

October 18, 2000

**Workforce Investment Act Memorandum Number E&T 00-05**

- Topic:** Equal Opportunity
- Subject:** Designation of Local Equal Opportunity Officer for the WIA
- Purpose:** To establish requirements for the designation of an Equal Opportunity Officer by all sub-state recipients
- Reference:**
- A. Section 188 of Workforce Investment Act
  - B. Code of Federal Regulations 29 CFR Part 37
  - C. Tennessee Department of Labor and Workforce Development's WIA Methods of Administration

**Background:** Section 188 of the Workforce Investment Act (WIA) contains the non-discrimination provisions of WIA. This section prohibits discrimination of several targeted populations with respect to WIA.

On Friday, November 12, 1999, pursuant to the Workforce Investment Act, the U. S. Department of Labor (USDOL) issued final regulations (29 CFR Part 37) which implement the nondiscrimination and equal opportunity provisions of WIA.

These regulations mandate the designation of an Equal Opportunity Officer (E. O. Officer) for state and local recipients. In the case of small recipients, as defined in Section 37.4 of 29 CFR Part 37, instead of an E.O. Officer, an individual must be designated to be responsible for developing and publishing complaint procedures, and also for processing the complaints explained in sections 37.76 through 37.79.

With regard to service providers, it is the responsibility of the LWIA grant recipient to ensure compliance with the nondiscrimination provisions of WIA.

The state WIA Equal Opportunity Officer is Tom Epperson, Tennessee Department of Labor and Workforce Development, 4<sup>th</sup> floor, Andrew Johnson Tower, 710 James Robertson Pkwy., Nashville, Tennessee, 37243-0658; telephone (615) 741-3944; TDD (615) 532-2879

**Definitions:** For the purpose of this policy, the following definitions apply.

- A. *Recipient:* Any entity to which financial assistance under WIA Title I is extended (either directly from the Department or through the Governor or from another recipient, including, any successor, assignee, or transferee of a recipient, but excluding

the ultimate beneficiaries of the WIA Title I-funded program or activity).

“Recipient” includes, but is not limited to:

1. State level agencies that administer, or are financed in whole or in part with WIA Title I Funds.
2. State employment security agencies
3. State and local Workforce Investment Boards
4. LWIA grant recipients
5. One-Stop operators
6. Service providers, including eligible training providers
7. On-the-job training (OJT) employers
8. Job Corps contractors and center operators, excluding operators of federally operated Job Corps centers
9. Job Corps national training contractors
10. Outreach and admissions agencies, including Job Corps contractors that perform these functions
11. Placement agencies, including Job Corps contractors that perform these functions
12. Other national program recipients.

In addition, for purposes of this memorandum, One-Stop partners, as defined in Section 121(b) of WIA, are treated as “recipients,” and are subject to the nondiscrimination and equal opportunity requirements of this memorandum to the extent that they participate in the one-stop delivery system.

B. *Small Recipient*--A recipient who:

1. Serves a total of fewer than 15 beneficiaries during the grant year, and
2. Employs fewer than 15 employees on any given day during the grant year.

C. *Service Provider*: Any operator of, or provider of aid, benefits, services, or training.

1. Any WIA Title I funded program or activity that receives financial assistance from or through any state LWIA grant recipient, or
2. Any participant through that participant’s Individual Training Account (ITA)
3. Any entity that is selected and/or certified as an eligible provider of training services to participants.

**Instructions:** All recipients, other than a small recipient or service provider as defined herein, will designate an Equal Opportunity Office to coordinate responsibilities set forth in 29 CFR part 37, pursuant to Section 188 of the Workforce Investment Act.

The E.O. Officer will serve as liaison with USDOL's Civil Rights Center. Also, the E.O. Officer will serve as the point of contact for the recipient's personnel regarding WIA nondiscrimination. E.O. Officers will monitor the recipient's activities and review policies to ensure compliance. The E.O. Officer will adopt, publish, and oversee the recipient's procedures for processing discrimination complaints.

Recipients are required to provide sufficient staff and resources to the E.O. Officer to ensure compliance with the nondiscrimination provisions of WIA.

The responsibilities of E.O. Officer are not limited to those cited above. Each recipient is required to adhere to the obligations and responsibilities as outlined in sections 37.25 through 37.28 of 29 CFR Part 37.

Each recipient shall make public the name, address, title of position, and telephone number of its Equal Opportunity Officer. In addition, this information must be provided to the current state WIA E.O. Officer.

