicant assures that it can comply and will remain in compliance with the nondiscrimination and equal opportunity

provisions of WIOA and other federal and state civil rights statutes for the duration of the award of federal financial assistance.

Standards

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.

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.

- **Accessibility** – [Section 508 of the Rehabilitation Act of 1973, as amended](#) – Requires that federally funded program providers make their electronic information and technology accessible to people with disabilities;
- **ACORN** – [Funds may not be provided](#) to the Association of Community Organizations for Reform Now, or any of its affiliates, subsidiaries, allied organizations or successors;
- **Audits** – [2 CFR 200.501](#) and [Single Audit Act Amendments of 1996](#) – Organization-wide or program-specific audits shall be performed;
- **Buy American** – Buy American Act – Award may not be expended unless the funds comply with [USC 41, Chapter 8301-8303](#)
- **Data Sharing** – [MN Government Data Practices Act](#), [MN Duties of Responsible Authority](#); [MN Administrative Rules Data Practices](#); [DEED Policy – Data Practices](#) ;
- **Disability** – That there will be compliance with [Sections 503](#) and [504 of the Rehabilitation Act of 1973](#), as amended, and the [Americans with Disabilities Act of 1990](#) as amended;
- **Equipment** – [2 CFR 200. 313](#), [200.439](#) – Must receive prior approval for the purchase of any equipment with a per unit acquisition cost of \$5,000 or more, and a useful life of more than one year;
- **Fire Safety** – [15 USC 2225a](#) – Ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act ([Public Law 101-391](#));
- **Fraud/Abuse** – That the provider has policies on fraud and abuse and will contact DEED for potential fraud and abuse issues; [20 CFR 667.630](#); [DEED Policy – Fraud Prevention and Abuse](#);
- **Health Benefits** – [Public Law 113-235, Division G, Sections 506 and 507](#) – Ensure use of funds for health benefits coverage complies with the [Consolidated and Further Continuing Appropriations Act, 2015](#);

- **Insurance** – That insurance coverage be provided for injuries suffered by participants in work-related activities where Minnesota's workers' compensation law is not applicable as required under Regulations [20 CFR 667.274](#);
- **Insurance** – [Flood Disaster Protection Act of 1973](#) – Provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in identified flood-prone communities in the United States, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within 1 year of the identification;
- **Limited English** – [Executive Order 13166](#) – Improving access to services for persons with limited English proficiency;
- **Nondiscrimination** – [Section 188 of the Workforce Innovation and Opportunity Act \(WIOA\)](#) – Which prohibits discrimination against all individuals in the United State on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (included limited English proficiency), age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship or participation in any WIOA Title I-financially assisted program or activity;
- **Nondiscrimination** – [Title VI of the Civil Rights Act of 1964, as amended](#) – Prohibits discrimination on the basis of race, color, and national origin under any program receiving federal financial assistance;
- **Nondiscrimination** – [Title VII of the Civil Rights Act of 1964, as amended](#) – Prohibits discrimination on the basis of race, color, religion, sex or national origin in employment;
- **Nondiscrimination** – [Title II of the Genetic Information Nondiscrimination Act of 2008](#) – Prohibits discrimination in employment on the basis of genetic information;
- **Nondiscrimination** – [Title V of the Older Americans Act of 1965](#) – Prohibits discrimination based on race, color, religion, sex, national original, age, disability, or political affiliation or beliefs in any program funded in part with Senior Community Services Employment Program funds;
- **Nondiscrimination** – [Title IX of the Education Amendments of 1972, as amended](#) – Prohibits discrimination on the basis of sex in educational programs;
- **Nondiscrimination** – [Title I \(Employment\) Americans with Disabilities Act \(ADA\)](#) – Prohibits private employers, state and local governments, employment agencies, and labor unions from discriminating against qualified individuals with disabilities in applying for jobs, hiring, firing, and job training;
- **Nondiscrimination** – [Title II \(State and Local Governments\) Americans with Disabilities Act \(ADA\)](#) – Prohibits qualified individuals with disabilities from discrimination in services, programs, and activities;
- **Nondiscrimination** – [Section 504 of the Rehabilitation Act of 1973, as amended](#) – Prohibits discrimination against qualified individuals with disabilities;
- **Nondiscrimination** – [Age Discrimination Act of 1975, as amended](#) – Prohibits discrimination on the basis of age;

- **Nondiscrimination** – [Title 29 CFR Part 31](#) – Nondiscrimination in federally-assisted programs of the Department of Labor, effectuation of Title VI of the Civil Rights Act of 1964;
- **Nondiscrimination** – [Title 29 CFR Part 32](#) – Nondiscrimination on the basis of disability in programs and activities receiving or benefiting from federal assistance;
- **Nondiscrimination** – [Title 29 CFR Part 33](#) – Enforcement of nondiscrimination on the basis of disability in programs or activities conducted by the Department of Labor;
- **Nondiscrimination** – [Title 29 CFR Part 35](#) – Nondiscrimination on the basis of age in programs or activities receiving federal financial assistance from the Department of Labor;
- **Nondiscrimination** – [Title 29 CFR Part 37](#) – Implementation of the Nondiscrimination and Equal Opportunity provisions of the Workforce Investment Act of 1998;
- **Nondiscrimination** – [Title 29 CFR Part 38](#) – Implementation of the Nondiscrimination and Equal Opportunity provisions of the Workforce Innovation and Opportunity Act;
- **Nondiscrimination** – [Executive Order 13160](#) – Nondiscrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in federally conducted education and training programs;
- **Nondiscrimination** – [Executive Order 13279](#) – Nondiscrimination against grant-seeking organizations on the basis of religion in the administration or distribution of federal financial assistance under social service programs, including grants, contracts, and loans;
- **Nondiscrimination** – [The Minnesota Human Rights Act of 1973, Minnesota Statutes, Chapter 363A](#) – Prohibits discrimination in employment and providing public services based on race, color, creed, religion, national origin, sex, disability, status with regard to public assistance, sexual orientation, and citizenship. Also prohibits discrimination in employment based on marital or familial status, age, and local human rights commission activity;
- **Nondiscrimination** – [The Women’s Economic Security Act \(WESA\) of 2014, Minnesota Statutes, Chapter 239](#) – Including requirements concerning, pregnancy and parenting leave, sick leave, pregnancy accommodation, wage disclosure protection, and nursing mothers;
- **Nondiscrimination** – That collection and maintenance of data necessary to show compliance with the nondiscrimination provisions and [WIOA Section 188](#), as provided in the regulations implementing that section, will be completed;
- **Opportunity** – [Executive Order 12928](#) – Encouraged to provide subcontracting/subgranting opportunities to Historically Black Colleges and Universities and other Minority Institutions and to Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals;
- **Personally Identifiable Information (PII)** – [Training and Guidance Letter 39-11](#) – Must recognize and safeguard PII except where disclosure is allowed by prior written approval of the Grant Officer or by court order;
- **Publicity** – [Public Law 89-797, Title VII, Section. 701](#) – No funds shall be used for publicity or propaganda purposes, preparation or distribution or use of any kit,

pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress or any state/local legislature or legislative body, except in presentation to the Congress or any state/local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any state or local government. Nor shall grant funds be used to pay the salary or expenses of any recipient or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations regulation, administrative action, or Executive Order proposed or pending before the Congress, or any state government, state legislature or local legislature body other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a state, local or tribal government in policymaking and administrative processes within the executive branch of that government;

- **Seat Belts** – [Executive Order 13043](#) – Increasing Seat Belt Use in the United States;
- **Text Messaging** – [Executive Order 13513](#) – Encouraged to adopt and enforce policies that ban text messaging while driving company-owned or rented vehicles while driving when on official Government business or when performing any work for or on behalf of the Government;
- **Trafficking of Persons** – [2 CFR 175.10](#) – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension – May not engage in severe forms of trafficking, procure a commercial sex act, or use forced labor in the performance of the award or subawards under the award;
- **Veteran Priority of Service** – [Public Law 107-288: Jobs for Veterans Act](#) – Priority of service for veterans (including veterans, eligible spouses, widows, and widowers of service members) in qualified job training programs;
- **Veterans** – [Public Law 112-56: Vow to Hire Heroes Act of 2011](#) – Establishes guidelines for service providers who are providing employment, training, academic, or rehabilitation services for military veterans;
- **Veterans** – That veterans will be afforded employment and training activities authorized in [WIA](#) and [WIOA](#) Section 134, and the activities authorized in [Chapters 41](#) and [42](#) of Title 38 US code, and in compliance with the veterans' priority established in the Jobs for Veterans Act. ([38 USC 4215](#)), U.S. Department of Labor, [Training and Employment Guidance Letter 5-03](#) and [Minnesota's Executive Order 06-02](#);
- **Voter Registration** – That the required voter registration procedures described in [Minnesota Statutes 201.162](#) are enacted without the use of federal funds;
- **Voter Registration** – [52 USC 20501 – 20511](#) – National Voter Registration Act of 1993.

The assurance is considered incorporated by operation of law in the grant, cooperative agreement, contract, or other arrangement whereby Federal financial assistance under Title I of the WIOA is made available, whether or not it is physically incorporated in such document.

Alternate formats are available to individuals with disabilities by calling 651-259-7094 or by emailing DEED.ODEO@state.mn.us

Chapter 2: Designation of Equal Opportunity Officer (29 CFR 38.28 through 38.33)

Summary

This chapter identifies DEED's compliance with the equal opportunity requirements of Section 188 of the Workforce Innovation and Opportunity Act (WIOA) as outlined in DEED's Nondiscrimination Plan. Element 2 in the Nondiscrimination Plan, requires that recipients of WIOA designate an Equal Opportunity (EO) Officer to ensure compliance with the nondiscrimination and equal opportunity provisions of WIOA Title I.

Relevant Laws, Rules, or Policies

[WIOA Section 188 \(29 CFR 38.28 – 38.33\)](#)

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Policy

Every Governor must designate an individual as a State-level Equal Opportunity Officer, who reports directly to the Governor and is responsible for State Program-wide coordination of compliance with the equal opportunity and nondiscrimination requirements in WIOA. The State-level EO Officer must have staff and resources sufficient to carry out these requirements.

