



## **NONDISCRIMINATION AND EQUAL OPPORTUNITY POLICY**

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**Policy Number:** 1060

**Effective Date:** July 1, 2017

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### **A. BACKGROUND**

Workforce Snohomish is committed to providing equal opportunity to and avoiding discrimination against all job seekers and employees accessing services and working within WorkSource Snohomish.

### **B. POLICY**

All those providing services through the WorkSource Snohomish system, including all recipients of federal funds as defined 29 CFR §37.4 - Workforce Snohomish, subrecipients, contractors and partners - must comply with equal opportunity (EO) and nondiscrimination requirements provided by WIOA Section 188 (Nondiscrimination), 29 CFR Part 37 (Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act), as well as State and local nondiscrimination laws, regulations, guidelines, directives and the Washington State Methods of Administration (MOA).

Workforce Snohomish will appoint an EO Officer responsible for ensuring compliance with EO/Nondiscrimination requirements in the administration and operation of programs and services within WorkSource Snohomish. The Workforce Snohomish EO Officer will:

- Ensure implementation of the MOA.
- Participate in EO/Nondiscrimination training to maintain competency;
- Conduct EO training for staff and service providers;
- Process and investigate discrimination complaints;
- Report EO formal complaints to the State EO Officer;
- Review Workforce Snohomish written policies to ensure they are nondiscriminatory;
- Develop, publish and maintain current Workforce Snohomish procedures for addressing discrimination complaints;
- Conduct EO/Nondiscrimination monitoring of WorkSource Snohomish centers, affiliates and connection sites to ensure compliance with the provisions of this policy and the federal, state and local laws, regulations and guidelines referenced in it as follows;

## **EO/Nondiscrimination Compliance Monitoring**

The Workforce Snohomish EO Officer will monitor all WIOA programs, services and activities at least every two years. The State/ESD EO Officer, may participate in these monitoring events. The Workforce Snohomish EO Officer will use an instrument approved by the State/ESD EO Officer to conduct monitoring. The Workforce Snohomish EO Officer will submit reports which include follow-up actions for any violations of the EO/nondiscrimination to the State EO Officer prior to the State EO Officer's monitoring review.

EO data will be collected on all job seekers who request WIOA Title I financially assisted programs, including registrants and enrollees, by race/ethnicity, sex, age, and where known, disability status.

Workforce Snohomish monitoring will include a statistical analysis of records and data by race/ethnicity, sex, age and disability status. The analyses must determine if there are any significant differences in participation in programs in services. An investigation of significant differences will be conducted to determine if these differences may be caused by adverse impact discrimination. Adverse impact discrimination is non-intentional discrimination occurring when a neutral policy or practice has an adverse effect on a demographic group. If found and unless adequate justification is provided, the effects must be eliminated or mitigated.

The Workforce Snohomish EO Officer will maintain discrimination complaint logs with the name and address of the complainant, the basis of the alleged discrimination (e.g., race, color, religion, sex, national origin, etc.), a brief description of the complaint, the date filed and the disposition of the complaint.

## **Notice and Communication**

All recipients of federal funds must provide job seekers with notice that they do not discriminate in the delivery of programs, services or employment on the basis of race, color, religion, sex (including sexual orientation and gender identity or expression), national origin, age, disability, political affiliation or belief, and for job seekers, citizenship or participation in a WIOA Title I funded program or activity.

Subrecipients and contractors must provide the Equal Opportunity Notice attached to this policy to job seekers and may not change the language except to substitute the recipient's name in place of the term "recipient."

## **Universal Access**

Every reasonable action shall be taken to ensure equal representation and non-discrimination in all Workforce Snohomish activities. On an annual basis, the Workforce Snohomish EO Officer will review demographic data to assure equal representation among:

- Applicants and participants of employment and training services provided by WIOA.
- Members of councils and boards formed in conjunction with WIOA.

- Applicants for employment and employees in the administration and operation of programs and activities funded by WIOA.
- Contracts procured for the purchase of goods and services.