In order to inform the state of your designee, please provide the requested information on the attached questionnaire.

**Contact:** Inquiries regarding this policy should be directed to Tom Epperson, WIA Equal Opportunity Officer, or Susan Cowden, Director for Employment and Training Section, at (615) 741-1031 or (TDD) (615) 532-2879.

**Effective Date:** July 1, 2000.

**Expiration Date:** Until superseded or changed.

RLM/SKC/TEE

**Attachment:** Equal Opportunity Officer Data Questionnaire

# WIA EQUAL OPPORTUNITY OFFICER DATA QUESTIONNAIRE

Please provide the requested information below to:

Tom Epperson,  
WIA Equal Opportunity Officer  
Andrew Johnson Tower, 4<sup>th</sup> Floor  
710 James Robertson Parkway  
Nashville, TN 37243-0658

1. Please identify your EOO.

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2. Provide the classified job title of the EOO.

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3. Please state whether the EOO position is fulltime.

(a) If designated person is less than a full-time EOO, you are required to provide an explanation and justification for such.

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4. Please list the job duties and responsibilities of the EOO.

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5. Does the EOO report directly to the top official in your organization on EO matters?

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6. Describe unrelated EO duties, carried out by the EOO.

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7. Where is the organizational location of the EOO within your agency?

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8. Please provide a complete mailing address and telephone number(s), including e-mail address for the EOO.

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9. What level of resources and staff is being provided to the EOO?

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10. What methods are being used to make known the identity of your EOO to the public at large, and to current and potential participants?

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11. Does your EOO's identity and contact information appear on all internal and external communication regarding equal opportunity and nondiscrimination?

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12. Please describe the methods you use to make sure that the identity of the EOO is known to applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment, as well as interested members of the public.

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October 18, 2000

## **Workforce Investment Act Memorandum Number E&T 00-06**

**Topic:** Equal Opportunity

**Subject:** Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act

**Purpose:** To provide uniform procedures for filing complaints alleging violations of the nondiscrimination and equal opportunity provisions of Workforce Investment Act (WIA)

**Reference:** Section 188 of the Workforce Investment Act and the Code of Federal Regulations (CFR) 29, Part 37

**Background:** The Civil Rights Center (CRC) of the United States Department of Labor (USDOL) has been authorized by the Assistant Secretary for Administration and Management to monitor and enforce all nondiscrimination and equal opportunity regulations regarding programs receiving financial assistance from USDOL, including Section 188 of WIA.

**Instructions:** All Local Workforce Investment Areas and recipients (as defined in 29 CFR Part 37) are required to adopt and publish procedures contained in this policy memorandum for processing complaints, which allege violations of the nondiscrimination and equal opportunity provisions of WIA.

The Equal Opportunity Officer (EOO) or the designated person has as one of his/her specific responsibilities the publication and adoption of these procedures to ensure that the procedures are followed.

- A. It is the responsibility of the LWIA grant recipient to develop and publish on behalf of its service providers the required procedures contained in this policy.
- B. The EOO, on behalf of the LWIA, must maintain a log of complaints that have been filed with it that allege discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIA Title-I financially assisted program or activity.

The log must include:

Name and address of complainant

Basis for the complaint

Description of the complaint

Date the complaint was filed

Disposition of the complaint; and  
Other pertinent information.

All information that could lead to the identification of a particular individual having filed a complaint must be kept confidential.

NOTE: For co-located offices, the Employment Security Division of the Department of Labor & Workforce Development maintains a similar regulation. We would suggest combining these efforts (WIA/Wagner-Peyser) where one format is used for each center. We have attached the form used by the Employment Service Division to accommodate the objective discussed in part B.

C. The complaint processing procedure must include:

Acknowledgement that the complaint has been received  
Notification of the right to be represented  
Written list of issues raised  
An issue statement from the recipient regarding  
acceptance/rejection of the issue for investigation  
Period of time for fact finding and/or investigation  
Period in which resolution will be attempted  
Methods available to resolve the complaint must include  
an Alternative Dispute Resolution and a  
Written Notice of Final Action.

D. A person wishing to file a complaint must be made aware that he/she has a choice of where to file the complaint. They may file with the LWIA/designated person, state EOO, or the Director of CRC.

E. The state EOO will be notified of all complaints filed with local EOOs and designated persons.

In addition, the state EOO will be notified of any administrative enforcement actions or lawsuits filed against LWIAs and/or other recipients who allege discrimination with regard to WIA.