WIOA Title I Program Providers, except for small recipients and service providers, must designate a recipient-level Equal Opportunity (EO) Officer. The EO Officer must report directly to the individual in the highest-level position of authority for the entity that is the recipient. The EO Officer is responsible for coordinating a recipient's obligations under WIOA Section 188. The EO Officer must have staff and resources sufficient to carry out the requirements of Section 188 and must investigate complaints alleging violations of the nondiscrimination and equal opportunity provisions of WIOA Title I. The EO Officer position must always be filled so if there is a change in the EO Officer position, or if there is a vacancy in the position, the recipient must notify the Office of Diversity and Equal Opportunity (ODEO), within ten (10) working days after the vacancy/change occurs.

Recipient Responsibilities (38.29)

All recipients have the following obligations regarding their EO Officers:

- Ensuring that the EO Officer is a senior-level employee reporting directly to the individual in the highest-level position of authority for the entity that is the recipient.
- Designating an individual who can fulfill the responsibilities of an EO Officer by:
 - Making the EO Officer’s name, position title, address, and telephone number (voice and TTY or relay) public.
 - Ensuring that the EO Officer’s identity and contact information appear on all internal and external communications about the recipient’s nondiscrimination and equal opportunity programs;
 - Assigning sufficient authority, staff, and resources to the EO Officer and the support of top management, to ensure compliance with the nondiscrimination and equal opportunity provisions of WIOA;
 - Ensuring that the EO Officer and the EO Officer’s staff are supported to receive (at the recipient’s expense) the training necessary and appropriate to maintain competency.

Requisite Skill and Authority of the EO Officer (29 CFR 38.30)

The individual must be a senior-level employee of the recipient who has the knowledge, skills, and abilities necessary to fulfill the EO Officer’s responsibilities competently. The EO Officer may or may not have other duties depending on the recipient’s size, the number of WIOA financially assisted programs, and the number of applicants, registrants, and participants served. The EO Officer must not have other responsibilities or activities that create a conflict or the appearance of a conflict with the responsibilities of an EO Officer.

EO Officer Responsibilities (29 CFR 38.31)

The EO Officer is responsible for coordinating a recipient’s obligations. Those responsibilities include, but are not limited to:

1. Understanding the WIOA – Section 188 and Minnesota Human Rights Act nondiscrimination regulations.
2. Serving as a recipient’s liaison with the Department of Employment and Economic Development’s (DEED) Office of Diversity and Equal Opportunity (ODEO) and the Department of Labor’s Civil Rights Center (CRC).
3. Monitoring and investigating the recipient’s activities and the activities of the entities that receive WIOA Title I-financial assistance from the recipient, to make sure that the recipient and its sub-recipients are not violating their nondiscrimination and equal opportunity obligations under WIOA Title I.
4. Monitoring the collection of data required in this part to ensure compliance with the nondiscrimination and equal opportunity requirements of WIOA.
5. Reviewing the recipient’s written policies to make sure those policies are non-discriminatory.
6. Developing and publishing the recipient’s procedures for processing discrimination complaints, including tracking the discrimination complaints filed against the recipient, developing procedures for investigating and resolving discrimination complaints filed against the recipient, and making sure the procedures are followed and available to the public in appropriate languages and accessible formats.

7. Conducting outreach and education about equal opportunity and nondiscrimination requirements consistent with Affirmative Outreach 38.40 and how an individual may file a complaint consistent with 38.69.
8. Undergoing training (at the recipient's expense) to maintain the competency of the EO Officer and staff.
9. If applicable, oversee the development and implementation of the recipient's Nondiscrimination Plan and Language Access Plan.
10. Ensuring that recipients are complying with their legal obligations related to notice and communication.
11. Ensuring the discrimination complaint procedures provide for Alternative Dispute Resolution (ADR) and Mediation.
12. Maintaining the program and discrimination complaint logs.

Small recipient Equal Opportunity Officer obligations (29 CFR 38.32)

Although small recipients, as defined in 29 CFR 38.4(hhh), do not need to designate EO Officers who have the full range of responsibilities listed in 29 CFR 38.31, they must designate an individual who will be responsible for adopting and publishing complaint procedures and for processing complaints.

This document is available in alternative formats to individuals with disabilities by calling 651-259-7094 or by emailing DEED.ODEO@state.mn.us

Chapter 3: Notice and Communication

Summary

This chapter identifies DEED’s compliance with Element 3 of the Nondiscrimination Plan which requires that recipients of Workforce Innovation and Opportunity Act (WIOA) Title I funds must provide initial and continuing notice that it does not discriminate on any prohibited basis.

Relevant Laws, Rules, or Policies

[WIOA Section 188 \(29 CFR 38\)](#)

Required CareerForce Posters

Chapter 7.1: Discrimination Complaint Policy and Procedures

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Policy

Every recipient of WIOA Title I funding must: (1) notify its customers, applicants, employees, and members of the public that it does not discriminate on any prohibited ground, and (2) notify its customers that they have an individual right to file a discrimination complaint, and (3) effectively communicate to its customers the “Equal Opportunity is the Law” notice.

Standards

29 CFR 38.35 provides that “Notice to the Public” refers to the “Equal Opportunity is the Law” poster. Through this Notice, each recipient communicates its equal opportunity policy to ensure that the public is aware of the recipient’s obligation to operate its programs and activities in a nondiscriminatory manner. All recipients or sub-recipients of WIOA funding must post the Notice in its entirety – without any editing or changes in the language.

Each recipient must use two distinct types of notification in particular circumstances specified in the WIOA nondiscrimination regulations: the “Equal Opportunity is the Law” Notice, and “taglines” and other related information. Those who must receive the Notice include applicants/registrants, participants, applicants for employment/employees, unions and

professional organizations, sub-recipients, members of the public, including individuals with disabilities, and those with limited English proficiency. (29 CFR 38.34).

Recipient Responsibilities

To meet the obligation a recipient must:

- Display the “Equal Opportunity is the Law” Notice poster, in its entirety, in reasonable numbers and places easily seen by the public and on its website.
- Disseminate and communicate policy and notice to staff and include in employee or participant handbooks regardless of format (include in both electronic and paper form if both are available).
- Communicate the “Equal Opportunity is the Law” Notice to the Public poster in the appropriate language where a significant percentage of the eligible population is made up of persons with limited English proficiency.
- Obtain a signed Notice from all participants and employees and include these Notices in participant or employee files. If the notice was provided in an alternative format, a record of that information is in the participant or employee file. NOTE: A recipient is responsible for obtaining a signed copy of the notice from online participants.
- Effectively communicate the “Equal Opportunity is the Law” Notice to persons with disabilities and other populations with special needs.
- Include the required tag lines “Equal Opportunity Employer and Service Provider” and “Auxiliary Aids or Services are available upon request to individuals with disabilities” in all relevant communications.
- Publicly identify Equal Opportunity Officers (EO Officers) and publicize their contact information.
- At every orientation session, include a discussion of individual rights under WIOA Title I nondiscrimination and equal opportunity provisions and of an individual’s right to file a complaint of discrimination.
- Provide information on an individual’s right to file a complaint to any applicant who indicates he or she may have experienced discrimination.
- Provide information on the complaint process in appropriate formats for persons with disabilities.
- In any WIOA communication that mentions how recipients can be reached by phone, the number of the recipient’s relay service must also be provided.
- Provide an opportunity for customer input and feedback (e.g. a customer feedback box in the Resource Area) and have a process for reviewing and responding to customer input.

Recipient Staff Procedures

- Listen and respond appropriately to customers who have questions.

- Know the responsible person (on-site manager and/or designee) to contact at the CareerForce location if a customer raises an issue, concern, or complaint.
- Any person wishing to make a complaint should be directed to the site manager or designee.
- If customers have complaints regarding their experiences in the CareerForce location, the manager or designee should encourage resolution at the lowest, or local level, and attempt to resolve it before it escalates to a formal complaint process. (Many times, the customer simply wants to vent or suggest an alternative, such as a customer's complaint about the time they had to wait to use a computer. The Computer Policy and Rules could be explained to the customer.)
- If the complaint is not resolved, the on-site manager or designee should help the customer navigate the complaint process.
- If a customer wants to file a complaint of discrimination, the site manager must refer the customer to the local-level EO Officer. The EO Officer has the responsibility to manage the federally required complaint processes.

Alternate formats are available to individuals with disabilities by calling 651-259-7094 or by emailing DEED.ODEO@state.mn.us

Chapter 4: Data Information Collection and Maintenance (29 CFR 38.41 - 38.45)

Summary

This chapter identifies DEED's compliance with Element 4 of the Nondiscrimination Plan which requires that recipients of Workforce Innovation and Opportunity Act (WIOA) Title I funds collect certain WIOA Title I and other related activity and equal opportunity data for program evaluation. It is the Governor's responsibility to ensure that the State is collecting and maintaining records in a manner that is consistent with the requirements under this provision.

Relevant Laws, Rules, or Policies

[WIOA, Final Rules, 20 CFR, Part 603, 651, 652 et al](#)
[Minnesota Statute Chapter 13](#)

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Policy

Recipients of Workforce Innovation and Opportunity Act (WIOA) Title I funds are required to collect demographic and other certain data for program evaluation and to determine if recipients are complying with the nondiscrimination regulations.

It is the policy of the State of Minnesota and DEED that all WIOA Title I and related services program providers follow the policies and procedures outlined in the Workforce One (WF1) system. Recipients are also required to ensure the confidentiality of customer demographics. When WIOA customers are asked to provide private or confidential data about themselves, program providers must provide the customer a "Tennessee Warning Notice/Use of Data Statement." The usage of this "Tennessee Warning Notice/Use of Data Statement" complies with the Minnesota Government Data Practices Act (M.S. 13) to give notice each time new or additional private or confidential information is requested of an individual.

Standards

The data collection system that is used must, at a minimum, collect and maintain information on the quality and quantity of services provided to applicants, registrants, eligible

applicants/registrants, participants, employees, and applicants for employment. For each person in these categories, the system must record demographic information including race/ethnicity, sex, age, and disability status, where known, the preferred language of the individual, and if they have limited English proficiency.

Asserted considerations of privacy or confidentiality are not a basis for withholding information from the Department of Labor Civil Rights Center (CRC) and will not bar CRC from evaluating or seeking to enforce compliance with the nondiscrimination and equal opportunity provisions of WIOA Title I and 29 CFR Part 38.

Recipient Responsibilities

Recipients will comply with the policies and procedures outlined in WF1 to ensure the collection of customer demographic data in WIOA Title I-financially assisted programs.

