WORKSOURCE EQUAL OPPORTUNITY AND NONDISCRIMINATION POLICY

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I. PURPOSE

The purpose of this policy is to communicate the South Central Workforce's (SCW) policy, operational guidance, and complaint process for observing and enforcing the principles of equal opportunity and nondiscrimination.

II. BACKGROUND

All recipients under the Workforce Innovation and Opportunity Act (WIOA) Title I are responsible for ensuring equal opportunity (EO) and nondiscrimination in programs and activities funded in whole or in part under WIOA. This responsibility includes compliance with all nondiscrimination requirements in the administration and operation of programs, activities, and employment as provided by:

- WIOA Section 188 – Nondiscrimination and Equal Opportunity
- 29 CFR Part 38 – Implementation of the Nondiscrimination and Equal Opportunity Provisions of WIOA

The regulations apply to all programs and activities that are operated by WorkSource Partners as part of the WorkSource System.

III. COMPLIANCE STANDARDS

All recipients under WIOA Title I are directly responsible for compliance with:

- Federal nondiscrimination laws, regulations, guidelines, and directives
- State nondiscrimination laws, executive orders, regulations, and guidelines
- Local nondiscrimination ordinances
- Equal opportunity and nondiscrimination policies, procedures, administrative directives, and the state's Nondiscrimination Plan (NDP)
- Terms and conditions of contracts and agreements established by ESD

IV. POLICY

A. SCW Oversight of the Discrimination Complaint System

In their oversight capacity, SCW must maintain a local policy or procedure that:

1. Establishes that the SCW EO Officer is delegated the responsibility of tracking and processing all local discrimination complaints;
2. Includes the minimum discrimination complaint processing requirements contained in Attachment A WorkSource System Discrimination Complaint Processing Handbook; and
3. Establishes a system to log and track discrimination complaints.

All discrimination complaints must be processed within 90 days, including issuance of a written Notice of Final Action, consistent with 29 CFR 38.72.

Complaint Jurisdiction

WorkSource Partners must follow the communication, coordination, and escalation expectations outlined in the region's Memorandum of Understanding (MOU), including notifying and coordinating with the One-Stop Operator (OSO) when discrimination allegations may impact system operations, shared service environments, or cross-partner activities.

All WorkSource Partners located in the WorkSource System are responsible for the outcomes of complaints that fall within their jurisdiction. Determinations of jurisdiction will be made based on the specific funding stream that supports the function tied to the complaint allegations, not based on associations other than funding sources. If a discrimination complaint is filed that contains allegations against individuals, WorkSource centers, etc., that are in more than one Local Workforce Development Board (LWDB), the SCW EO Officer may collaborate with their counterpart in the other LWDB or with the State-Level EO Officer to process the complaint.

Discrimination complaints must be routed through the EO process and may not be processed under program complaint procedures, consistent with 29 CFR Part 38 and WorkSource System Policy 1017.

SCW has chosen to fully adopt the state's policy and handbook, as demonstrated by this policy that not only references but also includes the state's policy and handbook.

B. Notice and Communication

WorkSource Partners must provide initial and continuing notice that it does not discriminate in the delivery of programs and services or employment on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, an applicant to, or participant in programs financially assisted under WIOA Title I, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

The following specific wording is placed on EO Notice posters and in written EO policy statements:

Equal Opportunity is the Law
"It is against the law for this recipient of Federal financial assistance to discriminate on the following bases:
Against any individual in the United States, on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief or,

Against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title I–financially assisted program or activity.

The recipient must not discriminate in any of the following areas:

Deciding who will be admitted, or have access, to any WIOA Title I–financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity.

Recipients of federal financial assistance must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

If you think that you have been subjected to discrimination under a WIOA Title I–financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either: the recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose); or the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).
If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you may file a complaint with CRC before receiving that Notice. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).

If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action."

This notice, in the form of Washington's WIOA EO Notice Poster, must be posted prominently in reasonable numbers and places where customers and staff frequent, in both English and Spanish.

C. Affirmative Outreach

WorkSource Partners must take appropriate steps to ensure that they are providing equal access to their WIOA Title I-financially assisted programs and activities. These steps should involve reasonable efforts to include members of the various groups protected by these 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.