**Contact:** Questions regarding these provisions should be directed to Susan Cowden, Director for Employment and Training Section, at (615) 741-1031.

**Effective Date:** July 1, 2000

**Expiration Date:** Until superseded or changed.

RLM/SKC/TEE

ATTACHMENT

# WORKFORCE INVESTMENT ACT (WIA)

## Statement of Policy

### NONDISCRIMINATION AND EQUAL OPPORTUNITY PROVISIONS

Section 188 of the Workforce Investment Act prohibits discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, and status of a lawfully admitted immigrant authorized to work in the United States.

#### Complaint Processing

1. **Authorization:** The Director of the Civil Rights Center (CRC) has the authority to receive and investigate complaints alleging a violation of the Nondiscrimination and Equal Opportunity provisions of the Workforce Investment Act and/or Code of Federal Regulations (CFR) 29, Part 37.
2. **Who May File A Complaint?** Any person, who believes that either he/she or any specific class of individuals has been or is being subjected to discrimination, which is prohibited by WIA, may by him/herself or by a representative file a written complaint.
3. **Where To File?** The complaint may be filed either with the Local Workforce Investment Area (WIA) recipient or the Director of CRC.
4. **When To File A Complaint?** A complaint must be filed within 180 days of the alleged violation. The Director of CRC may extend the time period for good cause.
5. **Right to Representation:** Both the complainant and the respondent have the right to be represented by an attorney or other individual of their choice.
6. **Contents of Complaint--**
  - (a) All complaints must be in writing.
  - (b) Complaints must be signed by the complainant or his/her authorized representative.
  - (c) The complaint must contain the name, address, telephone number, and any other means of contacting the complainant.
  - (d) The respondent must be clearly identified.
  - (e) A detailed description of the complainant's allegations must be recorded.

- (1) A determination will be made, based on the description, with regard to jurisdiction, whether CRC or the recipient has jurisdiction.
    - (2) The recipient will issue a statement for each allegation indicating whether it will be accepted for investigation, or rejected.
    - (3) A reason must be given for each rejected allegation.  
There must be a period of time set aside for investigation and/or fact finding regarding the circumstances underlying the complaint.
  - (f) There must be a period of time in which the recipient attempts to resolve the complaint.
    - (1) Alternative dispute resolution (ADR) is mandated to be a part of the resolution process.
    - (2) The complainant must be given the choice of using the customary process or the use of ADR.
    - (3) In the event of a breached agreement (under ADR), the non-breached party may file a complaint with the Director of CRC, within 30 days of the date on which the non-breaching party learns of the alleged breach.
  - (g) A Notice of Final Action (written) is provided the complainant within 90 days of the date on which the complaint was filed. The following information shall be contained therein:
    - (1) Recipient's decision regarding each allegation, and an explanation thereof; or
    - (2) A description of the way the parties resolved the allegations.
    - (3) Notice that the complainant has the right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is issued, if he/she is dissatisfied with the recipient's final action.
7. **Adopted Complaint Procedure:** This procedure provides a clear, orderly, expedient compliant process through which employees registrants/applicants of WIA Title-I financially assisted entities file complaints of alleged discrimination.
- (a) Each entity may develop its own form. All forms must comply explicitly with the policies and procedures set forth in WIA Memorandum No. E&T00-6, and this document.  
A complainant may file a complaint by completing and submitting CRC's Complaint Information and Privacy Act Consent Forms.
  - (b) Each written complaint must contain all the elements in item #6, (a) through (g)(3).
  - (c) The EOO must give notice to the complainant and/or recipient regarding the right of representation (by an attorney or other individual).  
The EOO must maintain a signed statement regarding the right of representation, in each compliant file.

- (d) The EOO will maintain a high level of confidentiality at all times during the processing of complaints of discrimination.
- (e) The EOO will provide written acknowledgment to the complainant that the complaint has been received.
- (f) A written statement of the issues raised in the complaint will be provided to the complainant.
  - For each issue it must be stated that the issue will be accepted or rejected for investigation.
- (g) A thirty-day period from the date of receipt of the complaint will be set aside for investigation and/or fact-finding.
  - This period of time can be extended only if it agreed to by the complainant, in writing. If the EOO finds that more time is needed and it is not agreeable to the complainant, he/she will document the need for the extra time and proceed with what has been accumulated up to that time.
- (h) Fifteen days beyond the thirty-day investigative period will be utilized by the EOO to try to resolve the issues contained in the complaint.
  - (1) An alternative dispute resolution (ADR) must be part of the resolution process.
  - (2) The complainant must make a choice whether to use ADR or the customary process.
- (i) The EOO must provide the complainant a written Notice of Final Action within ninety days of the filing date of the complaint. The Notice of Final Action shall contain the following information:
  - (1) The recipient's /LWIA decision on each issue, and an explanation of the reasons for the decision, or
  - (2) A description of the way the parties resolved the issue
  - (3) Notice that the complainant has thirty days from the date on which the Notice of Final Action is issued, to file a complaint with CRC if he/she is dissatisfied with the recipient's final action.

