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# OC Community Resources

May 18, 2021

**To:** WIOA Subrecipients and One-Stop System Partners of the Orange County Workforce Development Area

**From:** Carma Lacy  
Director of Workforce Development

**Subject:** Nondiscrimination and Equal Opportunity Policy  
Information Notice No. 21-OCWDB-09  
Supersedes Information Notice No. 17-OCDB-13

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## PURPOSE

To provide guidance and establish the procedures regarding nondiscrimination and equal opportunity (EO) procedures.

## REFERENCES

- Civil Rights Act of 1964 (Public Law 88-352) Titles VI and VII
- Education Amendments of 1972 (Public Law 92-318) Title IX
- Rehabilitation Act of 1973 (Public Law 93-112) Title V, Section 504
- Age Discrimination Act of 1975 (Public Law 94-135)
- Americans with Disability Act of 1990 (Public Law 101-336)
- Workforce Innovation and Opportunity Act (WIOA) (Public Law 113-128) Sections 121(b), 183(c), and 188
- Title 20 CFR Section 658.400
- Title 28 CFR Part 35, Subpart A
- Title 29 CFR Parts 31, 32, 34, 38, and 1690-1691
- Title 41 CFR Parts 101-19, Subpart 101-19.6
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP)
- Fair Employment and Housing Act, California Government Code Sections 12900 – 12996
- Dymally-Alatorre Bilingual Services Act, California Government Code Sections 7290-7299.8
- Workforce Services Directive WSD17-01, Subject: *Nondiscrimination and Equal Opportunity Procedures* (August 1, 2017)

## EFFECTIVE DATE

*This policy is effective immediately upon issuance.*

## BACKGROUND

The nondiscrimination and equal opportunity (EO) provisions outlined in Section 188 of WIOA and 29 CFR Part 38 prohibit discrimination on the



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BLDG. B, FIRST FLOOR  
SANTA ANA, CA 92705  
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basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, including Limited English Proficiency (LEP); age; disability; political affiliation or belief; or, for beneficiaries, applicants, and participants only on the basis of citizenship status or participation in a WIOA Title I financially assisted program or activity or special initiative workforce development program.

## **Definitions**

**America's Job Center of California<sup>SM</sup> (AJCC)** – The common identifier used within California for One-Stop Centers, the One-Stop system, and access points to WIOA affiliated programs and services.

**Beneficiary** – An individual who receives aid, benefits, services, or training from a recipient.

**Civil Rights Center (CRC)** – A department within the U.S. Department of Labor that promotes justice and equal opportunity by administering and enforcing various civil rights laws through the investigating and adjudicating of discrimination complaints, conducting compliance reviews, providing technical assistance and training, and developing and publishing civil rights regulations, policies, and guidance.

**Complaint** – An allegation of a violation of the nondiscrimination and EO provisions.

**Conciliation** - Conciliation is a process whereby the parties to a dispute agree to utilize the services of a conciliator, who then meets with the parties separately in an attempt to resolve their differences and arrive at an agreement by way of mutual discussion and dialogue. The conciliation process is confidential.

**Fundamental alteration** – A change in the essential nature of a program or activity, including but not limited to, an aid, service, benefit, or training.

**Mediation** - Mediation is a voluntary process during which a neutral third-party assist both parties (complainant and respondent), communicates their concerns and comes to an agreement about how to resolve a dispute. The mediator does not make decisions, rule as to who is right or wrong, nor take sides or advocates for one side or the other. Mediation proceedings are confidential.

**Qualified individual** – A participant, employee, or applicant with a disability who, with or without reasonable accommodation, can perform the essential functions of a job in or access financially assisted aid, benefits, services and training.

**Recipient** – Any entity which receives WIOA Title I or other special initiative program funding, either directly from the Department of Labor (DOL) or through the Governor or another recipient but excluding the ultimate beneficiaries of the WIOA Title I funded program or activity. In addition, One-Stop partners are treated as "Recipients" and are subject to the nondiscrimination and EO requirements to the extent that they participate in the One-Stop delivery system.

**Respondent** – The party or entity against whom a discrimination charge has been filed.

Small recipient – A Recipient who serves a total of fewer than 15 beneficiaries during the entire grant year and employs fewer than 15 employees on any given day during the grant year.

Equal Opportunity (EO) Officer – There are three levels of EO Officers: 1) Service Provider EO Officer; 2) Local Area (OCWDB) EO Officer; and 3) CA Employment Development Department's (EDD) EO Officer.

Undue burden/Undue hardship - Significant difficulty or expense incurred by a recipient, when considered in light of certain factors, including nature and net cost; size of the recipient's facility; overall financial resources of the recipient; number of persons aided, benefited, served, or employed; type of operation of the recipient; and impact of the accommodation on the operation of the facility.

## **Policy and Procedures**

### **General Principles**

In carrying out the purpose of the WIOA and other grant programs, the OCWDB shall ensure nondiscrimination and EO in admission or access to, opportunity or treatment in, or employment in the administration of or in connection with any program or activity funded with WIOA and other program funds.

In implementing the WIOA and other grant programs, the OCWDB and its Service Providers will foster EO and nondiscrimination in all programs and comply with all federal, state and local provisions of the law. No individual shall be subjected to discrimination or retaliation, 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 LEP), age, disability, political affiliation or belief, or, for beneficiaries, applicants, and participation only, on the basis of citizenship status or participation in a WIOA Title I financially assisted program or activity or other grant program. Acts of sexual harassment are grounds for a discrimination complaint based on sex under Title VII of the Civil Rights Act of 1964.

Fair employment practices shall be maintained in recruiting, hiring, transferring, promoting, training, and compensating all staff. These same principles shall apply to layoffs and terminations.

Service Providers must take reasonable steps to ensure that individuals having Limited English Proficiency (LEP) receive the language assistance necessary to afford them meaningful access to programs, services, and information provided by the Service Provider. Program documents will be published in languages other than English to convey program information to limited English speaking participants, applicants, and participants and members of the public interested in job training information and programs, as appropriate.

Financially assisted aid, benefits, services and training will be readily accessible to qualified individuals. Each program under this title shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities. Programs shall be open to citizens and nationalized citizens of the United States, lawfully admitted permanent resident aliens, lawfully admitted refugees and parolees, and other individuals authorized by the United States Attorney General to work in the United States. Efforts shall be made to develop programs that contribute to lifelong learning, occupational development, upward

mobility, development of new careers, and overcome sex stereotyping in occupations. Auxiliary aids and services will be available upon request to individuals with disabilities.

OCWDB and Service Provider administrative offices and program sites shall be designed to accommodate the needs of qualified individuals with disabilities as appropriate:

1. Offices providing intake, assessment, and referral shall be accessible.
2. OCWDB clients, applicants, participants, and staff may request medically necessary accommodations by simply putting their request in writing and submitting it to the appropriate administrative office.
3. Programs and activities shall be conducted in the most integrated setting appropriate for qualified individuals with disabilities.

No OCWDB client, applicant, participant, or Service Provider staff will be discharged, intimidated, threatened, coerced, or discriminated against because of filing a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the nondiscrimination and equal employment opportunity provisions of the WIOA or Title 29 CFR Part 38.

The sanctions and penalties contained in these procedures may be imposed against any Service Provider who engages in any such retaliation or intimidation or fails to take necessary steps to prevent such activity. Failure to comply with this policy may result in disciplinary action and initial, continued or renewed funding may be jeopardized.

### **Assurances**

Contracts, applications for federal financial assistance, cooperative agreements, job training plans, and policies and procedures must contain the nondiscrimination assurance specified in 29 CFR Section 38.25 and 38.26. The nondiscrimination assurance must state that the grant applicant will “comply fully with the nondiscrimination and EO provisions of the WIOA” (29 CFR Part 38 Preamble) and acknowledge the government’s right to seek judicial enforcement of the nondiscrimination assurance.

### **EO Officers**

Administration responsibility for the OCWDB’s EO policy is delegated to an Administrative Manager of the OC Community Services. The OCWDB EO Officer is responsible for coordinating OCWDB’s obligation under these regulations.