The recipient must notify and inform each WIOA customer of his or her rights relative to collecting their private data before collecting data from the WIOA customer. A "Tennessee Warning Notice" is used for this notification. The "Tennessee Warning Notice" should be in writing and staff must have the customer sign and date it. The recipient should make a copy for the customer to keep and must file the original.

WIOA customer signed/dated "Tennessee Warning Notice/Use of Data Statements" must be maintained, whether they exist in electronic form (including email) or hard copy, for not less than three (3) years from the close of the applicable program year.

Ensure that the Tennessee Warning/Use of Data Statement appropriately covers any sharing of information with other providers or agencies mentioned on the form; and if not, recipients provide an expanded version of the Tennessee and receive authorization from the customer to share their private data.

Each recipient must maintain, and submit to CRC upon request, a log of complaints filed with the recipient that allege discrimination on the bases of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIOA Title I-financially assisted program or activity.

The complaint log must include the name and address of the complainant; the basis of the complaint; a description of the complaint; the date the complaint was filed; the disposition and date of disposition of the complaint; and other pertinent information. Information that could lead to the identification of a particular individual as having filed a complaint must be kept confidential.

State's Responsibilities

The State of Minnesota and the Minnesota Department of Employment and Economic Development (DEED) are responsible for using Department of Labor (DOL) approved data management and data collection techniques. The State is also responsible for:

- Operating, maintaining, and overseeing the administration of WF1, the State's management information system (MIS) where WIOA Title I data is maintained.
- Maintaining the security of the system in coordination with MNIT.
- Updating the WF1 system as necessary to maintain compliance with applicable laws and requirements.
- Providing reports from WF1.
- Monitoring recipients to ensure compliance with this provision.

Related

See Chapter 3: Notice and Communication for Tennessen warnings (Data Privacy Notice)

Alternate formats are available to individuals with disabilities by calling 651-259-7094 or by emailing DEED.ODEO@state.mn.us

Chapter 5.0: Affirmative Outreach (29 CFR 38.40)

Summary

This chapter identifies the Minnesota Department of Employment and Economic Development's (DEED) compliance with Element 5 of the Nondiscrimination Plan, which requires that recipients of Workforce Investment and Opportunity Act (WIOA) Title I funds conduct affirmative outreach for all WIOA Title I-financially assisted programs and activities.

Relevant Laws, Rules, or Policies

[WIOA Section 188 \(29 CFR 38\)](#)

Effective Date

January 2, 2017

Last Updated

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Policy

State and local-level recipients must conduct affirmative outreach to ensure that they are providing equal access to their WIOA Title I-financially assisted programs and activities. Affirmative outreach means ensuring that an equivalent level of information regarding aid, benefits, services, and training is provided to all populations of eligible participants. 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.

Recipient Responsibilities

WIOA Section 188 requires recipients to designate an Equal Opportunity (EO) Officer to conduct affirmative outreach including collecting and monitoring equal opportunity data to ensure compliance with this part.

1. EO Officers must conduct affirmative outreach to members of the various groups protected by these regulations to ensure that recipients are providing equal access to their WIOA Title I-financially assisted programs and activities.
2. Conduct a survey or assessment of the eligible population to address the affirmative outreach requirement.
3. Develop outreach to broaden participation in those groups where the assessment

indicated a need.

4. Develop recruitment plans and employment pools in those groups the organization is underutilized in employment.
5. Identify WIOA partners, outreach media, methods; and develop recommendations for outreach strategies, service strategies, labor market strategies, and performance standards for WIOA programs.
6. Establish procedures for listing job openings and available program or service opportunities that reach the maximum numbers of the local service area population.
7. Develop relationships with community organizations that reach the members of the local service area that are protected under these regulations.
8. Ensure staff awareness of the outreach plan through training and orientation.
9. Demonstrate compliance with affirmative outreach requirements with supporting documentation, which may include copies of plans for targeting, outreach, and recruitment (state or local level); copies of criteria for determining priority of service; copies of One-Stop operators' universal access plans; samples of brochures, posters, or public service announcements.
10. Efforts to ensure affirmative outreach may include but are not limited to:
 - Advertising 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.
 - Consulting with appropriate community service groups about ways in which the recipient may improve its outreach and service to various populations.
 - Conduct data analysis to ensure compliance with this part.

State Responsibilities

1. Communicate affirmative outreach obligations to all local-level EO Officers.
2. Determine how recipients have made, and will continue to make, efforts to ensure affirmative outreach.
3. Determine how the state will monitor and evaluate the success of its recipients' affirmative outreach efforts.

Alternate formats are available to individuals with disabilities by calling 651-259-7094 or by emailing DEED.ODEO@state.mn.us

Chapter 5.1: Serving Individuals with Disabilities (38.12-38.17)

Summary

This chapter identifies DEED's compliance with Chapter 5 of the Nondiscrimination Plan, which requires that recipients of Workforce Innovation and Opportunity Act (WIOA) Title I funds comply and continue to comply with the requirements in 29 CFR 38, the regulations implementing Section 188 of WIOA, and the requirements of Section 504 and 508 of the Rehabilitation Act of 1973, as amended.

Relevant Laws, Rules, or Policies

[WIOA Section 188 \(29 CFR 38\)](#)

[Rehabilitation Act of 1973 \(Section 504\)](#)

[ADA Title I](#)

[ADA Title II](#)

[Rehabilitation Act of 1973 \(Section 508\)](#)

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Policy

All recipients of WIOA Title I funds have an affirmative obligation not to discriminate based on disability. The overarching principle of federal disability nondiscrimination law is that people with disabilities must be treated as individuals, not based on assumptions and stereotypes about their disabilities. All recipients of WIOA Title I funds are prohibited from discriminating in the registration for and the provision of aid, benefits, services, or training, including core, intensive training, and support services, based on disability. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of, or in connection with, any such program or activity, based on disability. Under this principle, recipients are required to focus on the skills, strengths, and abilities of a particular customer or employee with a disability, and to provide reasonable accommodations/modifications and the auxiliary aids and services that the customer or employee needs to utilize their skills, strengths, and abilities. Recipients should not focus on the limitations caused by the customer's or employee's disability.

The programs, services, products, and activities of DEED, including programs or services that are funded by DEED, including WIOA Title I funds, must be accessible to individuals with disabilities. In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990, as amended (ADA), Section 188 of WIOA, and the Minnesota Human Rights Act.

Discrimination Provisions

All recipients of WIOA Title I funds are prohibited from discriminating based on disability. This includes in the registration for, and in the process of providing any aid, benefit, service, or training under a WIOA Title I-financially assisted program or activity, directly or through contractual, licensing, or other arrangements. The following is prohibited:

- Denying a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, service, or training, including meaningful opportunities to seek employment and work in competitive integrated settings.
- Providing a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, service, or training that is not equal to that provided to others.
- Providing a qualified individual with a disability with any aid, benefit, service, or training that is not as effective in affording equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement as that is provided to others.
- Providing different, segregated, or separate aid, benefit, service, or training to individuals with disabilities or any class of individuals with disabilities, unless such action is necessary to provide qualified individuals with disabilities with any aid, benefit, service, or training that is as effective as those provided to others, and consistent with the requirement of the Rehab Act as amended by WIOA, including those provisions that prioritize opportunities in competitive integrated employment.
- Denying a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards; or otherwise limiting a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity employed by others receiving any aid, benefit, service, or training.
- Aiding or perpetuating discrimination against people with disabilities by providing significant assistance to an agency, organization, or person that discriminates based on disability in providing any aid, benefit, service, or training to registrants, applicants, or participants.
- Denying an individual with a disability participation in WIOA programs or activities despite the existence of permissibly separate or different programs or activities.

Note: An individual with a disability is not required to accept an accommodation, aid, benefit, service, training, or opportunity that such an individual chooses not to accept.

Accessibility Requirements

Physical Accessibility - Recipient's facilities must be accessible and useable by individuals with disabilities. Recipients subject to Title II of the ADA – must follow the ADA Standards for

Accessible Design or the Uniform Federal Accessibility Standards. Some recipients may be subject to additional accessibility requirements under Title III of the ADA.

Programmatic Accessibility - All WIOA Title I –financially assisted programs and activities must be programmatically accessible, which includes:

- Providing reasonable accommodations for qualified 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.
- Providing appropriate auxiliary aids or services free of charge, including assistive technology devices and services, where necessary so individuals with disabilities have an equal opportunity to participate in, and enjoy the benefits of the program or activity.
- Allowing service dogs to accompany people with disabilities in all areas of the facility where the public is normally allowed to go.

Reasonable Accommodations and Reasonable Modifications for Individuals with Disabilities - A recipient must provide reasonable accommodations to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment unless providing the accommodation would cause undue hardship.

Communications with Individuals with Disabilities - A recipient must take appropriate steps to ensure that communications with individuals with disabilities, such as beneficiaries, registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employee, members of the public, and their companions are as effective as communications with others.

Definitions

Auxiliary Aids and Services - A recipient must furnish appropriate auxiliary aids and services where necessary to individuals with disabilities and their companions. The type of auxiliary aid or service necessary will vary with the method of communication used by the individual.

Examples include qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, relay services, videotext displays, qualified readers, taped texts, audio recordings, Brailled materials or displays, screen reader software, magnification software, acquisition or modification of equipment or devices, etc.

Direct Threat - A significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.

Effective Communication – A recipient must take steps to ensure all communications with applicants for services, participants, members of the public with disabilities, and their companions with disabilities are as effective as communication with those without disabilities.

Interpreters - A recipient must not require an individual with a disability to bring another individual to interpret for them, nor rely on an adult accompanying an individual with a disability to interpret or facilitate communication except:

1. In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available, or
2. When the individual with a disability specifically requests that an accompanying adult interpret or facilitate communication.
3. A recipient must not rely on a minor child to interpret or facilitate communication, except in an emergency.

Qualified Individual with a Disability - An individual with a disability who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

Recipient - A recipient is an entity to which financial assistance under Title I of WIOA is extended, directly from the U.S. Department of Labor or through the Governor or another recipient. In instances in which a Governor operates a program or activity either directly or through a State agency, using discretionary funds appropriated to the Governor, the Governor is also a recipient. One-stop partners (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 Title I. Recipients also include, but are not limited to:

- State-level agencies that administer, or are financed in whole or in part with, WIOA Title I funds;
- State Workforce Agencies;
- State and Local Workforce Development Boards;
- LWDA grant recipients;
- One-stop operators;
- Service providers, including eligible training providers;
- On-the-Job Training (OJT) employers;
- Job Corps contractors and center operators;
- Job Corps national training contractors; Outreach and admissions agencies, including Job Corps contractors that perform these functions;
- Placement agencies, including Job Corps contractors that perform these functions;
- Other National Program recipients.