November 28, 2006

## **Workforce Investment Act Memorandum Number E&T 00-05, Change 1**

**Topic:** Nondiscrimination and Equal Opportunity

**Subject:** Designation of Local Equal Opportunity Officer for the Local Workforce Investment Area (LWIA)

**Purpose:** To establish requirements for the designation of an Equal Opportunity Officer by all sub-state recipients

**Reference:** A. Section 188 of Workforce Investment Act of 1998  
B. Code of Federal Regulations 29 CFR Part 37  
C. Tennessee Department of Labor and Workforce Development's Workforce Investment Act, Methods of Administration

**Background:** Section 188 of the Workforce Investment Act of 1998 (WIA) contains the non-discrimination provisions of WIA. This section prohibits discrimination of several targeted populations with respect to WIA.

On Friday, November 12, 1999, pursuant to the Workforce Investment Act of 1998, the U. S. Department of Labor (USDOL) issued final regulations (29 CFR Part 37) which implement the nondiscrimination and equal opportunity provisions of WIA.

These regulations mandate the designation of an Equal Opportunity Officer (EEO) for state and local recipients. In the case of small recipients, as defined in Section 37.4 of 29 CFR Part 37, instead of an EEO, an individual must be designated to be responsible for developing and publishing complaint procedures, and also for processing the complaints explained in sections 37.76 through 37.79.

With regard to service providers, it is the responsibility of the LWIA grant recipient to ensure compliance with the nondiscrimination and equal opportunity provisions of the WIA.

The Tennessee Department of Labor and Workforce Development (TDLWD) Equal Opportunity Officer is Jewel Crawford, Sr., Civil Rights, Diversity, and Compliance Assistance Division, 8<sup>th</sup> floor, Andrew Johnson Tower, 710 James Robertson Pkwy., Nashville, Tennessee, 37243-0658; telephone (615) 741-8805; TTY/TDD (615) 532-2879 or 1-800-848-0298.

**Definitions:** For the purpose of this policy, the following definitions apply.

A. *Recipient:* Any entity to which financial assistance under WIA Title I is extended (either directly from the Department or

through the Governor or from another recipient, including, any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiaries of the WIA Title I-funded program or activity).

“Recipient” includes, but is not limited to:

1. State level agencies that administer or are financed in whole or in part with WIA Title I Funds.
2. State employment security agencies
3. State and local Workforce Investment Boards
4. LWIA grant recipients
5. One-Stop operators
6. Service providers, including eligible training providers
7. On-the-job training (OJT) employers
8. Job Corps contractors and center operators, excluding operators of federally operated Job Corps centers
9. Job Corps national training contractors
10. Outreach and admissions agencies, including Job Corps contractors that perform these functions
11. Placement agencies, including Job Corps contractors that perform these functions
12. Other national program recipients.

In addition, for purposes of this memorandum, One-Stop partners, as defined in Section 121(b) of WIA, are treated as “recipients,” and are subject to the nondiscrimination and equal opportunity requirements of this memorandum to the extent that they participate in the one-stop delivery system.

B. *Small Recipient*--A recipient who:

1. Serves a total of fewer than 15 beneficiaries during the grant year, and
2. Employs fewer than 15 employees on any given day during the grant year.

C. *Service Provider*: Any operator of, or provider of aid, benefits, services, or training.

1. Any WIA Title I funded program or activity that receives financial assistance from or through any state LWIA grant recipient, or
2. Any participant through that participant’s Individual Training Account (ITA)
3. Any entity that is selected and/or certified as an eligible provider of training services to participants.

**Instructions:** All recipients, other than a small recipient or service provider as defined herein, will designate an EOO to coordinate responsibilities set forth in 29 CFR part 37, pursuant to Section 188 of the WIA.