The OCWDB EO Officer’s responsibilities include:

1. Serving as liaison with the EDD Equal Employment Opportunity (EEO) Office.
2. Investigating and monitoring the organization and its Service Providers’ activities and programs.
3. Reviewing the organization and its Service Providers’ written policies.
4. Developing, publishing, and enforcing the OCWDB’s discrimination complaint procedures.
5. Conducting outreach and education about EO and nondiscrimination requirements, and how an individual may file a complaint.
6. Participating in continuing training and education and ensuring that assigned staff receives the necessary training and support to maintain competency.
7. Informing applicants, employees and program beneficiaries of their equal opportunity rights and responsibilities, and how the discrimination complaint process works.

**All Service Providers (excluding Small Recipients) must designate an EO Officer who is responsible for coordinating its obligation under these regulations. Service Providers must notify the OCWDB Administrative Office within 30 days of the start of the contract term or whenever the designation of their EO Officer changes.**

EO Officer information (name, position title, business address, email address, and telephone number) is to be sent to:

Equal Opportunity Officer  
Orange County Workforce Development Board  
1300 South Grand Avenue, Bldg. B  
Santa Ana, CA 92705

Or, email to [info@oconestop.com](mailto:info@oconestop.com)

Service Provider's EO Officer's contact information such as name, position title, business address (including e-mail address) and telephone number (voice and Telecommunications Device for the Deaf (TDD)) must be publicized through a variety of means including posters, handouts, and listings in local directories. It must also be ensured that the EO Officer's identity and contact information appears on all internal and external communications about the Service Provider's nondiscrimination and EO programs.

Attending periodic training is recommended for the EO Officer and assigned staff to keep abreast of EO issues.

### **Small Recipients and Service Providers**

Service Providers designated as Small Recipients do not need to designate an EO Officer with the full responsibilities as described above but must designate an individual who will be responsible for the development and publishing of internal complaint procedures and the processing of complaints as required by these federal regulations.

### **Notice and Communication**

Service Providers must provide initial and continuing notice that it does not discriminate on any prohibited basis. The *Equal Opportunity is the Law/What to Do if You Believe You Have Experienced Discrimination* (Attachment I) notice/poster must be:

1. Provided in appropriate formats to registrants, applicants, eligible applicants/registrants, and applicants for employment and employees and participants with visual impairments.
2. Posted prominently, in reasonable numbers and places, in available and conspicuous physical locations and on website pages.
3. Disseminated in internal memoranda and other written or electronic communications with staff.
4. Included in employee and participant handbooks or manuals regardless of form, including electronic and paper form if both are available.
5. Provided to each participant and employee; the notice must be made part of each employee's and participant's file. It must be part of both paper and electronic files, if both are maintained. A copy of an acknowledgement of receipt (Attachment II) shall be signed by the participant and included in each participant's file. Where an electronic case file is maintained, staff must make a note indicating that this notification did occur, the date of the notification, and the name of the staff person who provided it or upload the signed document into CalJOBS.

6. If a participant is unable to read, the Service Provider must either read it aloud to the participant or provide a recording of the policy.
7. When a notice has been given in an alternate format or language other than English, a record of such notice shall be documented and made part of the employee's or participants' file.

All written publications for WIOA Title I-financially assisted programs or activities must include the following statement: **"This WIOA Title I financially assisted program or activity is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities."** This includes recruitment brochures, other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper to staff, clients, or the public at large, broadcast program information in the news media, and other communications, including the homepage of the Service Provider's website which promote, describe programs, or the requirement for participation by participants.

Where such materials indicate that the Service Provider may be reached by voice telephone, they must also provide the TDD/TTY or equally effective communication system, such as a videophone, captioned telephone, or relay service. The California Relay Service (CRS) can be reached by dialing 711 or 1-800-735-2922 (for Voice to TTY) or 1-800-735-2929 (for TTY to Voice).

Service Providers that publish or broadcast program information in the news media must ensure that such publications and broadcasts state that the WIOA Title I-financially assisted programs or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIOA Title I-financially assisted program or activity is prohibited by Federal law) and indicate that auxiliary aids and services are available upon requests to individuals with disabilities.

A Service Provider must not communicate any information that suggests, by text or illustration, that the Service Provider treats beneficiaries, registrants, applicants, participants, employees or applicants for employment differently on any prohibited basis, except as such treatment is otherwise permitted under federal law or regulation.

During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title I-financially assisted programs or activity, whether this be in person or over the internet or using other technology, a Service Provider must include a discussion of rights and responsibilities under the nondiscrimination and EO provisions of WIOA Section 188 and 29 CFR Part 38, including the right to file a complaint of discrimination with the Service Provider or OCWDB. This information must be communicated in appropriate languages and in formats accessible for individuals with disabilities.

The Dymally-Alatorre Bilingual Services Act (DABSA) requires that when state and local agencies serve a "substantial number of non-English-speaking people," they must employ a "sufficient number of qualified bilingual staff in public contact positions" and translate documents explaining available services in their clients' language. Languages provided must adhere to the County of Orange Language Access Policy.

### **Outreach and Equal Access**

Service Providers must ensure equal access to WIOA Title I financially assisted programs and other special initiative grant programs and activities by:

1. Implementing an outreach and recruitment plan to solicit participation of all potentially eligible applicants in the entire region.
2. Creating an outreach and recruitment plan that will reach specific target populations through media, schools, and community services groups.
3. Considering a pool of individuals for participation that includes members of both sexes or non-gender conforming groups, various race/ethnicity/age groups, and individuals with disabilities.
4. Consulting with appropriate community service groups about ways in which the Service Provider may improve its outreach and service to various populations.

### **Accessibility Requirements**

No qualified individual with a disability may be excluded from participation in, or be denied the benefits of a service, program, or activity or be subjected to discrimination by any Service Provider because the facilities are inaccessible or unusable by individuals with disabilities. Service Provider must also ensure that new facilities or alterations of facilities 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.

Service Providers must ensure the accessibility to their training programs and activities for all individuals and must administer their training programs and activities in the most integrated setting appropriate for the needs of the qualified individuals with disabilities. This includes employment tests and other selection criteria used by Service Providers that do not screen out individuals with disabilities and training programs accessible to individuals with visual, hearing, or speech impairments.

Service Providers must also provide:

1. Designated parking for people with disabilities that is accessible to the building entrance, and free of any barriers (e.g. steps, steep slopes, low spots in ground or pavement, buckled concrete, gravel).
2. Signage at primary entrance to each of their inaccessible facilities, directing users to a location at which they can obtain information at each primary entrance of an accessible facility.
3. The international symbol for accessibility at each primary entrance of an accessible facility.
4. Building entrance doors that can be opened with one hand.
5. Accessible information/public counter areas.
6. Facility elevators that are accessible from the entrance, meeting the above criteria.
7. Elevator control panel and entrance buttons with raised numbers and Braille symbols at an accessible height.
8. At least one accessible public telephone.
9. Accessible meeting rooms with Braille symbols at an accessible height.
10. Restroom facilities that have at least one toilet stall with an accessible doorway. The stall should have grab bars and the toilet stall should be accessible for disabled individuals after the door is closed (access to the grab bars should not be obstructed by such things as toilet paper dispensers, etc.).
11. Alternative methods that ensure training, job structure, work schedule, work procedure, and work equipment are available to individuals with disabilities when the facilities are not physically accessible.

## **Reasonable Accommodation and Modifications for Individuals with Disabilities**

With regard to any aid, benefit, service, training, and employment, a Service Provider must provide reasonable accommodations to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship.

With regard to any aid, benefit, service, training, and employment, a Service Provider must also make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity, which would constitute a fundamental alteration.

In those circumstances where a Service Provider believes that the proposed accommodation would cause undue hardship, or the proposed modification would fundamentally alter the program, the Service Provider has the burden of proving that compliance with this section would result in such hardship and alteration. The Service Provider must make the decision that the accommodation would cause such hardship or result in such alteration only after considering all factors listed in the definitions of "undue hardship" and "fundamental alteration". The decision must be accompanied by a written statement of the Service Provider's reasons for reaching that conclusion. The Service Provider must provide a copy of the statement of reasons to the individual(s) who requested the accommodation or modification.

If a requested accommodation would result in undue hardship or a modification would result in a fundamental alteration, the Service Provider must take any other action that would not result in such hardship or such alteration but would nevertheless ensure that individuals with disabilities receive the aid, benefits, services, training or employment provided by the Service Provider.