Service Animal - A dog, or miniature horse, that is individually trained to do work or perform tasks for a person with a disability. Other species of animals are not service animals for this definition. The work or tasks performed by a service animal must be directly related to the handler's disability.

Video Remote Interpreting (VRI) - A recipient that chooses to provide qualified interpreters via VRI service must ensure that it provides real-time, full-motion video and audio over a dedicated high-speed wide-bandwidth video connection or wireless connection that delivers high-quality video images.

Grievance Procedure

Each recipient must establish a grievance procedure to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination based on disability in the provision of services, activities, programs, or benefits by recipients, including workforce development programs. The WIOA complaint process is also available to individuals. See Chapter 7.1 Discrimination Complaint Procedure.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The grievant and/or designee should submit the complaint as soon as possible but no later than 60 calendar days after the alleged violation to the individual assigned the ADA Coordinator responsibilities for the local workforce development area (LWDA).

Complaints that a recipient's program, service, or activity is not accessible to persons with disabilities can also be sent to via email to DEED.ODEO@state.mn.us or by postal mail to Karen Lilledahl, Diversity and Equal Opportunity Office, Great Northern Building, 180 East Fifth Street, St Paul, Minnesota 55101-1678, by phone at 651-259-7089; or by fax at 651-297-5343.

Within 15 calendar days after receipt of the appeal, the ADA Coordinator or EO Officer will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the ADA Coordinator or Equal Opportunity Officer will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

If the response by the LWDA ADA Coordinator or the LWDA EO Officer does not satisfactorily resolve the issue, the complainant and/or designee may appeal the decision within 15 calendar days after receipt of the response to the State-level EO Officer in DEED's Office of Diversity and Equal Opportunity. Heather Stein can be reached at 651--259-7094 or heather.stein@state.mn.us.

Within 15 calendar days after receipt of the appeal, the ODEO Director or their designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the ADA Coordinator or their designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by DEED's ADA Coordinator or their designee, appeals to the Director of the Office of Diversity and Equal Opportunity, and responses from these two offices, will be retained by the DEED for at least three years.

Alternate formats are available to individuals with disabilities by calling 651-259-7094 or by emailing DEED.ODEO@state.mn.us

Chapter 5.2: Providing Language Access (29 CFR 38.9 and Appendix to 38.9)

Summary

This chapter identifies DEED's compliance with Chapter 5 of the Nondiscrimination Plan and the nondiscrimination regulations which requires that recipients of Workforce Investment and Opportunity Act (WIOA) Title I funds provide information and services in languages other than English when a "significant number or proportion" of persons to be served are individuals with limited English.

Relevant Laws, Rules, or Policies

Section 188 of WIOA [29 CFR 38](#)

Appendix to [29 CFR 38.9](#) – Guidance to Recipients

Effective Date

1/2/2017

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Policy

It is the policy of DEED to ensure equal access to WIOA Title I services for limited English and non-English speaking customers. All recipients of WIOA Title I funds have an affirmative duty to take reasonable steps to provide services and information in languages other than English so that limited English proficient (LEP) individuals are effectively informed about and/or can participate in the program or activity.

Standard

Each LWDA shall collect the preferred language of each customer in Workforce One. Each LWDA shall also designate a Language Assistance Coordinator and develop a Language Access Plan or guidance and training to assist staff in providing meaningful access to LEP individuals.

Local Areas are required to take reasonable steps to ensure that LEP individuals have meaningful access to their programs and activities. Reasonable steps may include, but are not limited to the following:

- Conducting an assessment of an LEP individual to determine their language assistance needs.
- Providing oral interpretation or written translation of both hard-copy and electronic materials, in the appropriate non-English languages, to LEP individuals when requested.
- Conducting outreach to LEP communities to improve service delivery in needed languages.

Examples of reasonable steps for providing meaningful access to training programs may include but are not limited, to providing written training materials in appropriate non-English languages by translation, oral interpretation, or summarization.

Local Areas should make sure that every program delivery method, whether it be in person, electronic, or by phone, conveys in the appropriate language how an LEP individual may effectively learn about, participate in, and/or access any aid, benefit, service, or training available to them. As new methods for the delivery of information or assistance are developed, Local Areas are required to take reasonable steps to ensure that LEP individuals remain able to learn about, participate in, and/or access any aid, benefit, service, or training available to them.

Recipient Responsibilities

Programmatic Access

A recipient must take reasonable steps to ensure meaningful access to information about services, and programs, or so that individuals can participate in programs or activities by providing language access. Recipients should include information in their local area plans on what reasonable steps they have identified to ensure meaningful access. Reasonable steps may include, but are not limited to:

1. An assessment of an LEP individual to determine language assistance needs.
2. An oral interpretation or written translation of both hard copy and electronic materials in the appropriate non-English languages; and
3. Written training materials offered or used within employment-related training programs as defined under § 38.4(t) are excluded from these translation requirements. The vital information these training materials contain can be provided to LEP participants by oral interpretation, summarization during the training program itself, or other reasonable steps. However, recipients must still take reasonable steps to ensure meaningful access to training programs as stated in the regulations.
4. Consideration of LEP individuals in developing new methods of delivering information or assistance.
5. Outreach to LEP communities to improve service delivery.
6. Convey every program delivery avenue (electronic, in-person, telephonic) in appropriate languages so that an individual may effectively learn how to participate in or access any aid, benefit, service, or training the recipient provides.

Reasonable steps may be affected by:

1. The scope of the program and activity, and
2. The size and concentrations of non-English speaking populations that need services or information in a language other than English.

Interpretation and Translation

1. Recipients must provide language assistance services (whether oral or written), and such services must be:
 - Accurate;
 - Provided in a timely manner; and
 - Free of charge.

Note: Language assistance is considered timely when it is provided at a time and place that ensures equal access and avoids the delay or denial of any aid, benefit, services, or training at issue.
2. Recipients must also provide adequate notice to LEP individuals of the existence of interpretation and translation services and that these language assistance services are free of charge.
3. A recipient may not require an LEP individual to provide their own interpreter nor may a recipient rely on an LEP individual's minor child or adult family or friend to interpret or facilitate communication except:
 - In emergencies while waiting for a qualified interpreter; or
 - The accompanying adult (not minor child) may interpret when the information conveyed is of minimal importance to the services to be provided or when the LEP individual specifically requests the accompanying adult to provide language assistance and the accompanying adult agrees to do so.
 - The recipient must make a note in the LEP individual's records of the decision to use their own interpreter.
4. Where precise, complete, and accurate interpretation or translation of information is critical for adjudicatory or legal reasons, or where the competency of the interpreter requested by the LEP individual is not established, a recipient may decide to provide its own independent interpreter, even if the LEP individual wants to use their own interpreter as well.
5. If LEP interpreter/translator services are required, determine the location and availability of persons in the local service area who are fluent in more than one language to provide services and information in other languages.

Conveying Vital Information (Babel Notice)

1. For languages spoken by a significant number or portion of the population eligible to be served, or likely to be encountered, a recipient must:
 - Translate vital information in written materials into these languages and make the translations readily available in hard copy, upon request, or electronically such as on a website.

Note: Written training materials offered or used within employment-related training programs are excluded from these translation requirements, but reasonable steps must be taken to ensure meaningful access.

2. For languages not spoken by a significant number of the population eligible to be served or likely to be encountered, a recipient must take reasonable steps to meet the particularized language needs of LEP individuals who seek to learn about, participate in, and/or access services or training that the recipient provides. If vital information is not translated it must be conveyed orally by the recipient. CFR 38.9(g)(2)
3. Recipients also must include a “Babel Notice” indicating in appropriate languages that language assistance is available in all communications of vital information, such as hard copy letters of decisions or those communications posted on Websites.

Language Access Plan

Recipients should develop a written language access plan to ensure that LEP individuals have meaningful access.

Notice

Post Notice to the Public, “Equal Opportunity is the Law,” in a location that is accessible to the customer.

Display the Notice in appropriate languages in a location that is accessible to the public. The Notice is available in English, Hmong, Laotian, Russian, Chinese, Somali, Spanish, and Vietnamese.

Alternate formats are available to individuals with disabilities by calling 651-259-7094 or by emailing DEED.ODEO@state.mn.us

Chapter 6.0: Oversight and Monitoring (29 CFR 38.51 and 38.53)

Summary

This chapter identifies DEED's compliance with Chapter 6 of the Nondiscrimination Plan and the nondiscrimination regulations which provide that every State Governor must establish one or more systems for annually monitoring the compliance of each recipient's WIOA Title I-financially assisted programs and activity for compliance with the equal opportunity provisions of Section 188 of WIOA.

Relevant Laws, Rules, or Policies

[WIOA Section 188 \(29 CFR 38\)](#)

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Policy

Each Local Workforce Development Area (LWDA) recipient and sub-recipient of WIOA Title I funds must conduct regular oversight and monitoring of its WIOA activities and the activities of its contracted service providers. Minnesota's Department of Employment and Economic Development (DEED) has oversight responsibility to ensure recipients are monitoring for compliance with the nondiscrimination and equal opportunity obligations in WIOA Title I.

DEED's Responsibilities

The Governor designated the Department of Employment and Economic Development (DEED) as a recipient of WIOA funds. As such, DEED is required to:

- Develop policies, procedures, and tools for equal opportunity monitoring requirements of WIOA-funded programs including any State workforce development program.
- Develop a system of policy communication and training to ensure that LWDA Equal Opportunity (EO) Officers and other recipient staff who have been assigned responsibilities under the nondiscrimination and equal opportunity provision of WIOA, are aware of, and can effectively carry out their responsibilities.
- Conduct oversight and monitoring of LWDA recipients on an annual basis to ensure that recipients are carrying out their monitoring obligations.

