



STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF WORKFORCE DEVELOPMENT
220 French Landing Drive
Nashville, TN 37243-1002
(615) 741-1031

February 15, 2011

Workforce Investment Act Memorandum Number E&T 00-05, Change 3

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 (EOO) 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 EOO, 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.

Evelyn Gaines Guzman is the Tennessee Department of Labor and Workforce Development (TDLWD) Equal Opportunity Officer/AA Officer, Employee Relations Director, EOO, 220 French Landing, 4-A, Nashville, Tennessee, 37243; 615-253-1331; TDD 711; e-mail: Evelyn.Gaines.Guzman@tn.gov

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.

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Contact: Inquiries regarding this policy should be directed to Evelyn Gaines Guzman, the Tennessee Department of Labor and Workforce Development (TDLWD) Equal Opportunity Officer/AA Officer, Employee Relations Director, EOO, 220 French Landing, 4-A, Nashville, Tennessee, 37243; 615-253-1331; TDD 711; e-mail: Evelyn.Gaines.Guzman@tn.gov; Nina Webster, State LWIA-EO/Technical Educational Specialist at (615) 253-5678; e-mail: Nina.Webster@tn.gov.

Effective Date: July 1, 2000 (Updated February 15, 2011)

Expiration Date: Until superseded or changed.

Susan K. Cowden, Administrator
Division of Workforce Development

SKC:SB:rk

Attachment: Equal Opportunity Officer Data Questionnaire

POSITION DESCRIPTION

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 Part 37.
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 there under, are maintained for a period of not less than three (3) years from the date of the resolution of the complaint.
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 EOO, 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 EOO.
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.