The EOO will serve as liaison to the TDLWD Equal Opportunity Officer and USDOL's Civil Rights Center. Also, the EOO will serve as the point of contact for the recipient's personnel regarding WIA nondiscrimination and equal opportunity. The EOO will monitor the recipient's programs and activities and review policies and procedures to ensure compliance with requirements of 29 CFR part 37, and Section 188 of the WIA. The EOO will adopt, publish, and oversee the recipient's procedures for processing discrimination complaints.

Recipients are required to provide sufficient staff and resources to the EOO to ensure compliance with the nondiscrimination and equal opportunity provisions of WIA.

The responsibilities of EOO are not limited to those cited above. Each recipient is required to adhere to the obligations and responsibilities as outlined in sections 37.25 through 37.28 of 29 CFR Part 37.

Each recipient shall make public the name, address, title of position, and telephone number of its EOO. In addition, this information must be provided to the TDLWD Equal Opportunity Officer and updated as required.

In order to inform the TDLWD of your designee, please provide the requested information on the attached questionnaire.

**Contact:** Inquiries regarding this policy should be directed to Jewel Crawford, Sr., TDLWD Equal Opportunity Officer, (615) 741-8805 or TTY/TDD: 1-800-848-0298, [JewelCrawford@state.tn.us](mailto:JewelCrawford@state.tn.us); Joan Craig, Director of Technical Assistance--Division/Employment and Training, or Tenecia Mitchell, Title VI Coordinator, at (615) 741-1031 or (TDD) (615) 532-2879.

**Effective Date:** July 1, 2000. (Updated November 27, 2006)

**Expiration Date:** Until superseded or changed.

RLM/SKC/JC

**Attachment:** Equal Opportunity Officer Data Questionnaire

# LWIA EQUAL OPPORTUNITY OFFICER DATA QUESTIONNAIRE (EOO)

Please provide the requested information below to:

Jewel Crawford, Sr.,  
TDLWD Equal Opportunity Officer  
Civil Rights, Diversity, and Compliance Assistance Division  
Andrew Johnson Tower, 8<sup>th</sup> Floor  
710 James Robertson Parkway  
Nashville, TN 37243-0658

1. Please identify your EOO.

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2. Provide the classified job title of the EOO.

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3. Please state whether the EOO position is fulltime.

(a) If designated person is less than a full-time EOO, you are required to provide an explanation and justification for such.

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4. Please list the job duties and responsibilities of the EOO.

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5. Does the EOO report directly to the top official in your organization on EO matters?

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6. Describe unrelated EO duties, carried out by the EOO.

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7. Where is the organizational location of the EOO within your agency? Attach copy of Organization Chart.

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8. Please provide a complete mailing address, telephone number(s), and fax number, including e-mail address for the EOO.

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9. What level of resources and staff is being provided to the EOO?

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10. What methods are being used to make known the identity of your EOO to the public at large, and to current and potential participants?

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11. Does your EOO's identity and contact information appear on all internal and external communication regarding equal opportunity and nondiscrimination?

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12. Please describe the methods you use to make sure that the identity of the EOO is known to applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment, as well as interested members of the public.

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**POSITION DESCRIPTION**

<b>POSITION: Equal Opportunity Officer (EOO)</b>	<b>STATUS:</b>				
<b>PAY GRADE:</b>	<b>REPORTS TO:</b>				
<b>DEPARTMENT:</b>	<b>APPROVED:</b>				
<table style="margin-left: auto; margin-right: auto;"><tr><td style="border-bottom: 1px solid black; width: 100px;"></td><td style="border-bottom: 1px solid black; width: 100px;"></td></tr><tr><td style="text-align: center;">Initials</td><td style="text-align: center;">Date</td></tr></table>				Initials	Date
Initials	Date				

**PURPOSE OF POSITION:** The Equal Opportunity Officer (EOO) is responsible for providing uniform procedures for filing and executing complaints alleging a violation of the Nondiscrimination and Equal Opportunity provisions of the Workforce Investment Act of 1998 (WIA), as amended.