Local Area Recipient Responsibilities

Each recipient's Equal Opportunity Officer is responsible for ensuring that local monitoring takes place on an annual basis. Each equal opportunity monitoring review must include a review of each subrecipients:

- Compliance with its administrative obligations under WIOA and EO, such as the designation of EO Officers, assurances, notice, affirmative outreach, and serving individuals with disabilities.
- Compliance with responsibilities has been assigned through the Nondiscrimination Plan.
- Programs and activities to determine if discrimination is occurring.
- A statistical or other quantifiable analysis of records and data, including analyses by race/ethnicity, limited English proficiency, preferred language, sex, age, and disability status.
- An investigation of any significant differences identified by the statistical or quantifiable analysis, in participation in the programs, activities, or employment provided by the recipient, to determine whether these differences appear to be caused by discrimination. This investigation must be conducted through a review of the recipient's records and any other appropriate means.
- An assessment to determine whether the recipient has fulfilled its administrative obligations under Section 188 of WIOA (such as recordkeeping, notice, and communication) and any duties assigned to it under the Nondiscrimination Plan.
- Policy communication and training to ensure that Equal Opportunity Officers and other relevant staff members are aware of and can effectively carry out their regulatory responsibilities.
- Review of the recipients' job training plans, contracts, assurances, and other similar documents and agreements to ensure that they are both nondiscriminatory and contain required language regarding nondiscrimination and equal opportunity.

Monitoring Procedures

LWDA recipients should follow DEED's guidance and use DEED's tools or assessments in conducting site reviews and EO monitoring. Monitoring the compliance of a recipient or sub-recipient of WIOA Title I funds is comprised of three parts:

- Pre-onsite monitoring activities by the monitoring team and the Local Workforce Development Area (LWDA) EO Officer;
- Monitoring activities to include onsite monitoring visits and site accessibility reviews for site recertification (every 3 years) and review of statistical analyses provided; and
- Report and maintain records of all monitoring activities and follow up where necessary.

Alternate formats are available to individuals with disabilities by calling 651-259-7094 or by emailing DEED.ODEO@state.mn.us

Chapter 6.1: Corrective Actions and Sanctions (29 CFR 38.52)

Summary

This chapter identifies DEED's compliance with Element 6 of the Nondiscrimination Plan which requires that recipients of Workforce Innovation and Opportunity Act (WIOA) Title I funds establish procedures for carrying out corrective actions and applying sanctions, if needed, to ensure that recipients are complying and will continue to comply with the requirements of 29 CFR 38.52.

Relevant Laws, Rules, or Policies

WIOA Section 188 (29 CFR 38)

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Policy

The State of Minnesota and its Department of Employment and Economic Development (DEED) are committed to nondiscrimination as recipients of WIOA Title I federal financial funding. WIOA Title I program providers who violate their prescribed equal opportunity procedures, who do not comply with WIOA Final Rules and Regulations (29 CFR 38), or who are otherwise in violation of equal opportunity requirements, will be required to submit a written corrective action plan within thirty (30) days after a determination that there is reasonable cause to believe a violation has occurred. If necessary, if the recipient fails or refuses to correct a violation, sanctions may be imposed to ensure the resolution of any non-compliance. To the extent that corrective action is not completed, and compliance has not been achieved, DEED may impose sanctions that could include the suspension, termination, denial, or discontinuance of WIOA Title I financial assistance, in whole or in part.

Responsibilities

DEED's Employment & Training Programs (ETP) division, in consultation with DEED's Office of Diversity and Equal Opportunity (ODEO), provides oversight as it relates to WIOA Title I program providers and equal opportunity procedures within the Local Service Employment and Training Plan. Recipients of WIOA funding are responsible for actions taken, directly or indirectly, by service providers. It is expected that recipients will monitor their service providers

and request corrective and remedial actions to correct any violations or deficiencies of WIOA Section 188 and 29 CFR 38. Recipients of WIOA funding must:

- Establish and implement procedures for resolving compliance problems either by achieving voluntary compliance or by imposing sanctions for violations that are not voluntarily corrected.
- Institute follow-up monitoring procedures to ensure that commitments to take corrective and remedial action are being fulfilled.
- Periodically review EO policies and the rate at which they serve significant population segments to ensure compliance with WIOA Title I Section 188.

Remedial action can include either:

- Retroactive relief (e.g., back pay, front pay, retroactive benefits, training, any service discriminatorily denied, etc.);
- Prospective relief (e.g. change of policy, training, development of new policy, training on policy, communication);
- or both.

Note: Any monetary relief cannot be paid from federal funds.

Taking corrective action requires identifying the violations(s) that must be corrected:

- Technical violations (such as a failure to include the required language in assurances or failure to include tag lines in a communication).
- Discrimination violations (include findings of disparate treatment, disparate impact, and failure to provide reasonable accommodations).

Procedures

Corrective action is required from a recipient when there is probable cause to believe a violation of the nondiscrimination and equal opportunity requirements of WIOA section 188 has occurred. Corrective actions and sanctions intend to guarantee equal access to all programs, activities, and employment opportunities provided by WIOA financially assisted organizations and to ensure that discrimination does not recur.

A WIOA Title I program provider that violates Equal Opportunity requirements is required to submit a corrective action plan in writing within thirty (30) days to DEED. If corrective action plans are not submitted to DEED within that time frame, staff will provide technical assistance. However, if within sixty (60) days, an acceptable plan has not been submitted to the State, or if the corrective action has not been voluntarily completed, DEED will sanction funds.

Corrective action requirements:

- Must be designed to completely correct each violation;
- Should be appropriate and reasonable given the violation(s) that occurred (such as re-issuing the communication in question with a tagline included).
- Establish a time frame that sets the minimum time necessary to completely correct the

violation.

- Follow-up monitoring procedures to ensure that commitments to take corrective and remedial action are being fulfilled.

To correct a *discrimination violation*, appropriate corrective action may be to provide “make-whole” relief, that is, bringing the person to the condition he or she would be in if the discrimination had not occurred. Such relief might involve retroactive relief (including but not limited to back pay and benefits), and prospective relief (e.g., front pay, training, policy development, communication, or any service discriminatorily denied).

Documentation that corrective actions and prospective relief plans are being implemented and maintained is required. A written agreement or assurance should be provided to document the corrective action taken and the prospective relief that is planned where a technical violation has been (or can be) corrected immediately.

Retroactive relief: to include but not limited to back pay, front pay, retroactive benefits, training, and any service discriminatorily denied. Note: Any monetary relief cannot be paid from federal funds.

Prospective relief: curative and preventive steps voluntarily taken to ensure that a violation does not re-occur in the future. It may occur by:

- Changing policy, practice, or procedure that allowed for the violation;
- Developing a new policy;
- Communicating a change in policy;
- Educating/training those responsible for implementing the revised procedures;
- An explanation that the communication was reissued with the tag lines added.

Conciliation Agreements: in the case of a more serious violation, or of a deficiency/violation that cannot be corrected immediately a detailed written assurance, or Conciliation Agreement, is to be negotiated. The agreement must:

- Be in writing;
- Describe each violation;
- Specify the corrective or remedial action needed to come into compliance;
- State the time period in which the corrective or remedial action must be completed;
- Be sufficient in scope to ensure that the violation(s) will not recur;
- Institute periodic reporting by the recipient on the status of the corrective and remedial action;
- Institute enforcement procedures to be applied if the agreement is breached.

Sanctions must be imposed by the state when all attempts to assist in effective voluntary correction of a violation have failed, or it is apparent that the recipient fails or refuses to correct the violation within the timeframe established. The sanction taken to correct a violation should be appropriate and reasonable given the violation. Sanction procedures must:

- List the measures taken to achieve voluntary compliance up through the point when sanctions are imposed;
- Explain that the severity of the noncompliance will determine the sanctions imposed;
- Provide a table or listing of the potential sanctions that may be imposed;
- Detail the notification process including rights of the respondent, time frames involved, and provisions for a hearing;
- Identify the individuals who have responsibility for carrying out the various steps in the sanctions process and the role of the State-level EO Officer and local EO Officer in this process.

Reporting Allegations of Discrimination

On the day a WIOA Title I Program Provider is informed of the filing of an allegation or lawsuit charging discrimination that in any way involves a WIOA Title I program or personnel funded by WIOA Title I in any municipal, county, or district court, or with a local or State Human Rights Unit, a telephone report giving the details available must be made to the WIOA State-level EO Officer at 651.259.7097. This phone call must be followed with an immediate written report including a copy of the official documents of the case as soon as they come into the possession of the WIOA Title I Program Provider. The WIOA State-level EO Officer will immediately notify the Department of Labor (DOL), and the Civil Rights Center (CRC), of the complaint of discrimination.

Full available details must be immediately forwarded to the:

- Director, Office of Civil Rights, U.S. Department of Labor, Room N4123, 200 Constitution Avenue NW, Washington DC 20210

Further reports must be made to DOL as the case develops and/or is concluded.

- Office of Diversity and Equal Opportunity, State-level EO Officer, Minnesota Department of Employment and Economic Development, Great Northern Building, 180 East Fifth Street, 12th Floor, St. Paul, MN 55101.

Alternate formats are available to individuals with disabilities by calling 651-259-7094 or by emailing

DEED.ODEO@state.mn.us

Chapter 7.1: Discrimination Complaints (29 CFR 38.69 - 38.97)

Summary

This policy sets procedures for handling verbal and written discrimination complaints and applies to all recipients of WIOA Title I funds.

Relevant Laws, Rules, or Policies

[29 CFR 38](#)

[MN Stat. 363A.02](#)

DEED WIOA Policy Manual Chapter 7.2 Program Complaints

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Policy

It is the policy of the Minnesota Department of Employment and Economic Development (DEED) to assure nondiscrimination and equal opportunity (EO) in the operation and administration of all programs, services, benefits, and activities. All recipients must comply with the complaint procedures for handling verbal and written discrimination complaints set forth below.

Applies to

- Recipients include, but are not limited to:
- State-level agencies that administer or are financed in whole or in part with WIOA Title I funds
- State Workforce Agencies (Unemployment Insurance (UI))
- State and Local Workforce Development Boards (WDBs)
- Local Workforce Development Area (LWDA) grant recipients
- One-Stop Operators
- Providers of services and benefits, or training funded or authorized under WIOA, including eligible training providers
- On-the-Job-Training (OJT) employers
- Job Corps contractors and center operators, excluding the operators of federally operated Job Corps centers
- Job Corps national training contractors

- Outreach and admissions agencies, including Job Corps contractors that perform these functions
- Placement agencies, including Job Corps contractors that perform these functions
- One-Stop partners to the extent that they participate in the One-Stop delivery system

Complaint Filing

Any person who believes that he or she, or any specific class of individuals, has been or is being subjected to discrimination prohibited by WIOA may file a written complaint, either by themselves or through a representative with the recipient or the Department of Labor (DOL) - Civil Rights Center (CRC). Examples of who may file:

- Applicant/registrant for aid, benefits, services, or training
- Eligible applicants/registrants
- Participants
- Employees
- Applicants for employment
- Service providers or eligible service providers (the organization involved may be attributed a racial, national origin, or other characteristic entitled to protection under WIOA).

