




Workforce Connections General Policies Equal Opportunity Standards and Grievance Process	<h1>GEN-050-01</h1>
Supersedes Policy ADW-030-06 Dated 08/01/2013	Revision No. 5 Effective 12-15-2017
Policy Approved By: WC Executive Director Policy Adopted on: October 2013	

Purpose

To provide standards and procedures designed to ensure that all Workforce Innovation and Opportunity Act (WIOA) Title I funded programs will be conducted in compliance with applicable equal opportunity and nondiscrimination established requirements.

Background

Section 188 of WIOA provides that for the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or on the basis of race, color, or national origin under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), programs and activities funded or otherwise financially assisted in whole or in part under WIOA are considered to be programs and activities receiving Federal financial assistance.

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 WIOA financially assisted program or activity, because of race, color, religion, sex (except as otherwise permitted under Title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief. Participation in programs and activities or receiving funds under Title I of WIOA shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

Policy

It is the policy of Workforce Connections (WC) to ensure **nondiscrimination and equal opportunity** in the administration and operation of all programs, services, and activities funded in whole or in part with WIOA Title I funds. Any individual who believes he or she has been discriminated against has the right to file a complaint in accordance with the procedures set forth herein. Sub-recipients must take appropriate steps to provide initial and continuing notice that they do not discriminate on any prohibited grounds to: registrants; applicants; eligible applicants; applicants of employment; program participants; employees; and members of the public in general, including those with impaired vision or hearing. This policy applies to all WC sub-recipients and the One-Stop operator(s) providing WIOA Title I services to adults, dislocated workers and youth.

References

Public Law (P.L.) 113-128 WIOA Sec. 181 (c)(1), Sec.188; 29 CFR Part 38; 20 CFR Part 683.285, 20 CFR Part 683.600; TEN 01-15; TEGL 37-14; TEN 23-15; Title VI and VII of the Civil Rights Act of 1964, as amended; State Compliance Policy (SCP) 4.1; SCP 4.4

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I. General Provisions for Communication and Dissemination of Nondiscrimination and Equal Opportunity notice.

Consistent with 29 CFR §38.38 recipients/sub-recipients must indicate that WIOA Title I financially assisted program or activity in question is an:

“Equal Opportunity Employer/Program,” and that “auxiliary aids and services are available upon request to individuals with disabilities”, in recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or paper, to staff, clients, or the public at large, to describe programs financially assisted under Title I of WIOA or the requirements for participation by recipients and participants. Where such materials indicate that the recipient may be reached by telephone, the materials must state the telephone number of the TDD/TYY or relay services used by the recipient, as required by 29 CFR §38.15 (b).

A. WC sub-recipients providing services funded in whole or in part by WIOA Title I shall provide initial and continuing notice that they do not discriminate, on any prohibited ground, to: registrants; applicants; eligible applicants; applicants for employment and employees; program participants; and members of the public in general, including those with impaired vision or hearing and those with limited English proficiency.

B. Sub-recipients providing services funded in whole or in part by WIOA Title I must take reasonable steps to provide services and information to individuals who do not speak English. This information must include the initial and continuing notice as previously addressed in this policy, and must take appropriate steps to ensure that communication with individuals with disabilities are as effective as communications with others.

C. The following methods of notification must be adhered to:

1. Notice “Equal Opportunity is the Law” – Program participants shall be provided the notice for signatures at the time of registration. The original signature copy of the notice shall be included in the registration package. A copy must be given to the program participant. The notice must contain specific wording pursuant to State policy 4.1, and must be made available in English and Spanish. Alternate formats for other languages and the visually impaired shall be provided by the provider of career and training services, when appropriate. When an alternate format has been used for the visually impaired, a comment shall be included in the individual’s file documenting how she/he was informed of this notice.
2. Poster “Equal Opportunity is the Law” – This poster shall be provided by WC and prominently displayed, in reasonable numbers and places, in available and conspicuous physical locations and on the recipient/sub-recipient’s web site pages in English and Spanish. Alternate formats should also be provided for the visually impaired and other non-English speaking populations, if and when appropriate.
3. Publications, media messages and other materials – material or information that is distributed or broadcasted to the public to describe WIOA Title I program or participation requirements shall include the following:
“Equal Opportunity Employer/Program” and that “Auxiliary aids and services are available upon request for individuals with disabilities”.