In addition, a Service Provider must take appropriate steps to ensure that communications with individuals with disabilities, such as beneficiaries, registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employees, members of the public, and their companions are as effective as communications with others.

EDD's Reasonable Accommodation Policy and Procedure Guide (Attachment III) shall be used when processing all reasonable accommodation requests. This document contains two sections. The first section of Attachment III provides general guidance and definitions for use when processing reasonable accommodation requests. The second section provides step-by-step instructions on how to process these requests.

### **Service Animals**

Generally, a Service Provider shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

### **Mobile Aids and Devices**

A Service Provider must permit individuals with mobility disabilities to use wheelchairs and manually powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities, in any areas open to pedestrian use.



A Service Provider must make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless the Service Provider can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the Service Provider has adopted.

### **Discrimination Prohibited Based on Disability**

In providing any aid, benefit, service, or training under a WIOA Title I-financially assisted program or activity, whether directly or through contractual, licensing, or other arrangements a Service Provider must not do any of the following:

1. Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, service, or training, including meaningful opportunities to seek employment and work in competitive integrated settings.
2. Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefits, services, or training that is not equal to that afforded others.
3. Provide a qualified individual with a disability with any aid, benefit, service, or training that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.
4. Provide different, segregated, or separate aid, benefit, service, or training to individuals with disabilities, or to any class of individuals with disabilities, unless such action is necessary to provide qualified individuals with disabilities with any aid, benefit, service, or training that is as effective as those provided to others, and consistent with the requirements of the Rehab Act as amended by the WIOA, including those provisions that prioritize opportunities in competitive integrated employment.
5. Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards.
6. Otherwise limit a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service, or training.

### **Complaint Processing Procedures**

In compliance with nondiscrimination and equal opportunity provisions of the WIOA and Title 29 CFR Section 38.76, the following procedures provide for resolution of non-criminal discrimination and equal opportunity complaints arising from the operation of the WIOA programs of the OCWDB.

A complaint is defined here as written expression by a party alleging a violation of the WIOA regulations promulgated under the WIOA grants, sub-agreements or other specific agreements including terms and conditions of employment of such participants in WIOA Title I programs. All complaints, amendments and withdrawals shall be in writing. These procedures are intended to resolve matters that concern policies, procedures or actions concerning WIOA Title I programs operated by OCWDB and OCWDB Service Providers under the WIOA.

Upon enrollment into WIOA Title I funded programs services, participants shall be provided with a written description of complaint handling procedures, including notification of their right to file complaints and instructions for filing. Service Providers shall develop their own internal procedures to process complaints and must ensure that the procedures do not conflict with the complaint handling procedures contained herein.

These procedures shall not be construed as affecting any other available legal remedy outside the WIOA complaint process (i.e., disputes regarding terms and conditions of employment of any employee who is not a participant), either separately or simultaneously, that an individual may decide to pursue in the resolution of a non-WIOA complaint. These procedures do not restrict the WIOA grant Service Provider staff in initiating any informal discussion and/or resolution of any problem outside of and without resorting to the formal complaint process.

The complaint handling procedures contained, herein shall be available to participants to resolve disputes regarding terms and conditions of employment of participants in employment and training programs. Such procedures shall not be used to resolve disputes regarding terms and conditions of employment and training of any employee.

During the resolution process, the EO Officer shall assure that all parties involved are given due process. These due process elements include:

1. Notice to all parties of the specific charges
2. Notice to all parties of the responses to the allegations
3. The right of both parties to representation
4. The right of each party to present evidence, and to question others who present evidence
5. A decision made strictly on the evidence on the record

All persons filing a complaint shall be free from restraint, coercion, reprisal, or discrimination due to filing of the complaint. The sanctions and penalties contained in these procedures may be imposed against any Service Provider who engages in any such retaliation or intimidation or fails to take necessary steps to prevent such activity. The identity of any individual who furnishes information relating to, or assisting in, an investigation or compliance review, including the identity of the individual who files the complaint, will be kept confidential to the extent possible, consistent with a fair determination of the issues. An individual whose identity it is necessary to disclose must be protected from retaliation.

### **Complaint Processing – Service Providers**

Any person who believes that either he or she or any specific class of individuals, has been or is being subjected to discrimination prohibited by the nondiscrimination and EO provisions of WIOA by an OCWDB Service Provider is to file a written complaint by using the Discrimination Complaint Form (Attachment IV), or a representative may file the complaint on his or her behalf.

1. Complaints must be filed in writing to the Service Provider by completing the Discrimination Complaint Form and shall be signed by the complainant or his or her representative; contain the complainant's name, address, or other means of contacting him or her; identify the respondent; and a description of the complainant's allegation(s) in sufficient detail to allow the Service Provider/OCWDB, as applicable, to determine:
  - Who has jurisdiction over the complaint
  - Whether the complaint was filed timely
  - Whether the complaint has apparent merit (whether the allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIOA)
2. The complaint may be filed either with the Service Provider's EO Officer (or the person designated for this purpose) or the OCWDB's EO Officer. A complaint must be filed within 180 days of the alleged discrimination. Each Service Provider must promptly notify OCWDB's EO Officer that a complaint has been filed.

3. The Service Provider shall mail a copy of the complaint to the OCWDB EO within two (2) days at the following address:  
Equal Opportunity Officer  
Orange County Workforce Development Board  
OC Community Services  
1300 South Grand Avenue, Bldg B.  
Santa Ana, CA 92705
4. OCWDB shall mail a copy of the complaint to the EDD's EEO at the following address:  
Equal Employment Opportunity Office  
Employment Development Department  
800 Capitol Mall, MIC 49  
P. O. Box 826880  
Sacramento, CA 94280-0001
5. The OCWDB EO Officer shall issue a written acknowledgement of receipt of a complaint alleging discrimination by a WIOA Title I Service Provider and shall include a notice of the complainant's right to representation in the complaint process.
6. Service Providers must document all complaints in their complaint log (Attachment V). See Service Provider Deliverables section # for additional information on complaint log requirements.

### **Complaint Investigation Process**

1. Service Providers will make every attempt to conduct an informal conference within ten (10) days of the official date of filing the complaint.
2. The complainant will be offered mediation immediately upon receipt of the complaint. The choice whether to use mediation rests with the complainant.
3. Respondents must make good faith efforts to resolve all grievances or complaints prior to the scheduled OCWDB hearing. Informal conferences shall not extend the time within which a decision must be issued after receipt of a complaint. Every grievance or complaint not resolved informally or not withdrawn will be given a hearing.
4. Complainants have the right to withdraw their complaints at any time prior to the hearing. Prior to the hearing, a complainant may amend the complaint to correct technical deficiencies but not to add issues. All withdrawals and amendments shall be in writing.
5. Service Providers shall inform OCWDB's EO Officer of the outcome of the informal conference within two (2) days.

A complainant can elect either of these hearing options:

1. Mediation
  - Complainant can select a mediation provider by contacting the Service Provider EO Officer

## 2. Conciliation

- At any point of the investigation, the complainant, respondent, or the EO Officer may request that the parties attempt conciliation.
- The OCWDB EO Officer serves as the conciliator.
- If the conciliator is successful in negotiating an understanding between the parties, said understanding is almost always committed to writing (usually with the assistance of legal counsel) and signed by the parties, at which time it becomes a legally binding contract and falls under contract law.

If a complainant elects not to participate in mediation, or the complainant, respondent, or the OCWDB EO Officer decide not to use the conciliation process, the OCWDB EO Officer will investigate the complaint.

### **Complaint Hearing**

If the complaint is not resolved with the Service Provider, it is referred to the OCWDB EO Officer for review. The EO Officer will attempt to resolve the complaint with the complainant prior to moving to a formal hearing.

Complainant and respondent have the right to be represented at their own expense by an attorney or other individual of his or her choice at all levels of the complaint process.

Within 20 days of receiving the complaint (either directly or from the Service Provider) the OCWDB EO Officer will notify complainant of the date of a formal hearing, if needed.