Complaint Types

The majority of WIOA complaints can be determined to be either a:

1. Discrimination Complaint, which is processed according to WIOA/CRC regulations, or a
2. Program Complaint, which is processed according to the Department of Labor (DOL) Employment and Training Administration's (ETA) regulations. NOTE: See Policy 7.2: Program Complaints.

A complaint of discrimination may be filed as a:

1. Individual Complaint - filing by one individual alleging that they have been or is being subjected to discrimination.
2. Class Action Complaint - filing by one or more individuals alleging discrimination not only against themselves but also against a group of similarly situated individuals (must have the signed consent of all individuals in the complaint.)
3. Third Party Complaint - filing by a group or individual alleging discrimination against another group or individual (must have the signed consent of all individuals involved.)

Timing of Complaint

Any individual who believes that they have been discriminated against has the right to file a complaint. The complaint must be submitted in writing within one hundred eighty (180) days of the alleged violation. Extension of the one hundred eighty (180) days filing time may be granted by the Director of the CRC for good cause shown by the complainant.

WIOA Jurisdiction

Establishing jurisdiction under WIOA:

- The respondent (agency/service provider) is a WIOA recipient as defined in 29 CFR 38.
- The complaint was filed within the required 180-day period, or the Director of CRC has granted an extension waiver; and
- The complaint issue (basis) is covered under section 188 of WIOA Title I.

Handling Jurisdiction (29 CFR 38.1)

- *Dual Jurisdiction* - When the complaint alleges discrimination on a basis that is prohibited by WIOA Title I and a Civil Rights Act enforced by a federal grant-making agency other than the DOL, such as the Department of Education (DOE), then CRC and the grant-making agency have dual jurisdiction over the complaint. When dual jurisdiction occurs, the CRC Director or the WIOA Title I program provider will refer the complaint for processing to the grant-making agency responsible for the implementation.
- *Sole Jurisdiction* - Where the complaint alleges discrimination on a basis that is prohibited by WIOA section 188 but not by any civil rights laws enforced by a federal grant-making agency, then the CRC has sole jurisdiction over the complaint. In this case, the CRC or the recipient will retain the complaint and process it according to 29 CFR Part 38.

Determining the type of jurisdiction

- Identify the alleged action of discrimination;
- Identify the entity (program or activity) in which the alleged discriminatory decision/action occurred;
- Identify the primary source of federal financial assistance of the entity against which the complaint is filed;
- Establish whether the basis of the alleged discrimination involves one or more of the protected bases such as race, sex, national origin, color, disability or age, religion, or political affiliation;
- Establish whether the allegation(s), if true, would violate WIOA Title I section 188 or any of the following: Title VI; Title IX; Section 504; The Americans with Disabilities Act of 1990, as amended; or the Age Discrimination in Employment Act.

Determination of no jurisdiction

If the WIOA Title I program provider determines it has no jurisdiction over a complaint, it must immediately send the complainant a written "Notice of Lack of Jurisdiction." The WIOA Title I program provider must include in the document the reason(s) for the determination and notice that the complainant has a right to file a complaint with the CRC within 30 days of receiving the Notice of Lack of Jurisdiction.

Non-WIOA Title I Complaint: If a complaint is determined to be a non-WIOA Title I complaint, such as on a non-prohibited basis, the complaint is processed by the procedures approved by the non-WIOA Title I funding authority. See 20 CFR Subpart F, 667.600(a)(b).

Federal and State Requirements

Section 188 of the Workforce Innovation and Opportunity Act (WIOA) prohibits discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries, applicants, and participants only, on the basis of citizenship status, or participation in any WIOA Title I-financially assisted program, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any WIOA Title I-financially assisted program or activity.

Minnesota State Law prohibits discrimination on the personal characteristics covered under WIOA and on the basis of creed, marital status, status with regard to public assistance, familial status, or sexual orientation (M.S. 363A.08; M.S. 363A.12).

A written policy must be in place setting forth the complaint resolution procedures prescribed by the regulations, including how the complaint processing procedures are made available to individuals with disabilities.

Each WIOA program provider must develop, publish, and maintain a complaint procedure regarding program services and discrimination.

Responsibilities of Local Workforce Development Area (LWDA) EO Officer

- Ensuring the complaint processing procedures are implemented.
- Ensuring complainants are provided notice of their rights, including the rights: to representation, to present evidence, to question information provided by others who present evidence, and to file with the CRC when they are not satisfied with an agency's decision.
- Ensuring complainants are provided a copy of this "Discrimination Complaint Policy and Procedures."
- If the complainant chooses Alternative Dispute Resolution (ADR), make certain the arrangements for ADR are completed in a timely fashion, including enough time to complete an investigation if ADR is unsuccessful.
- Ensuring that staff who interact with the public are aware of and properly implement the complaint procedures.
- Ensuring that persons, organizations, and agencies have notice that they may not discharge or retaliate in any manner against any person because that person filed a complaint, instituted any proceeding related to the Act, testified, or is about to testify, in any proceeding or investigation, or has provided information or assisted in an investigation.

Discrimination Complaint Procedures

Verbal Discrimination Complaint

- An applicant/participant's first attempt at resolution of a discrimination issue should be to make a verbal complaint at the local level. An oral attempt at resolution should take place before filing a written complaint. Note: if a complainant bypasses the local level and files a complaint of discrimination with the State-level EO Officer, the complaint

may be referred to the local level.

- Upon receipt of a verbal discrimination complaint, an impartial member of staff should be designated to investigate the issue(s) and meet with the complainant so that, if possible, an appropriate resolution can be achieved. Note: the complainant is encouraged to attend the meeting, but the complainant's failure to do so should not preclude the complainant's right to request a hearing on the subject.
- The complainant must be advised of his or her rights, including the right: to representation, to present evidence, to question others who present evidence, and to file a complaint with the CRC when not satisfied with the agency's decision.
- If the complaint is mutually resolved at the verbal level, the staff member must: (1) write a brief report for the file stating the issues and resolution. The matter will then be considered closed.
- If the complaint is unresolved at the verbal level, the Local Workforce Development Area (LWDA) EO Officer will review the submitted allegation. If the complaint has apparent merit - that the allegation, if true, would violate a WIOA prohibited basis, the complainant must be directed to submit a written complaint for the complaint to proceed to the next step.

Written Discrimination Complaint

The complainant may file a written discrimination complaint with the:

- WIOA Title I local program provider and Local EO Officer;
- State-level EO Officer; or
- Director, Civil Rights Center
- The complainant may file directly with the State-level EO Officer, however, in most cases, the complaint will be referred to the local level for a decision before accepting it at the state level.
- Should the complainant opt to file directly with the CRC, staff shall assist the complainant, if requested, in completing the Complaint Form. For those individuals not requesting assistance, staff shall provide the necessary complaint forms, addresses, etc.
- DEED's Complaint Form (linked below) may be used when filing a complaint with the local-level EO Officer, the State-level EO Officer, or the CRC. However, a complainant is not required to use the written discrimination complaint form as long as he or she provides all necessary information.

The written complaint must be signed, dated, and contain:

- Complainant name/address and phone number or other means of contact;
- Individual/entity the complainant alleges is responsible for the discrimination;
- A written statement of the allegations in sufficient detail to determine whether:
- The complaint is covered as applicable under CRC or another jurisdiction;
- If other proceedings have commenced or have been concluded, including the dates, authorities, and other pertinent information;
- The complaint is timely filed;
- The complaint has apparent merit ("apparent merit" signifies that the allegation of discrimination if proven to be true, would violate WIOA regulations. Note: there is no

apparent merit if the allegation of discrimination does not reference a basis prohibited under WIOA Title I Section 188).

- In the event the complainant is unable to put the complaint in writing, an alternative method of obtaining written documentation from the complainant must be pursued and may include assistance by agency staff or the complainant's representative.
- All written complaints, concerns, or issues alleging discrimination must be reported to the State-level EO Officer.
- All written complaints, concerns, or issues alleging discrimination must be reported on the local Discrimination Complaint Log.
- The State-level EO Officer must promptly notify the CRC when any administrative enforcement actions or lawsuits are filed against it alleging discrimination.

Local EO Officer Review/Investigation

- Upon receipt of a written complaint, an initial written notice must be provided to the complainant that contains:
- Acknowledgment that the recipient has received the complaint;
- Notice that the complainant has the right to be represented in the complaint process;
- A written statement of the issue(s) that includes:
 - A list of the issues raised in the complaint, and
 - For each such issue, a statement about whether the recipient will accept the issue for investigation or reject the issue, and the reason(s) for each rejection, such as lack of jurisdiction, untimely, or no basis for discrimination.
- An "impartial decision-maker" is required to investigate and process complaints. The person investigating the case must not be the person who has allegedly committed the adverse action against the complainant.
- Upon receipt of a written complaint, notice must be provided to the complainant that he/she, as a means of resolving the complaint, has the right to choose between Alternative Dispute Resolution or investigation.

Alternative Dispute Resolution (ADR)

- ADR is a confidential process that encourages open communication and allows disputes to be resolved in a less adversarial manner.
- The local EO Officer will provide information and mediation resources regarding ADR to parties requesting this method of resolving discrimination complaints.
- The choice of whether to use ADR or the investigation process rests with the complainant. NOTE: If the complainant chooses ADR, the State-level EO Officer is still obligated to review internal processes to determine if corrective action is needed to safeguard against potential future inequities.
- The complainant must inform the local EO Officer within five (5) days of his/her choice between ADR and the investigatory process.
- It is not mandatory that the parties agree.

If the complainant's choice is ADR, the local EO Officer will:

- Choose an impartial mediator who is a neutral and impartial third party, acceptable to

both parties, and will assist the parties in resolving their dispute.