Examples may include, but are not limited to:

- Advertising the WorkSource Partner's programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations
- Sending notices about openings in the WorkSource Partner's programs and/or activities to schools or community service groups that serve various populations
- Consulting with appropriate community service groups about ways in which the WorkSource Partner may improve its outreach and service to various populations

D. Minimum Requirements for Ensuring Equal Opportunity and Nondiscrimination

1. SCW's EO Officer is responsible for ensuring EO and nondiscrimination in the administration and operation of programs and services within the WorkSource System. Job duties of the SCW EO Officer will include, in part:

    - Conducting EO and nondiscrimination monitoring reviews of certified WorkSource Centers and other service providers that are part of the local WorkSource System to ensure compliance with the provisions of Equal Opportunity and Nondiscrimination Policy 5402 and 29 CFR Part 38, and adhering to the NDP
    - Conducting EO training for staff and service providers
    - Processing and investigating discrimination complaints
    - Reviewing SCW written policies to ensure they are nondiscriminatory
    - Developing or publishing SCW procedures for processing discrimination complaints
    - Coordinating responsibilities under 29 CFR Part 38
    - Reporting EO matters directly to his or her top official
    - Ensuring implementation of the state's NDP
    - Undergoing EO and nondiscrimination training to maintain competency

2. WorkSource Partners must ensure all staff complete EO and nondiscrimination training every two years or when policy updates occur.

3. EO Tagline and Washington Relay Service

    a. 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 public that describe programs financially assisted under WIOA Title I or the requirements for participation by WorkSource Partners and participants will include the following: EO Tagline:

"(name of WorkSource Partner) is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities."

b. Program information that is broadcast in the news media and electronically, such as on television and radio or on a large screen monitor, must also include the tagline.
c. If a phone number is included, the Washington Relay Service number must also be provided. This should be Washington Relay Service: 711, which can alternatively be placed at the end of the EO tagline.

4. Language Service
   a. Language services, interpretation, or translation must be made available free of charge for limited English proficient (LEP) individuals. When a significant number or proportion of the eligible population needs information in a language other than English to be effectively informed about the program or to be able to participate, the following four factors must be considered in determining the language services to provide:
      i. The number or proportion of LEP persons served or encountered in the eligible service population
      ii. The frequency with which LEP individuals encounter the program
      iii. The nature and importance of the program, activity, or service provided
      iv. The resources available and costs
   b. It may be determined, as a result of the analysis, that different language assistance measures are sufficient for the different programs or activities provided.
   c. Regardless of the number or proportion of individuals, reasonable efforts must be made to meet the particular language needs of LEP individuals.

5. Assurance:
   a. Each contract, agreement, or application for financial assistance under WIOA Title I will include, in its entirety without changes, the following EO/Nondiscrimination assurance language found at 29 CFR Part 38.25 (a)(ii):

      i. 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 has the ability to comply with the nondiscrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the award of federal financial assistance:

         (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, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status 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 (E) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in education programs

b. The grant applicant also assures that, as a WorkSource Partner 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.

c. 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 nondiscrimination assurances at 29 CFR Part 38.25 apply to this [contract/agreement/etc.].”

6. Programmatic and Architectural Accessibility:
   a. Each program or activity 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 reasonable accommodation for his or her disability, meets eligibility requirements.

   b. Program accessibility requires the provision of reasonable accommodations for individuals with disabilities, making reasonable modifications to policies, practices, and procedures, administering programs in the most integrated setting appropriate, communicating with persons with disabilities as effectively as with others, and providing appropriate auxiliary aids or services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

   c. In determining what types of auxiliary aids and services are necessary, a WorkSource Partner must give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. Some examples include qualified interpreters, video remote interpreting services, text and video-based telecommunications products and systems, videotext displays, and telephone handset amplifiers.

   d. Regarding physical accessibility, no qualified individual with a disability may be excluded from participation in, or be denied the benefits of, a WorkSource Partner’s service, program, or activity, or be subjected to discrimination by any

partner because a partner's facilities are inaccessible or unusable by individuals with disabilities.

e. Facilities must comply with the applicable federal accessible design standards, such as the ADA Standards for Accessible Design (1991 or 2010) or the Uniform Federal Accessibility Standards, and WorkSource Partners must meet their accessibility obligations under Section 504 of the Rehabilitation Act and the implementing regulations at 29 CFR Part 32.

E. EO and Nondiscrimination Compliance Monitoring

1. The SCW EO Officer will monitor all service provider programs, services, and activities annually. The purpose of the review is to ensure programs are administered in a nondiscriminatory manner in compliance with the EO and Nondiscrimination requirements of Equal Opportunity and Nondiscrimination Policy 5402 and 29 CFR Part 38, and that adhere to the NDP.
2. The SCW EO Officer must use a monitoring instrument approved by the State-Level EO Officer and must develop review reports that include any findings and due dates for corrections.

3. The SCW EO Officer may coordinate with the One-Stop Operator (OSO) when monitoring findings involve operational processes, partner coordination, or system-level service delivery.