Initial and continuing notice of nondiscriminatory practices and the right to file a complaint will be:

- a) Posted in a public location and be made available to any interested parties and members of the public;
- b) Disseminated in internal memoranda and other written or electronic communications;
- c) Included in handbooks and manuals, brochures, broadcasts, and other communications;
- d) Included in each program participant's file. The program participant must sign acknowledgement of receipt. Where the participant's file is maintained electronically, a record of such notice shall be documented in the participant's file; and
- e) The notice shall be provided in appropriate formats to individuals with visual impairments.

D. Affirmative Obligations of Recipients/Sub-recipients.

Each application for financial assistance under Title I of WIOA, as defined in Title 29 of the Code of Federal Regulations Part 38, must include the following assurances: 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 will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

- 1. Section 188 of WIOA, which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth and related medical conditions, transgender status, and gender identity), national origin(including limited English proficiency), age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I financially assisted program or activity;
- 2. Title VI of the Civil Rights act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin;
- 3. Section 504 of the rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- 4. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- 5. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.
- 6. The grant applicant also assures that, as a recipient of WIOA Title I financial assistance, it will comply with 29 CFR part 38 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

The assurances are considered incorporated by operation of law in the grant, cooperative agreement, contract or other arrangement whereby Federal financial assistance under Title I of WIOA is made available, 29 CFR Subpart B §38.25 (a)(2).



- E. Responsibility to communicate information during orientations, 29 CFR §38.39.**
During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title I financially assisted program or activity, a sub-recipient must include a discussion of rights and responsibilities under the nondiscrimination and equal opportunity provisions of WIOA and part 38 of title 29 of the Code of Federal Regulations, including the right to file a complaint of discrimination with the sub-recipient or the director. This information must be communicated in appropriate languages and in formats accessible for individuals with disabilities as required.
- F. Data collection responsibilities, 29 CFR §38.41 and Sec. 188 of WIOA.**
1. WC has established that all sub-recipients funded in whole or in part by WIOA Title I shall collect data and maintain such records for a period of not less than five years from the close of the applicable program year, 29 CFR §38.43.
 2. Such records must include, but are not limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment.
 3. Each sub-recipient must record the race/ethnicity, sex, age, and (where known) disability status, of every applicant, registrant, eligible applicant/registant, participant, terminee, applicant for employment, and employee. For applicants, registrants, participants, and terminees, sub-recipients must record the limited English proficiency and preferred language of an individual.
 4. Such information must be stored in a manner that ensures confidentiality, and must be used only for the purpose of record keeping and reporting; determining eligibility, where appropriate, for WIOA Title I financially assisted programs or activities; determining the extent to which the recipient is operating its WIOA Title I financially assisted program or activity in a nondiscriminatory manner; or other use authorized by law.
 5. Maintain, and submit to CRC upon request, a log of complaints filed alleging discrimination on the grounds of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions, transgender status and gender identity), national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIOA Title I financially assisted program and/or activity. The log must include, but is not limited to: a) name and address of the complainant; b) grounds of the complaint; c) description of the complaint; d) date complaint was filed; e) disposition and date of disposition of complaint; f) any other pertinent information.
 6. **Confidentiality Responsibilities**
WC and its sub-recipients must keep confidential to the extent possible, consistent with a fair determination of the issues, the identity of any individual who furnishes information relating to, or assist in, an investigation or a compliance review, including the identity of any individual who files a complaint.



G. Sub-recipient responsibilities, 29 CFR §38.40.

Sub-recipients must take appropriate steps to ensure that they are providing universal access to their WIOA Title I financially assisted programs and activities. These steps should involve reasonable efforts to include members of various groups protected by established 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.