1. The hearing must be conducted within 30 days from the date complaint was received by OCWDB. The hearing will include a panel of 3 people, consisting of OCWDB board members and/or an OC Community Resources (OCCR) Grievance Officer(s).
2. If the complaint is against a County employee, County of Orange policies will take effect and the hearing will be conducted by an OCCR Grievance Officer.
3. The OCWDB shall be allowed 90 days to issue a Notice of Final Action from the date on which the complaint was first filed. The 90-day time period includes both the Service Provider and OCWDB complaint procedures.

### **Complaint Against OC Workforce Development Board**

Any person who believes that either he or she or any specific class of individuals, has been or is being subjected to discrimination prohibited by the nondiscrimination and EO provisions of WIOA by OCWDB staff would follow the same steps outlined in the Complaint Process – Service Provider section.

Complaints must be filed in writing within 180 days of the alleged discrimination to the OCWDB's EO Officer at the following location:

Equal Opportunity Officer  
Orange County Workforce Development Board  
OC Community Services  
1300 South Grand Avenue, Bldg B  
Santa Ana, CA 92705

### **Complaint Against a Vendor**

All Service Providers shall document the facts of an alleged complaint against any vendor. The facts should be used to advise the participant of any recourse available and to determine if the Service Provider should continue to utilize the services of the vendor. All Service Providers

shall immediately notify the OCWDB of any alleged complaint by a vendor and document the facts. Complainants against vendors will be advised of any recourse available to them.

### **Appeals Process**

Complainants that have initially filed with the OCWDB's Service Provider must exhaust the Service Provider's and OCWDB's recipient hearing process prior to appealing to the Equal Employment Opportunity Office of the Employment Development Department.

Equal Employment Opportunity Office  
Employment Development Department  
800 Capitol Mall, MIC 49  
P. O. Box 826880  
Sacramento, CA 94280-0001

### **Civil Rights Center**

The Civil Rights Center (CRC) is a department within the U.S. Department of Labor (DOL) that will accept and investigate claims of discrimination from individuals affiliated with DOL programs. A complainant or his or her representative may file a complaint directly with the CRC rather than with the Service Provider or OCWDB. The complaint must be filed within 180 days of the alleged discrimination.

In addition, the complainant may file a complaint with CRC within 30 days in the following situations:

- If, during the initial 90-day period, the Service Provider or OCWDB issues a decision that is not acceptable to the complainant.
- An agreement reached under mediation is breached. The non-breaching party may file a complaint within 30 days of the date on which the non-breaching party learns of the alleged breach.
- The 90-day time limit for OCWDB to issue a Notice of Final Action expires and the complainant does not receive the Notice of Final Action from OCWDB.

Civil Rights Center  
U.S. Department of Labor  
200 Constitution Avenue N.W., Room N-4123  
Washington D.C. 20210

or electronically as directed on the CRC website at [www.dol.gov/crc](http://www.dol.gov/crc).

The CRC may extend the 180-day deadline for initial filings or the 30-day time if CRC is contacted after the complaint process is initiated at the local level. In order to receive the extension, a waiver letter must be filed by the complainant with CRC. The reason for the time period lapse must be indicated in the waiver letter. This time period for filing is for the administrative convenience of CRC and does not create a defense for the respondent.

The CRC determines acceptance of a complaint filed. When the CRC accepts a complaint for investigation, it shall do the following:

- Notify the Local Area and the complainant of the acceptance of the complaint for investigation; and

- Advise the Local Area and complainant on the issues over which the CRC has accepted jurisdiction.

The Local Area, the complainant, or a representative may contact the CRC for information regarding the complaint filed. When a complaint contains insufficient information, the CRC will seek the needed information from the complainant. If the complainant is unavailable after reasonable efforts have been made to reach him or her, or the information is not provided within the time specified, the complaint file may be closed without prejudice upon written notice sent to the complainant's last known address.

The CRC must evaluate the circumstances to determine whether the agreement has been breached. If the CRC determines that the agreement has been breached, the complainant may file a complaint with CRC based upon his or her original allegation(s), and the CRC will waive the time deadline for filing such a complaint.

The CRC may issue a subpoena to the complainant to appear and give testimony and/or produce documentary evidence, before a designated representative, relating to the complaint being investigated. Issuing a subpoena can be done any place in the United States, at any designated time and place.

Where the CRC lacks jurisdiction over a complaint, the CRC shall do the following:

1. Notify the complainant, explaining why the complaint is not covered by the nondiscrimination and equal opportunity provisions of WIOA or Title 29 CFR Part 38; and
2. Refer the complainant to the appropriate federal, state, or local authority, when possible.

The CRC will notify the complainant when a claim is not to be investigated and explain the basis for that determination.

The CRC will refer complaints governed by the Age Discrimination Act of 1975 to mediation.

If the complainant alleges more than one kind of complaint, "joint complaint," (e.g., individual employment discrimination, age discrimination, equal pay discrimination, etc.) the CRC shall refer such joint complaint to the Equal Employment Opportunity Commission for investigation and conciliation, as appropriate. The CRC will advise the complainant and the Local Area of the referral.

### **Complaints Against AJCC Partners**

Under the AJCC delivery system where the complainant alleges discrimination by an entity that operates a program or activity financially assisted by a federal grant making agency other than DOL, but participates as a partner in the AJCC delivery system, the following procedures apply:

1. If the complainant alleges discrimination on a basis that is prohibited both by Section 188 of WIOA and by a civil rights law enforced by the federal grant making agency, the CRC and the grant making agency have dual jurisdiction over the complaint. The CRC will refer the complaint to the grant making agency for processing. The grant making agency's regulations will govern the processing of the complaint.
2. If the complainant alleges discrimination on the basis that is prohibited by Section 188 of WIOA, but not by any civil rights laws enforced by the federal grant making agency, the CRC has sole jurisdiction over the complaint and will retain and process the complaint pursuant to 29 CFR Part 38. The CRC will advise the complainant and the Local Area of the referral.

The CRC may offer the parties of a complaint the option of mediating the complaint. In such circumstances, the following rules apply:

1. Because mediation is voluntary; both parties must consent before the mediation process proceeds;
2. The mediation will be conducted under the guidance issued by the CRC; and
3. If the parties are unable to reach resolution of the complaint through the mediation, the CRC will investigate and process the complaint.

After making such a cause finding, the CRC shall issue an Initial Determination. The Initial Determination shall notify the complainant and the Local Area, in writing, of the following:

1. The specific findings of the investigation;
2. The proposed corrective or remedial action and the time by which the corrective or remedial action must be completed;
3. Whether it will be necessary for the Local Area to enter into a written agreement; and,
4. The opportunity to participate in voluntary compliance negotiations.

Where a no cause determination is made, the CRC must issue a Final Determination to the complainant and the Local Area. The Final Determination represents the DOL's final agency action on the complaint.

### **CRC Complaint Determinations**

The Letter of Findings, Notice to Show Cause, or Initial Determination issued must include the corrective action steps and the specific time period it will take the Local Area to achieve voluntary compliance. **Monetary corrective action may not be paid from federal funds.**

### **Data and Information Collection and Maintenance**

Each Service Provider must collect and maintain nondiscrimination data. Nondiscrimination data must include, but is not limited to, records on applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment. Each Service Provider must record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, participant, applicant for employment, and employee. Such information must be kept for a period of not less than three years from the close of the applicable program year, stored in a manner that ensures confidentiality, and must be used only for the purposes of any of the following:

1. Recordkeeping and reporting;
2. Determining eligibility, where appropriate, for WIOA Title I-financially assisted programs or activities;
3. Determining the extent to which the Service Provider is operating its WIOA Title I-financially assisted program or activity in a nondiscriminatory manner; and
4. Other use authorized by law.

Any medical or disability-related information obtained about a particular individual, including information that could lead to the disclosure of a disability, must be collected on separate forms. All such information, whether in hard copy, electronic, or both, must be maintained in one or more separate files, apart from any other information about the individual, and treated as confidential. Whether these files are electronic or hard copy, they must be locked or otherwise

secured (e.g., through password protection). Data Information Collection Procedures Form (Attachment VI) shall be used to collect this information and submitted to OCWDB.

Such information must be kept for a period of not less than three years from the close of the applicable program year.

### **Service Provider Deliverables**

Each Service Provider must annually submit EO documentation to the OCWDB EO Officer.