**Authority:** Section 188 of WIA, 29 CFR Part 37

**PRINCIPAL RESPONSIBILITIES AND ACCOUNTABILITIES:**

1. Serves as the LWIA’s liaison to the Tennessee Department of Labor and Workforce Development’s Equal Opportunity Officer (TDLWD EOO or State EOO).
2. Oversees the implementation of the LWIA’s Methods of Administration (MOA).
3. Reports on Nondiscrimination and Equal Opportunity matters directly to the LWIA's Chief Executive Officer (CEO) and shares that information with the State EOO.
4. Monitors for compliance with the Nondiscrimination and Equal Opportunity requirements of the WIA.
5. Ensures that services are provided equitably among substantial segments of the population eligible for programs and activities under the WIA.
6. Adopts and publishes procedures for processing complaints that allege a violation of the Nondiscrimination and Equal Opportunity requirements of WIA. Ensures that such procedures are followed.
7. Ensures that appropriate data is collected and maintains appropriate records to make certain the LWIA is in compliance with the Nondiscrimination and Equal Opportunity requirements of the WIA.
8. Coordinates the handling of complaints for the LWIA.
9. Ensures that the log of complaints filed alleging discrimination is maintained in accordance with the Nondiscrimination and Equal Opportunity requirements of WIA.
10. Ensures that the initial and continuing notice and publication requirements are in compliance with the Nondiscrimination and Equal Opportunity provisions of WIA.
11. Inspects facilities and other aids or services to determine compliance with requirements for individuals with disabilities under the Nondiscrimination and Equal Opportunity provisions of WIA.
12. Reviews grants, cooperative agreements, contracts or other arrangements, whereby financial assistance under WIA is made available, for compliance with the assurance requirement under Section 37.20 of 29 CFR Part37.
13. Ensures that appropriate Nondiscrimination and Equal Opportunity data is maintained for a period of not less than three (3) years from the close of the applicable program year.
14. Ensures that records regarding complaints, and actions taken thereunder, are maintained for a period of not less than three (3) years from the date of the resolution of the compliant.
15. Ensures that data collected and records maintained are stored in a manner to make certain confidentiality is maintained and that such information is used for the

- purposes of recordkeeping and reporting.
16. Receives and provides training to LWIA- staff as needed or directed by the TDLWD EEO, or director of the USDOL's Civil Rights Center.
  17. Submits the information that has to be collected and maintained, upon request, to the TDLWD EEO or director of the USDOL's Civil Rights Center (CRC), if the Director of CRC/TDLWD EEO finds it necessary to determine whether the recipient has complied or is complying with the Nondiscrimination and Equal Opportunity provisions of WIA.

### **SPECIFIC ACTIVITIES:**

1. Responsible for the adoption and publication of the procedures contained in the Nondiscrimination and Equal Opportunity provisions of Section 188 of WIA of 1998, as amended and 29 CFR, Part 37.
2. Receives and investigates complaints alleging a violation of the Nondiscrimination and Equal Opportunity provisions of WIA, 29 CFR Part 37.
3. Notify the complainant in writing immediately upon determining that the recipient does not have jurisdiction over a complaint that alleges a violation of the Nondiscrimination and Equal Opportunity provisions of WIA. The notification will include the basis for the determination, and state that the complainant may file a written complaint with the Director of the USDOL, Civil Rights Center within 30 days after receipt of the notification.
4. Process a complaint within 90 days of receipt.
5. If, during the 90-day period, the complainant is offered a resolution of the complaint, but the resolution offered is not satisfactory to the complainant, the complainant or his/her representative will be informed that they may file a complaint with the Director of the USDOL, Civil Rights Center, and this right must be exercised within 30 days.
6. Serve as the LWIA's liaison with the Directorate of Civil Rights and the TDLWD Equal Opportunity Officer.
7. Report on Nondiscrimination and Equal Opportunity matters directly to the Executive Director of the LWIA and TWLWD EEO.
8. Use existing Quality Assurance Staff/Common Measures to help monitor for compliance as necessary.
9. Maintain a confidential log of complaints filed alleging discrimination and ensure the appropriate data is collected and maintained as required by the provisions.
10. Assists the complainant, TDLWD EO Officer, Director of USDOL, Civil Rights Center as required by the Nondiscrimination and Equal Opportunity provisions of WIA, as amended.

### **WORKING RELATIONSHIPS**

**INTERNAL:** Interacts with all levels of LWIA's personnel, Board of Directors and Committee Members.

**EXTERNAL:** Interacts with general population, TDLWD Equal Opportunity Officer, and, Director of the UDOL, Civil Rights Center.

**SUPERVISION/DISCRETION EXERCISED:** Staff as needed to ensure proper compliance.

**DISCRETION EXERCISED:** Maintain the integrity of files and confidentiality of complaints.

**SPECIALIZED KNOWLEDGE OR SKILL REQUIREMENT:** Thorough knowledge of the Nondiscrimination and Equal Opportunity provisions of the Workforce Investment Act of 1998, as amended, the Code of Federal Regulations (CFR) 29 CFR Part 37, and Methods of Administration.