The EO Officer will identify any gaps in representation and patterns of potential discrimination and recommend actions to address these gaps.

### **EO Tagline and Washington Relay Service**

Recruitment brochures and other materials, including pamphlets, flyers, and other publications distributed or communicated in written or oral form, electronically or on paper, for customers, staff or the general public that describe “WIOA Title I-funded program[s] or activity[ies]” must include the following EO tagline: “(“name of recipient(s)” or “WorkSource”) *is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Washington Relay 711.*” Program information that is broadcast in the news media, electronically, on television, on the radio or on a large screen monitor must also include the tagline.

If a phone number is included, a TTY/TDD number or the Washington Relay Service number must also be provided as follows: “Washington Relay 711”. This statement may be placed at the end of the EO tagline if that makes more sense.

### **Language Services**

Interpretation or translation language services must be made available free of charge for limited English proficiency (LEP) individuals. When a significant number or proportion of the eligible population needs programmatic information in a language other than English, the following four factors must be considered in determining the language services to provide:

- 1) The number or proportion of LEP persons served or encountered in the eligible service population;
- 2) The frequency with which LEP individuals come in contact with the program;
- 3) The nature and importance of the program, activity or service provided; and,
- 4) The resources available and costs.

It may be determined, as a result of the analysis that different language assistance measures are sufficient for the different programs or activities provided. Regardless of the number or proportion of individuals, reasonable efforts must be made to meet the particular language needs of LEP individuals.

### **Assurance**

Each contract, agreement or application for financial assistance under Title I of WIOA will include, in its entirety without changes, the following EO/Nondiscrimination assurance language found at 29 CFR Part 37.20(a):

“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:

- Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA) Title I, which prohibits discrimination against all individuals in the United States on the basis of race, color religion, sex, national origin, 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 WIA Title I-financially assisted program or activity;
- Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;
- Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in education programs.

The grant applicant also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. The assurance applies to the grant applicant's operation of the WIOA Title I-financially assisted program and activity, and to all agreements the grant application makes to carry out the WIA 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.”

In lieu of including the assurances language in its entirety for smaller contracts or agreements (such as OJT contracts, etc.), the following reference to the language may be used: “The assurances at 29 CFR §37.20(a) apply to this contract/agreement.”

**Programmatic and Architectural Accessibility**

Each program or activity, when viewed in its entirety, must be operated in a manner that makes it readily accessible to qualified individuals with a disability. A qualified individual with a disability is an individual who, with or without a reasonable accommodation for his or her disability, meets eligibility requirements.

This does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by qualified individuals with disabilities. However, if a program is available in only one location, that facility must be made accessible or the program must be made available at an alternative accessible facility.

An entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance. If an entity finds, after consulting with the individual with a disability, that there is no method of complying other than making a significant alteration in its existing facilities, the entity may refer the qualified individual with a disability to other providers of that service that are accessible.

Program accessibility requires the provision of auxiliary aids or services, such as: qualified interpreters on-site or through video remote interpreting service; exchange of written notes; voice, text and video-based telecommunications products and systems; videotext displays; telephone handset amplifiers, assistive listening systems or other effective aids for individuals with hearing impairments.

Audio recordings, Brailled materials and displays; large print materials; accessible electronic and information technology or other effective aids must be provided for individuals with visual impairments. In addition, acquisition or modification of equipment or devices, including assistive technology devices or software must be provided as appropriate.

### **Corrective Action and Sanctions**

When the Workforce Snohomish OE Officer find violations of this policy or 29 CFR Part 37 the Officer will recommend corrective actions, including timeframes, or sanctions if voluntary efforts in seeking compliance fail. Corrective actions must completely address each violation and may result from an EO/Nondiscrimination monitoring review, a discrimination complaint or both.

The EO Officer will monitor as necessary to ensure corrective actions are completed. Local areas are required to establish policies and procedures for obtaining prompt corrective action. The Workforce Snohomish EO Officer will notify the State/ESD EO Officer of violation(s) discovered, corrective action(s) implemented, and timeframe(s) for completion.