#### **1. Annual Complaint Log**

Service Providers must maintain an annual (calendar year) log of complaints (Attachment V) filed against the organization alleging discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIOA Title I financially assisted program or activity. The log must include the following:

- The name and address of the complainant
- The basis of the complaint
- A description of the complaint
- The date the complaint was filed
- The disposition and date of disposition of the complaint
- Other pertinent information.

If no complaint was filed in a calendar year, Service Providers will note 'None to report' for the calendar year. Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential. Logs must be maintained for 3 years and available for review at the request of OCWDB's or EDD's EO Officer. Where a discrimination complaint has been filed, all logs and records relevant to the complaint shall be maintain for 3 years from the date of the final action related to the resolution or compliance review.

#### **2. Data Information Collection Procedures (Attachment VI)**

Each Service provider must complete and submit the Data Information Collection Procedures form.

#### **3. EO Certification**

Each Service Provider staff members must take the OCWDB Equal Opportunity training and sign and submit the certificate at the end of the training PowerPoint verifying understanding of the EO laws and regulations.

#### **4. Complaint Processing Procedures**

OCWDB requires that all Service Providers submit the above referenced documents and logs to OCWDB's EO Officer by **January 30<sup>th</sup> each year**.

### **Compliance Monitoring**

1. OCWDB annual program monitoring includes gathering documentation that determines whether Service Providers are providing services in a nondiscriminatory way.



2. EDD is responsible for the oversight and monitoring of all WIOA Title I financially assisted state programs and will conduct annual onsite reviews of the local areas.
2. The EDD onsite monitoring reviews will ensure the local areas are in compliance with the nondiscrimination and equal opportunity provisions of WIOA. The EDD EEO office will determine whether each Service Provider is conducting WIOA Title I financially assisted programs in a nondiscriminatory way.

### **ACTION**

Bring this policy to the attention of all staff and all relevant parties.

### **INQUIRIES**

If you have any questions regarding this policy, please contact your Contract Administrator at 714-480-6500.

### **ATTACHMENTS**

Attachment I: *Equal Opportunity is the Law* Poster Template

Attachment II: Policy Acknowledgement Form Template

Attachment III: EDD's Reasonable Accommodation Policy and Procedure Guide

Attachment IV: Discrimination Complaint Form

Attachment V: Complaint Log

Attachment VI: Data Information Collection Procedures Form



OC Community Services



America's  
JobCenter  
of California<sup>SM</sup>

## EQUAL OPPORTUNITY IS THE LAW

The Orange County Workforce Development Board (OCWDB) and Workforce Innovation and Opportunity Act (WIOA) Service Providers are prohibited from discriminating 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; 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* (WIOA), on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

OCWDB and all its WIOA Service Providers 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.

OCWDB and all its WIOA Service Providers 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, Service Providers are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

### WHAT TO DO IF YOU BELIEVE YOU HAVE EXPERIENCED DISCRIMINATION

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 [insert agency name](#) OR with the OCWDB's Equal Opportunity Officer OR the Director, Civil Rights Center (CRC), U.S. Department of Labor 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210; or electronically as directed on the CRC website at [www.dol.gov/crc](http://www.dol.gov/crc).

Once you file your complaint, you will be given the opportunity within 10 days to resolve your complaint through an informal conference. If your complaint is not resolved through the informal conference, it will be referred to OCWDB's Equal Opportunity Officer for a hearing. OCWDB must issue a written Notice of Final Action within 90 days of the date the complaint was initially filed.

If you file your complaint with [insert agency name](#) or directly with OCWDB, you must wait until 90 days have passed without receiving a written Notice of Final Action before filing your complaint with CRC. You must file your CRC complaint within 30 days of the 90-day deadline (within 120 days after the day on which you initially filed your complaint). If you received a Notice of Final Action but you are dissatisfied with OCWDB's decision, you may file an appeal with CRC within 30 days of the date on which you received the Notice of Final Action.

[insert agency name](#)  
[insert agency EO Officer name](#)  
[insert EO phone](#)  
[insert agency address](#)

OCWDB EO Officer  
OC Community Services  
1300 South Grand Ave, Bldg. B  
Santa Ana, CA 92705  
(714) 480-6550

Civil Rights Center (CRC)  
U.S. Department of Labor  
200 Constitution Avenue NW,  
Room N-4123  
Washington, DC 20210  
[www.dol.gov/crc](http://www.dol.gov/crc)



### EQUAL OPPORTUNITY IS THE LAW

The Orange County Workforce Development Board (OCWDB) and Workforce Innovation and Opportunity Act (WIOA) recipients are prohibited from discriminating 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; 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* (WIOA), on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

OCWDB and all its WIOA recipients 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.

OCWDB and all its WIOA 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.

### WHAT TO DO IF YOU BELIEVE YOU HAVE EXPERIENCED DISCRIMINATION

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 [insert agency name](#) OR with the OCWDB's Equal Opportunity Officer OR the Director, Civil Rights Center (CRC), U.S. Department of Labor 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210; or electronically as directed on the CRC website at [www.dol.gov/crc](http://www.dol.gov/crc).

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[insert agency name](#)  
[insert agency EO Officer name](#)  
[insert EO phone](#)  
[insert agency address](#)

OCWDB EO Officer  
OC Community Services-  
Community Investment Division  
1300 South Grand Ave, Bldg. B  
Santa Ana, CA 92705  
(714) 480-6550

Civil Rights Center (CRC)  
U.S. Department of Labor  
200 Constitution Avenue NW,  
Room N-4123  
Washington, DC 20210  
[www.dol.gov/crc](http://www.dol.gov/crc)

I understand these procedures as explained by Staff. A full copy of these procedures is available to me upon request.

Participant Signature

Date

Parent/Guardian Signature (if minor)

Date



## ATTACHMENT II EMPLOYMENT DEVELOPMENT DEPARTMENT'S REASONABLE ACCOMMODATION POLICY AND PROCEDURE GUIDE

### I. Introduction

The purpose of this guide is to assist local entities who are funded with *Workforce Innovation and Opportunity Act (WIOA)* or *Wagner-Peyser (W-P) Act* funding, in processing reasonable accommodation requests. Each entity will ensure that reasonable accommodations are provided to qualified individuals with disabilities to enable them to do the following:

- Be considered for the aid, benefits, services, training or employment as desired.
- Perform the essential functions of their jobs, or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities.
- Enjoy benefits and privileges of the aid, benefits, services, training, or employment equal to those that are enjoyed by other similarly situated individuals without disabilities, unless providing such accommodation would impose an undue hardship.

The requirement to provide reasonable accommodations applies to disabilities that are known to the local entity.

The reasonable accommodation process, including a description of key terms, is set forth below and should be implemented immediately.

### II. Key Terms

A. *Reasonable accommodation* means any of the following:

- 1) Modifications or adjustments to an application/registration process that enables a qualified individual with a disability to be considered for the aid, benefits, services, training, or employment that the qualified individual desires.
- 2) Modifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities.
- 3) Modifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated individuals without disabilities.

B. *Qualified individual with a disability* means any of the following:

- 1) With respect to employment, an individual with a disability who, with or without reasonable accommodation, is capable of performing the essential functions of the job in question.
- 2) With respect to aid, benefits, services, or training, an individual with a disability who, with or without reasonable accommodation and/or reasonable modification, meets the essential eligibility requirements for the receipt of such aid, benefits, services, or training.

C. *An applicant* is an individual seeking federally-assisted aid, benefits, services, or training. An individual is considered an "applicant" at the point in which they submit personal information in response to a request by the local entity for such information.

D. *A participant* is an individual who is receiving aid, benefits, services or training under a WIOA Title I or W-P funded program.

E. *A disability* means the following, with respect to an individual:

- 1) "Medical condition" includes the following:
  - a) Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.
  - b) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:
    - i. Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.
    - ii. Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.
- 2) "Mental disability" includes, but is not limited to, all of the following:
  - a) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

- i. "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
- ii. A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.
- iii. "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.

Any other mental or psychological disorder or condition not described in paragraph (a) that requires special education or related services.

- b) Having a record or history of a mental or psychological disorder or condition described in paragraph (a) or (b), which is known to the employer or other entity covered by this part.
- c) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.
- d) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (a) or (b).