H. Reasonable accommodations and reasonable modifications for individuals with disabilities.

1. No qualified individual with a disability may be excluded from participation in, or be denied from participation in, or be denied the benefits of a recipient's service, program, or activity or be subjected to discrimination by any recipient because a recipient's facility is inaccessible or unusable by individuals with disabilities.
2. For individuals with disabilities, in general, sub-recipient shall ensure that programs and activities are physically, as well as programmatically, accessible to individuals with disabilities.
3. Administrative entity offices and sub-recipient administrative offices and program sites shall be designed to accommodate the needs of individuals with disabilities as appropriate:
 - a) Offices providing intake, assessment, and referral shall be accessible;
 - b) WIOA applicants, program participants, and staff may request medically necessary accommodations by simply putting their request in writing and submitting it to the appropriate administrative office;
 - c) Programs and activities shall be conducted in the most integrated setting appropriate for qualified individuals with disabilities; and
 - d) Programs and activities, when viewed in their entirety, shall be accessible.

II. Assurances with respect to work-based training programs, contracts/agreements, and policies and procedures.

A system must be implemented for reviewing sub-recipients' work-based training plans, contracts, assurances, and other similar agreements to ensure that they are both nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity, and that policies and procedures are in compliance with the nondiscrimination and equal opportunity provisions of WIOA Title I and 29 CFR Part 38.

III. General Principles

A. Programs shall be open to all qualified individuals. No one shall be excluded from participation, denied benefits, subjected to discrimination, or denied gainful employment because of race, color, religion, sex (including pregnancy, childbirth and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I financially assisted program or activity.



- B.** WIOA applicants, program participants, and staff shall be free to file complaints and participate in hearings, alternative dispute resolution, investigations, or compliance reviews without threat of intimidation, coercion, or discrimination. There shall be no retaliation or reprisal against an individual who has opposed a practice prohibited by the Nondiscrimination and Equal Opportunity provisions of WIOA or an individual who has otherwise exercised any rights and privileges under WIOA nondiscrimination and equal opportunities provisions.
- C.** WIOA Title I programs, shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, lawfully admitted refugees and parolees.
- D.** Fair employment practices shall be maintained in recruiting, hiring, transferring, promoting, training, and compensating all staff. These principles shall apply to layoffs and terminations.
- E.** Recipients of Federal financial assistance must take reasonable steps to ensure that individuals having limited English proficiency (LEP) receive the language assistance necessary to afford meaningful access to programs, services, and general information provided by the recipients. Program documents, when appropriate, will be published in languages other than English to convey program information to limited English speaking applicants, program participants, and members of the public interested in job training information and programs, as appropriate.

IV. Effect on other laws and policies

The obligation to comply with the nondiscrimination and equal opportunity provisions of WIOA Title I or 29 CFR Part 38 are not excused or reduced by any State or local law or other requirement that, on a prohibited basis, prohibits or limits an individual's eligibility to receive aid, benefit, service, or training, to participate in any WIOA Title I financially assisted program or activity, to be employed by any recipient, or to practice any occupation or profession.

V. General Provisions for Filing Grievance/Complaint

- A.** All registered program participants in a WIOA Title I funded program must be provided, at the time of registration, an "Equal Opportunity is the Law" form, which identifies the right to file a grievance/complaint and the time frames for such process. The original signature copy of the notice shall be included in the program participant file.
- B.** In order to properly process a grievance/complaint, the provider of WIOA Title I services or WC, as applicable, shall first determine whether the grievance/complaint is a program or a discrimination complaint.
- C.** All interested parties who may be planning to file a grievance/complaint shall be provided, upon written request, with a copy of this policy.



D. For the purpose of this policy:

1. A complaint is an allegation of discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, or participation in the program, and is covered by the nondiscrimination and equal opportunity provisions codified under 29 CFR Part 38.
An allegation of retaliation, intimidation or reprisal for taking action or participating in any action to secure rights protected under WIOA Section 188 will be processed as a complaint.
2. A grievance is a complaint about services, working conditions, wages, work assignment, etc., arising in connection with WIOA Title I programs operated by WIOA recipients including sub-recipients, eligible training providers, and other contractors.

E. Written documentation of a grievance/complaint by a program participant, and all others, relating to matters concerning WC shall be immediately forwarded to WC Executive Director or designee.

F. Sub-recipients are responsible for implementing policies and procedures that ensure the proper and timely resolution of any grievance/complaint alleging a violation of a WIOA statutes or regulations.