Corrective action is indicated in the following circumstances:

- An investigation of the circumstances surrounding a discrimination complaint reveals barriers to equal opportunity or equal access.
- The Workforce Snohomish EO Officer or the State Officer's monitoring review identifies a violation, a failure to follow through on written assurances, a barrier to universal access, or significant differences in participation in programs or services without investigation, mitigation or justification.

Corrective actions must be completed by the date(s) provided in the corrective action plan. If a recipient does not undertake the corrective actions specified, a conciliation agreement should be initiated and completed. Instructions on developing and implementing a conciliation agreement are found in the MOA and at 29 CFR §37.97.

Workforce Snohomish will consider sanctions as a last resort for obtaining compliance with EO/Nondiscrimination requirements. Sanctions may be applied when a recipient refuses to implement voluntary corrective action, submit requested data or documentation, or provide access to premises or records during an EO/Nondiscrimination compliance review. The precise nature of the sanction will be determined by the deliberateness, seriousness, and/or frequency of the violation. In situations where sanctions are applied, the recipient will be notified and will be provided

an opportunity to respond prior to sanctions being applied. It is the responsibility of Workforce Snohomish's CEO to implement sanctions.

At the state level, after all efforts for voluntary compliance have been exhausted, the State EO Officer notifies the ESD Commissioner in writing. This request for a final determination specifies the following:

- Efforts made to achieve voluntary compliance, along with the areas of disagreement (if known);
- The apparent violation(s) and relevant EO/Nondiscrimination provision(s) of this policy and 29 CFR Part 37, and conflict with the MOA;
- The corrective action the recipient must take to address the violation(s).

The ESD Commissioner may secure voluntary compliance with the recipient through a written assurance and/or conciliation agreement. The ESD Commissioner considers sanctions only if the recipient does not agree to take voluntary corrective action.

Sanctions that may be imposed include, but are not limited to:

- Termination of future funding;
- Disallowance of selected costs;
- Restriction from bidding on competitive or discretionary funds; and
- Reduction in funding.

### **C. DEFINITIONS:**

- **Adverse impact discrimination** - non-intentional discrimination occurring when a neutral policy or practice has an adverse effect on a demographic group.
- **Complainant** - a person, group, or company that makes a complaint, as in a legal action.

### **References:**

- WIOA Section 188
- 29 CFR Part 37, "Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act" (November 12, 1999);
- Title VI of the Civil Rights of 1964, as amended (P.L. 88-352) and USDOL regulations at 29 CFR Part 31;
- Title VII of the Civil Rights Act as amended by the Equal Opportunity Act (P.L. 92-261) and the Pregnancy Discrimination Act (P.O. 95-555), and the guidelines established by the Equal Employment Opportunity Commission (EEOC) including: "Guidelines on Sexual Harassment in the Workplace" (29 CFR Part 1604); "Guidelines on Discrimination on the Basis of Religion" (29 CFR Part 1605); "Guidelines on Discrimination on the Basis of National Origin" (29 CFR Part 1606); "Guidelines of Employee Selection Procedures" (29 CFR Part 1607);
- The Rehabilitation Act of 1973, as amended (P.L. 93-112) Section 504 and regulations established by USDOL at 29 CFR Part 32;
- The Age Discrimination Act (P.L. 94-135) and USDOL regulations at 29 CFR Part 35;
- The Age Discrimination in Employment Act of 1967, as amended (P.L. 95-256) and

- regulations established by the U.S. EEOC (29 CFR, Parts 1625 and 1627);
- Title IX of Education Amendments of 1972, as amended (P.L. 92-318);
- American with Disabilities Act of 1990, as amended (P.L.101-336). Other Federal laws, regulations, guidelines, and directives may also apply and their omission here is not be construed as exclusions. State Laws, Executive Orders, Regulations,

**Supersedes:**

Workforce Snohomish System Policy – Memorandum #13-05

**Attachments:**

[Attachment A - Workforce Snohomish Complaint Handbook](#)