- Determine the location of the ADR;
- Schedule the date and time of ADR;
- Notify both parties of the ADR location, time, and date;
- Develop a consent form to be signed by all parties at the initiation of the ADR process affirming that the contents of the mediation will be kept confidential and that both parties agree not to involve the mediator in any litigation; and
- Document the agreed-upon resolution.

ADR results

If a resolution/settlement is achieved through ADR, the mediator will prepare a settlement agreement that includes a description of how the parties resolved the issue. This agreement becomes the "Documentation/Notice of Final Action." The parties will be asked to sign the agreement and a copy of the signed agreement will be given to the parties. The agreement must contain the names of the parties; the date of the agreement; any time limits; and the terms of the agreement. Note: There should be no other written record or other recording made of the meeting, except as required on the complaint log.

In the event the settlement agreement is breached, the non-breaching party may file a complaint directly with the CRC within 30 days of the date on which the non-breaching party learns of the alleged breach. If the CRC Director determines that the agreement has been breached, the complainant may file a complaint with CRC based upon his/her original allegation(s), and the Director will waive the time deadline for filing such a complaint.

If no satisfactory resolution is attained through ADR:

- The WIOA Title I program provider must issue a written notice to the complainant that includes a clear concise statement of the issues and the length of time, manner, and place (address) in which an appeal against this decision may be filed.
- The complainant may, within ninety (90) days of the initial filing of the written complaint at the WIOA Title I program provider level, request the local EO Officer to resume the investigatory process.
- Time permitting, the local EO Officer will, within ninety (90) days of the initial filing of the written complaint, conduct the investigation and issue a decision.
- If time will not allow the investigation to be completed at the local level, a complaint may (1) be filed with the State-level EO Officer to conduct the investigation or (2) be filed directly with the CRC.
- The complainant may file a complaint with the CRC Director.

Investigative track

Provide a statement that if the complainant chooses the investigatory process, the complainant is entitled to a decision, or Notice of Final Action, within ninety (90) days after initial receipt of the written complaint. If the local level fails to provide a Notice of Final Action within ninety (90) days, the complainant may contact the State-level EO Officer.

If the complainant's choice is the investigatory process, the Local EO Officer will begin the investigation. The investigator is required to:

- Prepare and maintain a complete file on the case.
- Acknowledge the complaint by sending a letter to the complainant and correspond with the complainant as required.
- Provide notice to all parties who have a legitimate interest in the complaint.
- Keep the identity of every complainant confidential to the greatest extent possible.
- An individual whose identity must be disclosed must be protected from retaliation.
- Perform an investigation. The local EO Officer can and should attempt to negotiate a resolution of the issue at any time before the conclusion of the investigation.
- Decide on as to the substance of the allegation and suggest remedial action if necessary. Decisions should be made strictly based on the evidence gathered.
- Provide a Notice of Final Action to the complainant within ninety (90) days of the date on which the complaint was filed.
- The local EO Officer will gather details from the complainant and the respondent regarding specific background and action(s) surrounding the allegation and take statements from those individuals identified by the complainant and the respondent.
- The complainant and the respondent will be given an opportunity to question the information of others who present evidence.
- The local EO Officer will review the initial findings orally with the complainant. This will allow the complainant to provide additional information or clarification.
- The local EO Officer must issue a written Notice of Final Action (decision), transmitted to the complainant, within forty (40) days of the date on which the complaint was filed. This 40-day requirement is intended to allow for an appeal to the State-level EO Officer, and if appealed, provide the DEED EO Officer forty (40) days to review, investigate, and issue its Written Notice of Final Action (resolution) within the regulatory ninety (90) days of the date on which the complaint was filed.

The Notice of Final Action must contain:

A clear and concise statement of the issues.

For each issue raised in the complaint, a statement of either:

- The recipient's decision on the issue and an explanation of the reasons underlying the decision based on the material and the applicable section of WIOA Section 188 and/or its regulations; or
- A description of the way the parties resolved the issue.
- Findings of fact based strictly on the evidence gathered during the investigation.
- Conclusion(s) based on the findings of fact.
- Notification that the complainant has a right to appeal to the State-level EO Officer within ten (10) days of the date the decision was issued at the local level if he/she is dissatisfied with the final action. This notification must also indicate how and where to appeal the decision and that the appeal must be in writing.
- Notification that the complainant has a right to appeal to the CRC within thirty (30) days

of the date the local-level decision was issued if he/she is dissatisfied with the final action. This notification must also indicate how and where to appeal the decision to the CRC.

Note: Throughout the investigation, the local EO Officer should attempt to resolve the complaint.

State-level EO Officer Decision

A complainant may file an appeal with the State-level EO Officers if:

1. The complainant is dissatisfied with the local EO Officer's decision; or
2. The ADR process was unsuccessful, and the complainant appealed to the State-level EO Officer to investigate; and
3. The complainant submits an appeal to the State-level EO Officer within ten (10) days of the date the decision was issued at the local level.

Local EO Officer responsibilities for the appeal process shall include, but are not limited to providing DEED with:

- A completed copy of the complaint file; and
- A copy of any investigative finding.

All appeals to DEED must contain the following information:

- The name, address, and telephone number of the person making the complaint;
- The name and address of the respondent (the individual/entity) against whom the complaint is made;
- A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.

The State-level EO Officer shall:

- Promptly log and initiate a review or investigation of the complaint.
- Provide notice to all parties of the specific charges.
- Inform both parties of their right to present evidence.
- Provide for an impartial decision.
- Within ninety (90) days of the date the appeal is received at the department level, perform one of the following:
- Issue a Written Notice of Lack of Jurisdiction;
- Refer the complainant to another federal grant-making agency for investigation where there is dual jurisdiction; or
- Issue a Written Notice of Final Action (resolution).
- Copies of the State-level Equal Opportunity Officer's resolution shall be sent to the complainant and the local Equal Opportunity Officer. This resolution will contain a synopsis of the facts, reasons for the decision, and remedy if applicable.

Complaint to Director, Civil Rights Center (CRC)

The complainant or their representative may file a complaint with the Director of the CRC within thirty (30) days if:

1. The State-level EO Officer issues a Written Notice of Lack of Jurisdiction. In this case, the thirty (30) days are counted from the date of receipt of the notice.
2. The State-level EO Officer issues and the complainant is not satisfied with, the decision in the Written Notice of Final Action. In this case, the 30 days is counted from the date of receipt of the notice.
3. State-level EO Officer fails to issue a Written Notice of Lack of Jurisdiction, a Written Notice of Final Action, or a referral to another federal grant-making agency for investigation in case of dual jurisdiction, by the end of 90 days (this is the combined time allowed at both the local and state levels) after receipt of the complaint. In this case, the 30 days to file an appeal with the CRC is counted at the end of the initial 90-day period.
4. An ADR process fails to produce an agreement. In this case, the thirty (30) days are counted from the date on which the ADR process terminates.
5. A party to an agreement breaches the agreement. In this case, thirty (30) days are counted from the date the complainant learns of the alleged breach.

The complaint filed with the CRC should contain:

1. The full name, address, and telephone number of the person making the complaint.
2. The full name, address, and telephone number of the respondent against whom the complaint is made.
3. A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.
4. Where known, the provisions of WIOA Title I, regulations, grant, or other agreements under WIOA Title I are believed to have been violated.
5. A statement disclosing whether proceedings before any federal, state or local authority involving the subject of the complaint have been commenced or concluded, and if so, the date of such commencement or conclusion, and the name and address of the authority.
6. A statement of the date the complaint was filed with DEED and the date on which DEED should have issued a decision.

A complaint will be considered to have been filed when the CRC receives from the complainant a written statement sufficiently precise to evaluate the jurisdiction of the complaint. Only the CRC Director may extend the complainant's thirty (30) day complaint timeframe and an extension will only be allowed if the complainant shows good cause that merits the extension.

Contact Information for Filing a Complaint

State-level EO Officer

Heather Stein, State-level WIOA EO Officer

Minnesota Department of Employment and Economic Development

First National Bank Building
332 Minnesota Street, Suite E200
St. Paul, MN 55101-1351
651-259-7097
Heather.Stein@state.mn.us

Or

Department of Labor, Civil Rights Center (CRC)

Director, Civil Rights Center
U.S. Department of Labor
200 Constitution Avenue NW
Room N-4123
Washington, DC 20210
202-693-6500
TTY: 1-800-877-8339
FAX: 202-693-6506 Attn: Office of External Enforcement (limit of 15 pages)
CRCEXternalComplaints@dol.gov

Complaint Log/Retention

Each program provider must maintain and submit to the State-level EO Officer a log of complaints alleging discrimination. All complaints, whether processed by investigation or ADR, must be entered on DEED's "WIOA Title I Discrimination Complaint Log."

All records regarding complaints and actions taken on complaints (including logs) must be maintained by the local EO Officer for a period of not less than six (6) years from the date of the resolution of the complaint (Minnesota Statute 16C.05 subd. 5).

Notice to the Public

Per WIOA Final Rules and Regulations (29 CFR 38), a recipient must provide initial and continued notice that it does not discriminate on any prohibited ground. "Notice to the Public" posters are available on DEED's policy website and are available in English as well as in Chinese, Hmong, Laotian, Russian, Somali, Spanish, and Vietnamese. See WIOA EO Policy Manual Chapter 3 – Notice and Communication.

Alternate formats are available to individuals with disabilities by calling 651-259-7094 or by emailing DEED.ODEO@state.mn.us

Chapter 7.2: Program Complaints

Summary

This chapter identifies DEED's compliance with Element 7.2 of the Nondiscrimination Plan, which requires that recipients of Workforce Innovation and Opportunity Act (WIOA) Title I funds establish and maintain a procedure for grievances and complaints. These WIOA program complaint procedures account for DEED's responsibilities.

Relevant Laws, Rules, or Policies

[20 CFR 667.610](#)

[29 CFR 38](#)

[Minnesota State Statutes: Section 16C.05, Subdivision 5](#)

Effective Date

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November 1, 2022

Contact

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Policy

DEED, local area, and direct recipients of funds under WIOA Title I will establish and maintain a procedure for program grievances and complaints in accordance with the procedures set forth below.

Legal Federal Requirements

WIOA Final Rules and Regulations - 20 CFR 667.600 through 667.645, mandate that each local area, State, and direct recipient of funds under WIOA Title I:

1. Establish and maintain a procedure for grievances and complaints according to the requirements of the section;
2. Provide information about the content of the grievance and complaint procedures to participants and other interested parties affected by the local Workforce Development System, including CareerForce partners and service providers;
3. Make reasonable efforts to ensure the content of the grievance and complaint procedures are understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals.