4. The SCW EO Officer must submit review reports with follow-up actions to the State-Level EO Officer prior to the State-Level EO Officer's monitoring review.

5. EO data will be collected for all WIOA Title I-financially assisted programs for applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment by race/ethnicity, sex, age, and, where known, disability status. While it is required that the data be requested from the individual, the person cannot be required to provide the information.

6. Monitoring reviews must include a statistical analysis of records and data, including analyses by race/ethnicity, sex, age, and disability status. The analysis must determine if there are any significant differences in participation in programs and services. An investigation of significant differences will be conducted to determine if these differences may be caused by adverse impact discrimination.

7. 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.

8. Discrimination complaints must be investigated or mediated by, or under the direction of, the SCW EO Officer in accordance with the direction provided in Attachment A WorkSource System Discrimination Complaint Processing Policy 1017 and Handbook.

9. The SCW EO Officer must 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
- the disposition of the complaint.

10. All discrimination complaint records must be retained for a minimum of three years, consistent with 29 CFR 38.43.

11. The State-Level EO Officer will monitor SCW, ESD programs, and the operation of the Workforce Training and Education Coordinating Board annually for meeting the nondiscrimination requirements of Equal Opportunity and Nondiscrimination Policy 5402 and 29 CFR Part 38.

F. Corrective Action and Sanctions

1. WorkSource Partners at the state and local level will apply corrective actions or sanctions in a review report if voluntary efforts in seeking compliance fail when they find violations of Equal Opportunity and Nondiscrimination Policy 5402 or 29 CFR Part 38. Corrective actions are to be designed to completely address each violation and may result from an EO and Nondiscrimination monitoring review, a discrimination complaint, or both.

2. Timeframes must be established to set the minimum time necessary to completely redress the violation. Follow-up monitoring will occur as necessary to ensure that commitments to take corrective and remedial actions have been fulfilled. See SCW Administrative Policy 105 Monitoring for policies and procedures pertaining to obtaining prompt corrective action. The SCW EO Officer will notify the State-Level EO Officer of the violation(s) discovered, corrective action(s) implemented, and timeframe(s) for completion.

3. Corrective action is indicated in the following circumstances:

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

4. Corrective actions should be completed by the date(s) provided in the review report. If a WorkSource Partner 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 NDP and at 29 CFR Part 38.93.

5. Sanctions will be considered as a last resort. Sanctions may be necessary when a WorkSource Partner refuses to implement voluntary corrective action, submit

requested data or documentation, or refuse to provide access to premises or records during an EO and Nondiscrimination compliance review.

6. At the state level, after all efforts for voluntary compliance have been exhausted, the State-Level 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 and Nondiscrimination provision(s) of Equal Opportunity and Nondiscrimination Policy 5402 and 29 CFR Part 38, and conflict with the NDP
    - The corrective action the WorkSource Partner must take to address the violation(s).

7. The ESD Commissioner may secure voluntary compliance with the WorkSource Partner through a written assurance and/or conciliation agreement. The ESD Commissioner considers sanctions only if the WorkSource Partner 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
    - Reduction in funding.

8. If sanctions are necessary, the precise nature of the sanction will be determined by the deliberateness, seriousness, and frequency of the violation. In situations where sanctions are to be applied, the WorkSource Partner will be notified and will be provided an opportunity to respond prior to sanctions being applied.

9. At the local level, it is the responsibility of the SCW CEO to implement sanctions, if needed. The SCW will follow the above model for applying corrective actions and sanctions.

V. DEFINITION

Recipient: An entity to which financial assistance under WIOA Title I is extended, directly from the Department of Labor or through the Governor. WorkSource Partners are treated as "Recipients," and are subject to the nondiscrimination and equal opportunity requirements to the extent that they participate in the WorkSource System. "Recipient" includes, but is not limited to:

- State-level agencies that administer, or are financed in whole or in part with, WIOA Title I funds
- State and local workforce development boards
- Local workforce development area grant recipients
- One-Stop Operators
- Service providers, including eligible training providers

REFERENCES

- 20 CFR, Chapter V, Part 651
- 29 CFR Part 38
- RCW 19 and 49.60
- WAC 162
- Title VI and VII of the Civil Rights Act of 1964
- The Rehabilitation Act of 1973
- The Age Discrimination Act
- The Age Discrimination in Employment Act of 1967
- Title IX of the Education Amendments of 1972
- Americans with Disabilities Act of 1990
- WorkSource Policy 1012, Revision 3
- WorkSource Policy 1017
- WIOA State Policy 5402, Revision 3

ATTACHMENTS

- Attachment A: WorkSource System Discrimination Complaint Processing Policy 1017
- Attachment B: WorkSource System Discrimination Complaint Processing Handbook