"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

3) "Physical disability" includes the following:

- a) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
  - i. Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.
  - ii. Limits a major life activity. For purposes of this section:
    - "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

- A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.
  - “Major life activities” shall be broadly construed and includes physical, mental, and social activities and working.
- b) Any other health impairment not described in paragraph (a) that requires special education or related services.
  - c) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (a) or (b) which is known to the employer or other entity covered by this part.
  - d) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.
  - e) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (a) or (b).
  - f) “Physical disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

F. *Essential eligibility requirements* are such criteria that can be shown to be necessary for the provision of the aid, benefit, service, training, program, or activity being offered.

G. *Essential functions* means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

- 1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:
  - a) The function may be essential because the reason the position exists is to perform that function.
  - b) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.
  - c) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.
- 2) Evidence of whether a particular function is essential includes, but is not limited to the following:

- a) The employer's judgment as to which functions are essential.
- b) Written job descriptions prepared before advertising or interviewing applicants for the job.
- c) The amount of time spent on the job performing the function.
- d) The consequences of not requiring the incumbent to perform the function.
- e) The terms of a collective bargaining agreement.
- f) The work experiences of past incumbents in the job.
- g) The current work experience of incumbents in similar jobs.

H. *Fundamental alteration* means a change in the essential nature of a program or activity, or a cost that the local entity can demonstrate would result in an undue burden. Factors to be considered in determining whether a requested modification would result in a fundamental alteration are referenced in Step 3 of this process (described later in the Step by Step Process section of this guide.)

I. *Major life activities* mean functions such as the following:

- Caring for one's self
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Learning
- Working

J. *Undue hardship* means an action requiring significant difficulty or expense, when considered in light of the following factors:

- 1) The nature and cost of the accommodation needed.
- 2) The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility.
- 3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities.
- 4) The type of operations, including the composition, structure, and functions of the workforce of the entity.
- 5) The geographic separateness, administrative, or fiscal relationship of the facility or facilities.



### **III. Effective Communication and Other Assistance**

Each local entity shall be responsible for ensuring effective communication between the qualified individual with a disability and entity staff throughout the reasonable accommodation process. Effective communication may require arranging for sign language interpreters, assistive listening equipment, alternative formats for people with visual impairments, or other approaches. In addition, the local entity shall also be responsible for providing such other reasonable assistance as is requested throughout the reasonable accommodation process, as well as through the process of any necessary appeals.

### **IV. Confidentiality**

A. **Local entity must maintain confidentiality.** All documentation and information concerning the medical condition or history of an individual with a disability requesting an accommodation must be collected on forms separate from other forms related to that individual, and must be maintained by the local entity in separate medical files. The information shall be treated as confidential medical records, and access to the records must be limited, except to the extent of the following:

- 1) The local entity management must be informed about work restrictions or reasonable accommodations.
- 2) The first-aid and safety personnel need to be informed if the disability may require emergency treatment.
- 3) Government officials investigating compliance with law are required to be provided with relevant information upon request.

### **What Accommodations Are Reasonable?**

The reasonableness of an accommodation will depend upon the circumstances of each case. For additional clarification as to what are reasonable accommodations in the employment context, refer to 29 CFR Part 32. Reasonable accommodations include, but are not limited to the following:

- Making facilities that are not otherwise required to comply with Federal accessibility standards physically accessible to and usable by people with disabilities (e.g., providing ramps, restroom grab bars, signage, etc.).
- Restructuring of job or training tasks (e.g., reallocating non-essential typing, telephone or other clerical assignments among employees, assignment of non-essential tasks to others, eliminating non-essential tasks, etc.).
- Modifying schedules (e.g., permitting alternative starting and ending times to avoid standing and jostling on subways).

- Providing or modifying equipment, devices or materials (e.g., raising a desk on boards for a person who uses a wheelchair, providing flashing lights and volume controls on intercoms and telephones, installing text telephones [TTYs], providing large-print computer display programs, or materials in alternative formats, including Braille, audio tape or enlarged print, etc.).
- Providing qualified readers, interpreters, or other support services for all aspects of programs and activities including the application, interview, and testing processes, and during training and employment-related activities.

Reasonable accommodation may also include permitting the individual with a disability to use aids or services that the local entity is not otherwise required to provide. For example, although a local entity generally would not be required to provide a motorized scooter to an individual with mobility impairment, reasonable accommodation may include providing an area to stow such a mobility aid, if necessary.

The local entity is not required to provide personal items to individuals with disabilities. Such items include hearing aids, prosthetic limbs, wheelchairs, or eyeglasses. However, such items may constitute reasonable accommodation where they are specifically designed to meet needs that are related to the program or activity in which the person is participating, or the job the person is performing. For example, eyeglasses designed to enable the individual to view a computer monitor, but which are not otherwise needed outside of the program or activity in which the person is participating, or the job the person is performing, may constitute a reasonable accommodation.

Where more than one possible reasonable accommodation exists, the local entity should give primary consideration to the individual's preference in determining what accommodation it will provide.

As noted above, some requests for reasonable accommodation can be granted and implemented immediately following their receipt, without formal evaluation, consistent with this procedure. Such may be the case where the individual identifies any requested accommodation with specificity. For example, an employee who is deaf and routinely uses a text telephone (TTY) can readily identify a job-related limitation, as well as the accommodation needed. Where it is obvious that providing the TTY will enable the individual to meet the job's essential functions, the TTY can be ordered, provided and documented without the more comprehensive analysis provided for in Steps 2 and 3 (described later in the Step by Step Process section of this guide.) In these cases, the reasonable accommodation process is merely compressed; it is not eliminated.

Accommodations may be considered "unreasonable" only if they impose an undue hardship for the specific local entity in question. For example, shifting tasks among clerical employees to accommodate an employee with a disability may be reasonable where a

sufficient number of employees exist among whom the tasks can be distributed; however, such an accommodation may be unreasonable in a very small office with few employees. The factors listed in the definition of “undue hardship” in 29 CFR Section 38.4(rrr) must be considered in making this determination.

If a requested accommodation would result in undue hardship, the recipient must, after consultation with an individual with a disability (or individuals with disabilities), take any other action that would not result in such hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefit, service, training, or employment provided by the recipient.

## **REASONABLE ACCOMMODATION POLICY AND PROCEDURE**

### **Step by Step Process**

#### **Step 1 – Individual with a Disability Requests Reasonable Accommodation**

##### *Initial Consultation*

The individual with a disability should submit a reasonable accommodation request to designated staff. If a request for reasonable accommodation is made to facilitate the application process, the local entity manager supervising the application process should assist where requested and, in conjunction with the local entity staff, process the request for accommodation. The local entity manager receiving the request shall acknowledge each request in writing. The current request for reasonable accommodation shall not preclude the submission of subsequent requests.

Generally, it is the responsibility of the individual with a disability to inform the local entity of the need for an accommodation. Reasonable accommodation must be provided for disabilities that are known. Nevertheless, once the local entity is aware of an individual's disability, it may have the responsibility to initiate discussions about reasonable accommodation and set these procedures in motion.

Where the need for a requested accommodation is not apparent, the local entity manager supervising the application process may ask the individual to provide documentation in support of the request. For example, if the individual with dyslexia requests additional time within which to complete a timed, written entrance qualifying examination, that individual may be asked to provide documentation in support of that request.

Similarly, if an individual with a mental disability requests a flexible schedule to attend psychotherapy during the work day, the individual may be asked to provide documentation from the treating professional in support of that request.

After acknowledging a request for accommodation, the local entity manager should do one of the following:

- 1) Provide or implement the request and document the accommodation
- 2) Proceed to Step 2 of this procedure.

## **Step 2 – Consult with the Individual Requesting a Reasonable Accommodation**

The reasonable accommodation process sometimes can be accomplished without a formal analysis of the individual's limitations and the local entity's resources, as in the example provided above, where an individual's desk is elevated on blocks to permit access from a wheelchair. Other situations are more complex, however, and require structured analysis. In these instances, upon receipt of a request for reasonable accommodation, the local entity should consult with the individual requesting the accommodation to assess the limitations of the disability and how the individual may best be involved in the accommodation process.