G. WC Executive Director or designee shall oversee, for WC, the grievance procedures and review the grievance/complaint for purposes of determining if the grievance falls under one or more of the following classifications:

1. Noncriminal;
2. Sexual harassment;
3. General WC procurement standards and/or labor standards;
4. Fraud and abuse;
5. Incident;
6. WC Board, committee, or panel members, employees, WIOA Title I program related actions; and
7. All other grievances/complaints that relate to the operation of WC in which a written grievance/complaint has been filed with and/or against the WC operational policies and procedures and/or its service providers/sub-recipients, contractors, down to the lowest tier.

**VI. Provisions for Processing Grievance(s)/Complaint(s)
Grievance(s)/Complaint(s) Resolution Procedure**

A. The procedure for processing grievance(s)/complaint(s) shall apply to all individuals accessing, or attempting to access, services at any of the following: a) the One-Stop Career Center (OSCC); affiliate sites; partner agencies participating in the One-Stop Delivery System (OSDS); and employment and training programs operated by or funded in whole or in part under WIOA within the Southern Nevada Workforce Development Area (SNWDA). This procedure also applies to any entity or community organization participating in the OSDS within the SNWDA, e.g., eligible providers of training services.



B. Filing a grievance

For the purpose of this policy - who may file a grievance?

Any individual, including WIOA Title I program participants, applicants, staff, employers, or any individual or entity who believes they received unfair treatment in a WIOA related training, employment program or activity.

A grievance must be filed **within 180 days** of the alleged occurrence.

Grievance Content

Each grievance must be filed in writing, be properly signed and dated, and shall state with accuracy/precision the following:

1. Name, address, contact information of the party filing the grievance;
2. Name, address, contact information of the individual or entity against which the grievance is made;
3. The fact(s) including date(s) the alleged violation occurred; and
4. Any support documentation, considered to be needed or relevant, to validate the basis of the grievance.

Note: Verbal grievances will not be accepted.

C. Filing a complaint

For the purpose of this policy - who may file a complaint?

Any applicant requesting aid, benefits, or seeking WIOA Title I training or employment services through the Southern Nevada Workforce Development System (SNWDS); eligible program participants; employees; applicants for employment; sub-recipients; eligible providers of training services; or any entity who believes they are being subjected to discrimination prohibited under the nondiscrimination provisions of Sec. 188 of WIOA and its associated regulation codified under 29 CFR Part 38.

A complaint must be filed **within 180 days** of the alleged discrimination.

Complaint Content

Each complaint must be filed in writing, be properly sign and dated, and shall state with accuracy/precision the following:

1. Name, address, contact information of the party filing the complaint;
2. Name, address, contact information of the individual or entity that the complainant alleges is responsible for the discrimination;
3. The fact(s) including date(s) the alleged violation occurred; and
4. Any support documentation, considered to be needed or relevant, to validate the basis of the complaint.

Note: Verbal complaints will not be accepted.

D. In both of the above cases, the description of fact(s) must include enough detail to allow the provider of WIOA Title I Services or WC, as applicable, to determine whether:

1. The provider of WIOA Title I Services or WC, as applicable, has jurisdiction over the grievance or complaint;
2. The grievance or complaint was filed in accordance with the requirements set forth in this policy; and
3. The grievance or complaint has apparent merit, i.e., whether the allegations if true, will actually indicate a violation or noncompliance with established requirements, policies and procedures, and the nondiscrimination and equal opportunity provisions of WIOA and its associated regulations.



E. Acknowledgment of grievance(s) or complaint(s)

1. Providers of WIOA Title I services or WC, as applicable, shall provide written receipt or acknowledgment of the grievance/complaint to the complainant within five (5) calendar days.
2. Note that if a grievance/complaint is first filed with a provider of WIOA Title I services, the complainant must wait until either the provider of WIOA Title I services issues a written notice of final action or until 90 days has passed (whichever is sooner), before filing a grievance/complaint with WC.
3. If, by the end of the 90-day period from the date on which the complainant filed a complaint with the provider of WIOA Title I services, no notice of final action is issued, the complainant may file a grievance/complaint with WC within 30 days of the expiration of the 90-day period.
4. If notice of final action is issued by the provider of WIOA Title I services and the complainant is dissatisfied with the resolution or decision, the complainant may file a complaint with WC within 30 days of receipt of notice of final action from the provider of WIOA Title I services.
5. Providers of WIOA Title I services shall inform WC immediately upon receipt of a formal grievance or complaint and shall, within seven (7) days, submit to WC the following:
 - a) Name and address of the complainant;
 - b) The basis for the grievance/complaint; and
 - c) The date the grievance complaint was filed.

