**EQUAL OPPORTUNITY**

**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)](https://www.law.cornell.edu/cfr/text/29/38.28)

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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.

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