**SPECIAL DEMANDS OR WORKING CONDITIONS:** The complexity of the duties requires exceptional flexibility of thought and judgment in completion of daily activities. The broad spectrum of Nondiscrimination and Equal Opportunity activities brings stressful situations that must be dealt with in a professional manner. Effective handling and access of sensitive and confidential information. Meet deadlines as required. Must be able to write and make decisions that have long-range precedent-setting implications that affect the LWIA's and Tennessee Department of Labor and Workforce Development's employees.

November 28, 2006

## **Workforce Investment Act Memorandum Number E&T 00-06, Change 1**

- Topic:** Nondiscrimination and Equal Opportunity
- Subject:** Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998
- Purpose:** To provide uniform procedures for filing complaints alleging violations of the nondiscrimination and equal opportunity provisions of Workforce Investment Act of 1998 (WIA)
- Reference:** Section 188 of the Workforce Investment Act 1998 and the Code of Federal Regulations (CFR) 29, Part 37
- Background:** The Civil Rights Center (CRC) of the United States Department of Labor (USDOL) has been authorized by the Assistant Secretary for Administration and Management to monitor and enforce all nondiscrimination and equal opportunity regulations regarding programs receiving financial assistance from USDOL, including Section 188 of WIA of 1998.
- Instructions:** All Local Workforce Investment Areas (LWIAs) and recipients (as defined in 29 CFR Part 37) are required to adopt and publish procedures contained in this policy memorandum for processing complaints, which allege violations of the nondiscrimination and equal opportunity provisions of WIA.

The Equal Opportunity Officer (EOO) or the designated person has as one of his/her specific responsibilities the publication and adoption of these procedures to ensure that the procedures are followed.

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- B. The EOO, on behalf of the LWIA, must maintain a log of complaints that have been filed with it that allege discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIA Title-I financially assisted program or activity.

The log must include:

1. Name and address of complainant
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3. Description of the complaint
4. Date the complaint was filed

5. Disposition of the complaint; and
6. Other pertinent information.

All information that could lead to the identification of a particular individual having filed a complaint must be kept confidential.

NOTE: For co-located offices, the Employment Security Division of the Department of Labor & Workforce Development maintains a similar regulation. We would recommend combining these efforts (WIA/Wagner-Peyser) where one format is used for each center. We have attached the form used by the Employment Service Division to accommodate the objective discussed in part B.

- C. The complaint processing procedure must include:
  1. Acknowledgement that the complaint has been received
  2. Notification of the right to be represented
  3. Written list of issues raised
  4. An issue statement from the recipient regarding acceptance/rejection of the issue for investigation
  5. Period of time for fact finding and/or investigation
  6. Period in which resolution will be attempted
  7. Methods available to resolve the complaint must include
    - a. an Alternative Dispute Resolution and a
    - b. Written Notice of Final Action.
- D. A person wishing to file a complaint must be made aware that he/she has a choice of where to file the complaint. They may file with the LWIA EOO/designated person, the TDLWD Equal Opportunity Officer, or the Director of CRC.
- E. The TDLWD Equal Opportunity Officer will be notified of all complaints filed with the LWIA EOO and designated persons.

In addition, the TDLWD Equal Opportunity Officer will be notified of any administrative enforcement actions or lawsuits filed against LWIAs and/or other recipients who allege discrimination under Section 188 of the Workforce Investment Act 1998 and the Code of Federal Regulations (CFR) 29, Part 37.

**Contact:** Inquiries regarding this policy should be directed to Jewel Crawford, Sr., TDLWD Equal Opportunity Officer, (615) 741-8805 or TTY/TDD: 1-800-848-0298, [JewelCrawford@state.tn.us](mailto:JewelCrawford@state.tn.us); Joan Craig, Director of Technical Assistance--Division/Employment and Training, or Tenecia Mitchell, Title VI Coordinator, at (615) 741-1031 or (TDD) (615) 532-2879.

Memorandum  
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November 28, 2006

**Effective Date:** July 1, 2000

**Expiration Date:** Until superseded or changed.

RLM/SKC/JC

# WORKFORCE INVESTMENT ACT (WIA)

## Statement of Policy

### NONDISCRIMINATION AND EQUAL OPPORTUNITY PROVISIONS

Section 188 of the Workforce Investment Act of 1998 prohibits discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, and status of a lawfully admitted immigrant authorized to work in the United States.