F. Following the determination that:

1. The grievance/complaint has merit;
2. The grievance/complaint fully demonstrate that a violation has occurred; and
3. The grievance/complaint is within the jurisdiction of the provider of WIOA Title I services or WC, as applicable, the applicable entity shall take action to resolve the grievance/complaint in an informal manner.

G. In the event the provider of WIOA Title I services or WC, as applicable, determines that it does not have jurisdiction over the grievance/complaint, the complainant will be notified in writing within 10 calendar days of such determination. The written notice must include, at a minimum, the following:

1. A statement of the reason(s) for the determination; and
2. Notice that the complainant has the right to file a grievance/complaint with the State Equal Opportunity Officer (EEO) in compliance with established State compliance policies or with the Civil Rights Center (CRC) in the following ways:

Sent by mail to:

Director
Civic Rights Center
Attention: Office of External Enforcement
U.S. Department of Labor
200 Constitution Ave, NW
Room N-4123
Washington, DC 20210



Faxed to: (202) 693-6505, Attention: Office of External Enforcement (limit of 15 pages)

Emailed to: CRCEternalComplaint@dol.gov

H. WC Informal Process

1. As a first attempt to resolve a grievance/complaint, a meeting shall be set between WC Executive Director and the claimant with the purpose of informally resolving the grievance/complaint. The informal meeting shall be scheduled within 35 calendar days after the grievance/complaint is filed with WC. If the matter is informally resolved no further action shall be taken.
2. At the conclusion of a successful informal meeting the claimant shall voluntarily withdraw its grievance/complaint. Both parties must conduct themselves in accordance with the settlement agreement.
3. In the event an informal resolution cannot be met, WC will schedule an informal hearing. All hearings conducted under this procedure will be conducted by a hearing officer. The hearing officer shall be selected by WC.
In connection with the hearing, the hearing officer may determine, but will not be limited to, the following:
 - a) Set the overall parameters of the hearing including, but not limited to, the imposition of reasonable time limits;
 - b) Regulate the course of the hearing;
 - c) Secure assistance from advisors;
 - d) Review the facts pertinent to the grievance/complaint;
 - e) Review and assess additional documentation related to the grievance/complaint;
 - f) Assess factual areas of agreement and disagreement;
 - g) Provide full opportunity for the presentation of testimonies and evidences;
 - h) Decide on any additional or alternative way to resolve the grievance/complaint;
 - i) Interview any witness named in the grievance/complaint regarding the factual allegations allegedly surrounding that witness;
 - j) Review the laws, statutes, policies or procedures which were allegedly violated as cited in the grievance/complaint; and
 - k) Recommend further investigation as necessary and applicable.
4. If no resolution is met during the informal hearing the claimant shall allow 90 days for WC to conduct further investigation and provide notice of final action. If, during the 90-day period, the complainant received a decision which is considered to be unsatisfactory, the complainant may file a complaint with the State of Nevada EOO within 30 days after the complainant is notified from WC of the decision on the complaint.
5. In order to file a complaint with the State EOO the complainant is encouraged to follow established State Compliance Policies: SCP 4.3; SCP 4.4; and SCP 4.5; SCPs can be located at: <http://nvdetr.org>
6. If during the 90-day period the complainant has not received a notice of final action or notification of resolution from WC, the complainant may file a complaint within 30 days from the date the notice of final action or notice of resolution should have been issued, as indicated in the above paragraph.



7. Appeal of Decision(s): Notwithstanding the foregoing, nothing in this process shall prohibit the grievant from appealing any and all decisions and resolutions by WC and/or the State to the United States Department of Labor.
8. WC shall follow the applicable Nevada State grievance/complaint policies and procedures for non-criminal and/or non-EEO complaint filed with WC.

Note: For more information related to WIOA Title I programs and services, Nevada State compliance policies, please visit: Section 4: Equal Opportunity/Grievance State Policy 4.1; State Policy 4.2; State Policy 4.3; State Policy 4.4; State Policy 4.5; State Policy 4.6; State Policy 4.7

http://detr.state.nv.us/worforce_investment_pages/WIA_Policies.htm