Using a collaborative, open and flexible approach, the local entity should consider how any limitations can be overcome, discuss possible reasonable accommodations, and assess the effectiveness of each. Other possible resources to consult with throughout this process include, but are not limited to, the following:

- The Job Accommodation Network, which can be reached at 1-800-JAN-7234 or by accessing their website at: [www.Jan.wvu.edu](http://www.Jan.wvu.edu).
- The California Committee on Employment of People with Disabilities at the Department of Rehabilitation. They can be reached at: (855) 894-3436 or via email at: [CCEPD@dor.ca.gov](mailto:CCEPD@dor.ca.gov).

The local entity must consider the individual's preferences, along with what is reasonable and does not impose an undue hardship.

The circumstances, in which documentation can be requested, as well as the procedure for requesting such documentation, are as follows:

- A. When the disability and/or the need for accommodation are not obvious, the local entity may ask the individual for reasonable documentation about his/her disability and functional limitations.

Reasonable documentation means that the local entity may require only the documentation that is needed to establish that a person has an actual, current disability, and that the disability necessitates a reasonable accommodation. However, the local entity, in response to a request for reasonable accommodation,

cannot ask for documentation that is unrelated to determining the existence of a disability and the necessity for an accommodation.

The local entity may require that the documentation about the disability and the functional limitations come from an appropriate health care or rehabilitation professional. The appropriate professional in any particular situation will depend on the disability and the type of function limitation it imposes. Appropriate professionals include, but are not limited to, doctors (including psychiatrists), psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals.

In requesting documentation the local entity should specify what types of information they are seeking regarding the disability, its functional limitations, and the need for reasonable accommodation. For example, the person can be asked to sign a limited release allowing the local entity to submit a list of specific questions to the health care or vocational professional. **The local entity must maintain the confidentiality of all medical information collected during this process, regardless of where the information comes from.**

- 1) It is unlawful except as provided in paragraph (2) or (3), for any employer or employment agency to require any medical or psychological examination of an applicant, to make any medical or psychological inquiry of an applicant, to make any inquiry whether an applicant has a mental disability or physical disability or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.
- 2) Notwithstanding paragraph (1), an employer or employment agency may inquire into the ability of an applicant to perform job-related functions and may respond to an applicant's request for reasonable accommodation.
- 3) Notwithstanding paragraph (1), an employer or employment agency may require a medical or psychological examination or make a medical or psychological inquiry of a job applicant after an employment offer has been made but prior to the commencement of employment duties, provided that the examination or inquiry is job-related and consistent with business necessity and that all entering employees in the same job classification are subject to the same examination or inquiry.
- 4) It is unlawful except as provided in paragraph (5), for any employer or employment agency to require any medical or psychological examination of an employee, to make any medical or psychological inquiry of an employee, to make an inquiry whether an employee has a mental disability, physical

disability, or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.

5) Notwithstanding paragraph (4), an employer or employment agency may require any examinations or inquiries that it can show to be job-related and consistent with business necessity. An employer or employment agency may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that worksite.

B. If a person provides insufficient documentation of a disability in response to the local entity's initial request, the local entity may require the person to go to a health care professional of the local entity's choice. However, the local entity should explain why the documentation is insufficient and allow the person an opportunity to provide the missing information in a timely manner.

Please note that under the federal disability nondiscrimination law, the local entity cannot ask for documentation under the following circumstances:

- 1) Both the disability and the need for reasonable accommodation are obvious, or
- 2) The person has already provided sufficient information to substantiate they have an actual, current disability and needs the reasonable accommodation requested.

If the individual's disability or need for reasonable accommodation is not obvious, and they refuse to provide the reasonable documentation requested by the local entity, then they are not entitled to reasonable accommodation. On the other hand, failure by the local entity to initiate or participate in an interactive process with the individual after receiving a request for reasonable accommodation could result in liability for failure to provide a reasonable accommodation.

### **Step 3 – Local Entity Management and/or Designated Staff Analyzes the Request for Reasonable Accommodation**

After consulting with the individual with a disability, the entity should examine the request and determine if the requested accommodation is feasible and does not create an undue hardship or result in a fundamental alteration. Please note, if a requested accommodation would result in undue hardship, the recipient must, after consultation with an individual with a disability (or individuals with disabilities), take any other action that would not result in such hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefit, service, training, or employment provided by the recipient (29 CFR Section 38.14[a][3]).

It is unlawful for an employer or other entity covered by the WIOA, Section 188, 29 CFR part 38, W-P, the Americans with Disabilities Act (ADA), and the Fair Employment and Housing Act (FEHA), to fail to engage in a timely, good faith, interactive process with the

employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition.

The factors to be considered in determining whether an accommodation would impose an undue hardship or in determining whether the cost of a modification would result in a fundamental alteration includes the following:

- A. The nature and net cost of the accommodation/modifications needed, taking into consideration the availability of tax credits and deductions, and/or outside funding, for the accommodation/modification.
- B. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation/modification, including the following:
  - 1) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities.
  - 2) The effect the accommodation/modification would have on the expenses and resources of the facility or facilities.
- C. The overall financial resources of the local entity, including the following:
  - 1) The overall size of the local entity.
  - 2) The number of persons aided, benefited, served, trained, or employed by the local entity.
  - 3) The number, type and location of the local entity's facilities.
- D. The type of operation or operations of the local entity, including the following:
  - 1) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the local entity.
  - 2) Where the individual is seeking an employment related accommodation/modification, the composition, structure and functions of the local entity's workforce.
- E. The impact of the accommodation/modification upon the operation of the facility or facilities, including the following:
  - 1) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties.
  - 2) The impact on the facility's ability to carry out its mission.

It is unlawful for an employer or other entity covered by the WIOA, Section 188, 29 CFR part 38, W-P, ADA, and the FEHA, to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee. Nothing in this document shall be construed to require an accommodation that is demonstrated by the employer or other covered entity to produce undue hardship to its operation.

## **Step 4 – Select and Implement an Appropriate Reasonable Accommodation**

Within 10 business days of receipt of a request for reasonable accommodation, the local entity to where it was submitted shall either grant or deny the request in writing. Provisions of this accommodation should commence immediately. If a requested accommodation would result in undue hardship, the recipient must, after consultation with an individual with a disability (or individuals with disabilities), take any other action that would not result in such hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefit, service, training, or employment provided by the recipient (29 CFR Section 38.14[a][3]).

Where the provision or implementation of a reasonable accommodation will take longer than 10 business days, the steps taken to order, secure or carry out the accommodation shall be documented and discussed with the individual requesting a reasonable accommodation. In all instances, however, the local entity shall act as expeditiously as possible to provide reasonable accommodations.

Where further supporting documentation has been sought from the individual requesting a reasonable accommodation, the grant or denial of a request for reasonable accommodation shall be rendered as noted below:

- A. For those cases in which medical documentation is necessary in order to understand the individual's limitations and what accommodations are possible, the grant or denial shall be issued within 10 business days of receipt of the requested documentation.
- B. For those cases in which the documentation is being requested merely to verify the information provided by the individual with a disability, the grant or denial shall be issued within 5 business days of receipt of the requested documentation.
- C. For those cases in which the individual refuses to provide reasonable requested documentation, the grant or denial shall be issued within 5 business days of the notification of refusal.

Where the local entity determines to deny a request for accommodation, or to provide an accommodation other than the individual's expressed preference, the local entity shall first consult with the individual requesting the reasonable accommodation. The local entity will document the determination in writing. Where the determination is to deny the request on the basis of undue hardship or fundamental alteration, the proposed alternative accommodation or modification will also be documented.

### **What if an Appropriate Reasonable Accommodation cannot be identified?**

Sometimes, the local entity, or the individual requesting the reasonable accommodation, cannot identify possible reasonable accommodations. In those instances, the local entity



should consult with appropriate resources e.g., those listed in Step 2 of these instructions. The local entity will seek to facilitate effective communication between the parties with the goal of identifying and implementing appropriate reasonable accommodation and, where a reasonable accommodation has been selected, shall monitor its implementation.

Throughout the Step 2 consultation process, the individual, and the local entity may seek technical assistance or clarification of each component of the reasonable accommodation process from appropriate resources.



Attachment IV

DISCRIMINATION COMPLAINT FORM
Orange County Workforce Development Board

This form should be used by anyone who wishes to file a discrimination complaint against any person(s)/entity in the workforce development community system that you believe discriminated against you. To file a discrimination complaint, complete this form, sign on page 4, and return to either insert agency name EO Officer; OR to the OCWDB's Equal Opportunity Officer OR to the Civil Rights Center (CRC). The complaint must be filed within 180 days from the date of the alleged violation.