Timing

WIOA Title I (Adult, Dislocated Worker, Youth) program complaints are generally filed by an applicant/participant at the local level with the WIOA Title I program provider.

- A complaint must be filed within one year of the alleged occurrence.
- The complaint should be resolved at the local level within sixty (60) days of the filing of the complaint or grievance.
- If the complaint has not been resolved at the local level, or the local level fails to issue a decision within sixty (60) days, the complainant has sixty (60) days to appeal to the State/DEED level.
- If the State fails to issue a decision within sixty (60) days, or if the complainant is dissatisfied with the State's decision, and if the complainant is receiving federal funds, the State's decision, or lack thereof, may be appealed beyond the State level to the Secretary of Labor.

Note: The 60-day period is the time allowed for the WIOA Title I Program Provider to resolve or issue a decision at the local level regarding a program complaint. If the WIOA Title I Program Provider sub-contracts to another WIOA Title I Program Provider the 60 days must be met collectively at the local level.

Program Complaint Procedures

A WIOA Title I program complaint contains only a program issue. It is processed as a program complaint under the Employment and Training Regulations (20 CFR 667.600). When the complaint concerns discrimination (including both program issues and a prohibited basis/factor), the Equal Opportunity Officer (EOO) must be advised of the existence of the complaint. A discrimination complaint is processed under 29 CFR 38. See WIOA EO Policy Manual 7.1 Discrimination Complaints.

Verbal (Informal) Program Complaint

The WIOA Program Complaint Procedures address complaints regarding only the operation of the WIOA Title I program.

1. An informal attempt at resolution should take place at the local level before the filing of a formal written complaint. The WIOA Title I Equal Opportunity (EO) Officer is designated by the State as the responsible entity for WIOA Title I Program complaint resolution at the local level.
2. Upon receipt of a complaint, the LWDA EO Officer should meet with the complainant and/or the complainant's representative to discuss the issue.
3. The LWDA EO Officer reviews the case and its facts before a meeting with the complainant so that an appropriate resolution can occur if possible.

Note: Although the complainant should be encouraged to attend the meeting, the complainant's failure to do so should not preclude the complainant's right to request a hearing on the subject.

If there is a mutually satisfactory resolution to which all parties agree, the LWDA EO Officer should write a brief report for the file stating the issues and resolution. The matter will then be considered closed.

If a resolution does not result from the informal procedure, the complainant will be provided a hearing, upon the complainant's request, within the sixty (60) day period allowed for the resolution of the complaint. The complaint must be submitted in writing to the LWDA EO Officer for the complaint to move forward.

Written (Formal) Program Complaint

A WIOA Title I written program complaint may be filed at the WIOA Title I Program Provider level within one year of the alleged occurrence. In the event the complainant is unable to provide a written statement, an alternative method of obtaining written documentation from the complainant shall be pursued, which may include assistance from agency staff or the complainant's representative. See below for a link to the WIOA Title I Program Complaint Form.

A WIOA Title I program complaint may be submitted in other formats as long as the written complaint contains the following:

1. Complainant name, address, and phone number;
2. Basis of the complaint; and
3. Brief written statement of the allegation(s).

The written complaint must be signed and dated by the complainant or the complainant's representative.

Upon receipt of a written program complaint by a complainant or the complainant's representative, the LWDA EO Officer:

1. Logs the complaint on the WIOA Title I Program Complaint Log (linked below), and
2. Sends a copy of the complaint to the Office of Diversity and Equal Opportunity (ODEO).

Records Retention

All records regarding complaints and actions taken on complaints (including logs) must be maintained for not less than six (6) years from the date of the resolution of the complaint (Minnesota Statutes, Section 16C.05, Subd. 5).

Local Decision

- A local decision must be rendered within sixty (60) days of the date the complaint was filed.
- A hearing before an impartial hearing officer shall be provided (upon request of the complainant) within the sixty (60) days allowed for resolution. Choose an impartial mediator who is a neutral and impartial third party, acceptable to both parties, and will assist the parties in resolving their dispute.
- The hearing should:
 - Avoid unnecessary technicalities (e.g., legal requirements that would be appropriate in court proceedings).
 - Provide the flexibility to adjust to the circumstances presented.
 - Give full regard to the requirements of due process to ensure a fair and impartial

hearing.

- The hearing officer:
 - Commences the hearing by summarizing the record, the issues, and the way the hearing will be conducted.
 - Ensures that everyone involved understands the proceedings (explanations are to be adapted to the needs of the specific situation).
 - Takes testimony under oath or affirmation to assure the veracity of the hearing.
 - The burdens of proof are to be reasonable, flexible, and depend upon the circumstances of the case involved.
 - The hearing officer determines the order of proof.

Generally, the party making the complaint is obligated to establish his or her case, and the party's information should be given first to explain the basis of their complaint.

The hearing officer must obtain the fullest information for the record. If the parties involved, or their representatives, do not know how to ask the right or pertinent questions, to ensure their right to due process, the hearing officer must step in to elicit all material and relevant facts.

Each LWDA EO Officer must provide the following elements in the hearing process:

1. Both the complainant and respondent (program staff) must receive timely written notice of the hearing. At a minimum, the written notice shall state:
 - a. Date, time, and location of the hearing;
 - b. Name and address of the hearing officer;
 - c. The purpose of the hearing and a statement of the issue(s) to be heard;
 - d. The importance of attending the hearing and the disadvantage of not attending;
 - e. Complainant's rights in the process, including the rights to present testimony, to bring witness and records, to be represented, and to present oral arguments;
 - f. Advice about where further information or assistance can be obtained. This should include an address and/or phone number of a person who can answer inquiries; and
 - g. Information on the complainant's right to appeal the local decision. (See Step 4 below.)
1. The hearing site shall be in a location accessible to all parties.
2. The complainant has an opportunity to:
 - a. Withdraw the hearing request in writing before the scheduled hearing.
 - b. Request rescheduling and the WIOA Title I Program Provider reserves the right to reschedule the hearing for reasonable cause.
 - c. Be represented by an attorney or other representative of the complainant's choice throughout the complaint process.
3. The hearing officer:
 - a. Can attempt to negotiate a resolution of the issue at any time before the conclusion of the hearing.
 - b. Prepares and submits to all parties a written decision on each complaint.*The decision must include a statement indicating the complainant's right to appeal the local decision.

Note: The local decision can be appealed if there is no decision reached within sixty (60) days or if either party is dissatisfied with the local decision. The State has sixty (60) days to investigate and to issue a decision.

DEED (State) Decision

If the WIOA Title I program complaint has not been resolved at the WIOA Title I Program Provider level, the Employment & Training Programs (ETP) division, upon receiving an appeal from the complainant, reviews the complaint and documentation, conducts an investigation, and upon completion, offers a resolution.

Note: Non-WIOA Title I program complaints shall be submitted to the non-WIOA Title I funding source. Only WIOA Title I program complaints can be appealed to the DEED WIOA EO Compliance Manager.

A complainant may file an appeal with the WIOA EO Compliance Manager if:

1. The complainant is dissatisfied with the WIOA Title I Program Provider decision, or
2. The WIOA Title I Program Provider failed to issue the administrative decision within sixty (60) days of the complaint filing date.

WIOA Title I Program Provider responsibilities in the appeal process shall include, but are not limited to:

- Provide DEED with a completed copy of the complaint file and a copy of the hearing decision. This information is to be forwarded to DEED upon notice that the appeal request has been received and accepted for review by DEED.

Note: A WIOA Title I Program Provider may also appeal a decision using the same procedures as an individual complainant.

All appeals to DEED must contain the following information:

1. Name, address, and telephone number of the person making the complaint.
2. Name and address of the respondent against whom the complaint is made; and
3. A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.

An appeal must be filed within sixty (60) days of the WIOA Title I Program Provider's decision to be accepted for review and a decision made by DEED. If no decision is provided by the WIOA Title I Program Provider within sixty (60) days of the date the complaint was filed, the complainant has sixty (60) days to appeal to DEED. (A total of 120 days from the date the complaint was first filed.) Appeals received outside this time frame risk not being processed.

State (DEED) appeals are to be forwarded to:

Karen Lilledahl, WIOA EO Compliance Manager
Minnesota Department of Employment and Economic Development

1st National Bank Bldg., E200
322 Minnesota Street
St. Paul, MN 55101
651-259-7097

If the complainant was not provided an opportunity for a hearing at the local level, the hearing will be scheduled by the DEED EO Officer.

The DEED EO Officer will issue a decision within sixty (60) days of the date the appeal is received at the Department level. Copies of the decision will be sent to the complainant and the WIOA Title I Program Provider. The decision will contain:

1. Synopsis of the facts,
2. Reason(s) for the decision,
3. Remedy as applicable, and
4. Statement explaining further appeal rights to the Secretary of Labor if the WIOA Title I complainant is receiving federal funding.

Note: Non-federally funded complainants do not have appeal rights beyond the State level. The State's decision is considered final.

Secretary (DOL) Appeal

A WIOA Title I complainant who receives federal funds can appeal to the Secretary of Labor if the State fails to issue a decision within sixty (60) days from the receipt of the appeal, or (2) a party wishes to appeal an adverse decision.

Note: applicants/participants receiving federal funds have appeal rights beyond the State level with a program complaint. Applicants/participants receiving state funds have no appeal rights beyond the State level with a program complaint.

Appeals to the Secretary of Labor contesting an adverse decision must be filed within sixty (60) days of the receipt of the decision being appealed. Appeals must be made within 120 days of the filing of the complaint with the State or the filing of the appeal of a local complaint with the State where the State fails to issue a decision within sixty (60) days.

Appeals to the Secretary of Labor must be submitted by certified mail, return receipt requested, to:

Secretary
U.S. Department of Labor
Washington, D.C. 20210
Attention: ASET

A copy of the appeal must be simultaneously provided to:

Byron Zuidema
Regional Administrator
U.S. Department of Labor
230 South Dearborn Street
Chicago, Illinois 60604

and

Karen Lilledahl, WIOA EO Compliance Manager
Minnesota Department of Employment and Economic Development
1st National Bank Bldg., E200
322 Minnesota Street
St. Paul, MN 55101

Alternate formats are available to individuals with disabilities by calling 651-259-7094 or emailing
DEED.ODEO@state.mn.us