#### Complaint Processing:

1. **Authorization:** The U.S.D.O.L. Director of the Civil Rights Center (CRC) and the TDLWD (State) Equal Opportunity Officer has the authority to receive and investigate complaints alleging a violation of the Nondiscrimination and Equal Opportunity provisions of Section 188 of the Workforce Investment Act of 1998 and/or 29 CFR Part 37.
2. **Who May File A Complaint?** Any person, who believes that either he/she or any specific class of individuals has been or is being subjected to discrimination, which is prohibited by WIA, may by him/herself or by a representative file a written complaint.
3. **Where To File?** The complaint may be filed either with the Local Workforce Investment Area (WIA) recipient or TDLWD Equal Opportunity Officer or the Director of CRC.
4. **When To File A Complaint?** A complaint must be filed within 180 days of the alleged violation. The Director of CRC may extend the time period for good cause.
5. **Right to Representation:** Both the complainant and the respondent have the right to be represented by an attorney or other individual of their choice.
6. **Contents of Complaint--**
  - (a) All complaints must be in writing.
  - (b) Complaints must be signed by the complainant or his/her authorized representative.
  - (c) The complaint must contain the name, address, telephone number, and any other means of contacting the complainant.
  - (d) The respondent must be clearly identified.
  - (e) A detailed description of the complainant's allegations must be recorded.

- (1) A determination will be made, based on the description, with regard to jurisdiction, whether CRC or the recipient has jurisdiction.
    - (2) The recipient will issue a statement for each allegation indicating whether it will be accepted for investigation, or rejected.
    - (3) A reason must be given for each rejected allegation.  
There must be a period of time set aside for investigation and/or fact finding regarding the circumstances underlying the complaint.
  - (f) There must be a period of time in which the recipient attempts to resolve the complaint.
    - (1) Alternative dispute resolution (ADR) is mandated to be a part of the resolution process.
    - (2) The complainant must be given the choice of using the customary process or the use of ADR.
    - (3) In the event of a breached agreement (under ADR), the non-breached party may file a complaint with the Director of CRC, within 30 days of the date on which the non-breaching party learns of the alleged breach.
  - (g) A Notice of Final Action (written) is provided the complainant within 90 days of the date on which the complaint was filed. The following information shall be contained therein:
    - (1) Recipient's decision regarding each allegation, and an explanation thereof; or
    - (2) A description of the way the parties resolved the allegations.
    - (3) Notice that the complainant has the right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is issued, if he/she is dissatisfied with the recipient's final action.
7. **Adopted Complaint Procedure:** This procedure provides a clear, orderly, expedient compliant process through which employees, registrants, and applicants of WIA Title-I financially assisted entities file complaints of alleged discrimination.
- (a) Each entity may develop its own form. All forms must comply explicitly with the policies and procedures set forth in WIA Memorandum No. E&T00-6, and this document.  
A complainant may file a complaint by completing and submitting CRC's Complaint Information and Privacy Act Consent Forms.
  - (b) Each written complaint must contain all the Elements above in Item #6(a) through (g)(3).
  - (c) The EOO must give notice to the complainant and/or recipient regarding the right of representation (by an attorney or other individual).
    1. The EOO must maintain a signed statement regarding the right of representation, in each compliant file.

- (d) The EOO will maintain a high level of confidentiality at all times during the processing of complaints of discrimination.
- (e) The EOO will provide written acknowledgment to the complainant that the complaint has been received.
- (f) A written statement of the issues raised in the complaint will be provided to the complainant.
  - 1. For each issue it must be stated that the issue will be accepted or rejected for investigation.
- (g) A thirty-day period from the date of receipt of the complaint will be set aside for investigation and/or fact-finding.
  - 1. This period of time can be extended only if it agreed to by the complainant, in writing.
  - 2. If the EOO finds that more time is needed and it is not agreeable to the complainant, he/she will document the need for the extra time and proceed with what has been accumulated up to that time.
- (h) Fifteen days beyond the thirty-day investigative period will be utilized by the EOO to try to resolve the issues contained in the complaint.
  - (1) An alternative dispute resolution (ADR) must be part of the resolution process.
  - (2) The complainant must make a choice whether to use ADR or the customary process.
- (i) The EOO must provide the complainant a written Notice of Final Action within ninety days of the filing date of the complaint. The Notice of Final Action shall contain the following information:
  - (1) The recipient's/LWIA's decision on each issue, and an explanation of the reasons for the decision, or
  - (2) A description of the way the parties resolved the issue
  - (3) Notice that the complainant has thirty days from the date on which the Notice of Final Action is issued, to file a complaint with CRC if he/she is dissatisfied with the recipient's final action.