1. Complainant information:

Form section for complainant information including fields for Name, Street Address, City, State, Zip Code, Home Phone, Work Phone, Cell, and E-mail.

2. Complainant Contact Information:

Form section for complainant contact information including a table for convenient contact times during business hours (Monday to Friday) for Day, Time, and Phone.

3. Contact Information for the Person(s) Who You Claim Discriminated Against You:

Form section for contact information for the person(s) who claim discriminated against you, including fields for entity name, person name, address, city, state, ZIP Code, phone, and dates of occurrence.



**4. Tell Us About the Incident(s):**

- Explain briefly what happened and how you were discriminated against.
- Provide the date(s) when the incident(s) occurred.
- Indicate who discriminated against you. Include names and titles, if possible.
- If other people were treated differently than you, tell us how they were treated differently.
- Attach any documents that you think might help us better understand your complaint.

**5. Please list below any person(s) (witnesses) that we may contact for additional information to support or clarify the complaint.**

Name	Address	Phone

**6. Basis for the Discrimination:**

- Check the type of discrimination you experienced, such as age, race, color, national origin, disability, etc.
- If you believe more than one basis was involved, you may check more than one box:

- |   |   |
|---|---|
| <input type="checkbox"/> Age- <i>provide date of birth:</i><br><input type="checkbox"/> Color<br><input type="checkbox"/> National Origin (including limited English proficiency)<br><input type="checkbox"/> Retaliation<br><input type="checkbox"/> Gender - Specify <input type="checkbox"/> F <input type="checkbox"/> M<br><input type="checkbox"/> Race - indicate race:<br><input type="checkbox"/> Political Affiliation or Belief<br><input type="checkbox"/> Status as a WIOA participant | <input type="checkbox"/> Citizenship<br><input type="checkbox"/> Disability<br><input type="checkbox"/> Religion<br><input type="checkbox"/> Harassment<br><input type="checkbox"/> Sex (including pregnancy, childbirth, or related medical condition, gender identity, and transgender status)<br><input type="checkbox"/> Other (Specify): |
|---|---|



**7. Have you previously filed a complaint against this person(s)/entity?  Yes  No**

If **YES**, answer the questions below, if **NO** move to section 8.

- a. Was your complaint in writing?  Yes  No
- b. On what date did you file the complaint?
- c. Name of office where you filed your complaint:  
Address:  
City: State ZIP Code  
Phone number:  
Contact person (*if known*):
- d. Have you been provided a final decision or report?  Yes  No
- Please attach a copy of the complaint.**

**8. What corrective action or remedy do you seek? Please explain:**

**9. Choosing a Personal Representative:**

- You may choose to have someone else represent you in dealing with this complaint. It may be a relative, friend, union representative, an attorney, or someone else.
- If you choose to appoint someone to represent you, all of our communication to you will be routed through your representative.

Do you want to authorize a personal representative to handle this complaint?  Yes  No

If **YES**, complete the section below. If **NO**, go to Section 10.

**AUTHORIZATION OF PERSONAL REPRESENTATIVE**

I wish to authorize the individual identified below to act on my behalf as my personal representative, in matters such as mediation, settlement conferences, or investigations regarding this complaint.

Name:

I am an attorney representing the complainant  I am not an attorney representing the complainant

Mailing Address:

City: State: Zip Code:

Phone: Fax:

E-mail:



### 10. Alternate Dispute Resolution (ADR) Also Known as Mediation.

**Notice:** You must indicate if you wish to mediate your case. The EEO Office cannot begin to process your complaint until you have made a selection. Please check **YES** or **NO** in the spaces below.

- Mediation is an alternative to having your complaint investigated.
- Neither party loses anything by mediating.
- The parties to the complaint review the facts, discuss opinions about the facts, and strive for an agreement that is satisfactory for both.
  - Agreement to mediate is not an admission of guilt by the person(s)/entity that you claim discriminated against you.
  - Mediation is conducted by a trained, qualified and impartial mediator.
  - You (or your Personal Representative) have control to negotiate a satisfactory agreement.
  - **Terms of the agreement are signed by the complainant and the person(s)/entity that you claim discriminated against you.**
  - **Agreements are legally binding on both parties.**
  - If an agreement is not reached, a formal investigation will start.
  - Failure to keep an agreement will result in a formal investigation.
  - A formal investigation will be opened if retaliation is reported.
- **Do you wish to mediate your complaint?**  
(Please check only one box)

**YES**, I want to mediate.       **NO**, please investigate.

**If you select "YES" you will be contacted within five business days with more information.**

### 11. Complainant's Signature:

**You must sign this form for your complaint to be processed!**

By signing this form, you are declaring under penalty of perjury that the information is true and correct to the best of your knowledge of belief.

- Faxed or otherwise electronically delivered complaints will be logged into our system; however, an official investigation cannot begin until the original, signed copy is received.

**Signature:**

**Date:**



## Attachment V Annual Complaint Log



**Service Provider:**

**Calendar Year:**

**None to report**

Date of Complaint	Name of Complainant	Address of Complainant	Email Address of Complainant	Status of Complaint	Date of the Alleged Incident	Grounds of Complaint	Description of Complaint	Name of Respondent	Is Respondent a Recipient?	Disposition/Outcome	Date of Disposition	ADR* Used?
						<input type="checkbox"/> Program Complaint <input type="checkbox"/> Discrimination			<input type="checkbox"/> Yes <input type="checkbox"/> No			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
						<input type="checkbox"/> Program Complaint <input type="checkbox"/> Discrimination			<input type="checkbox"/> Yes <input type="checkbox"/> No			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
						<input type="checkbox"/> Program Complaint <input type="checkbox"/> Discrimination			<input type="checkbox"/> Yes <input type="checkbox"/> No			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
						<input type="checkbox"/> Program Complaint <input type="checkbox"/> Discrimination			<input type="checkbox"/> Yes <input type="checkbox"/> No			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
						<input type="checkbox"/> Program Complaint <input type="checkbox"/> Discrimination			<input type="checkbox"/> Yes <input type="checkbox"/> No			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
						<input type="checkbox"/> Program Complaint <input type="checkbox"/> Discrimination			<input type="checkbox"/> Yes <input type="checkbox"/> No			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
						<input type="checkbox"/> Program Complaint <input type="checkbox"/> Discrimination			<input type="checkbox"/> Yes <input type="checkbox"/> No			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
						<input type="checkbox"/> Program Complaint <input type="checkbox"/> Discrimination			<input type="checkbox"/> Yes <input type="checkbox"/> No			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

\*ADR = Alternative Dispute Resolution (Mediation) for EO/Discrimination Complaints

Attachment VI

California Compliance Monitoring Guide: Nondiscrimination and Equal Opportunity Program

# **DATA AND INFORMATION COLLECTION MAINTENANCE**

**29 CFR 38.41-38.45**

Attachment VI

California Compliance Monitoring Guide: Nondiscrimination and Equal Opportunity Program

1. As a recipient of WIOA funds, your office is required to record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, participant, terminatee, applicant for employment and employees. Does your office record this data?

YES

NO

If YES, please explain how.

If NO, please explain.

2. How is this data maintained under safeguards that will restrict access to authorized personnel only? Please explain.

3. Beginning on **January 3, 2019**, WIOA Section 188 requires that recipients of WIOA funds record language preference and Limited English Proficiency status for each applicant, registrant, participant, and terminatee. Please explain what steps, if any, has your office taken to update its data collection and maintenance systems to ensure compliance with this requirement?

4. Any medical or disability-related information obtained about a particular individual, including information that could lead to the disclosure of a disability, must be collected on separate forms. All such information, whether in hard copy, electronic, or both, must be maintained in one or more separate files, apart from any other information about the individual, and treated as confidential. Whether these files are electronic or hard copy, they must be locked or otherwise secured (for example, through password protection). Please explain how your office complies with this requirement.

5. Recipients of WIOA funds must maintain records of applicants, registrants, participants, terminatees, applicants for employment and employees and records related to discrimination complaints, whether they exist in electronic form (including email) or hard copy, for a period of not less than three years from the close of the applicable program year. Does your office maintain records to comply with this requirement?

YES

NO