



**WASHINGTON STATE**

# **METHODS OF ADMINISTRATION**

2012 Recertification

**Christine Gregoire, Governor  
State of Washington**

**Paul Trause, Commissioner  
Employment Security Department**

**WIA Partners**

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Civil Rights Center  
U.S. Department of Labor

In accordance with  
Section 188 of the Workforce Investment Act of 1998  
and  
29 CFR Part 37

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# ELEMENT ONE

## DESIGNATION OF STATE- AND LOCAL-LEVEL EQUAL OPPORTUNITY OFFICERS 29 CFR 37.54(d)(1)(ii)

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.23 through 37.28. In summary, any individual appointed as EO Officer should have the skill, ability, knowledge and authority to properly oversee and direct the EO program to which that individual has been assigned.*

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**T**he Governor of Washington State has designated the Employment Security Department (ESD) to administer the implementation of nondiscrimination and equal opportunity (EO) provisions of the Workforce Investment Act (WIA) of 1998.

The nondiscrimination and equal opportunity provisions contained in 29 CFR 37.23 require that all recipients, except small entities and service providers, designate EO Officers. These provisions describe who can serve as EO Officers and what their responsibilities are.

The ESD Commissioner has ultimate responsibility for administration of the EO program and, on behalf of the Governor, ensures that both ESD and the WIA partners comply with the provisions contained in these regulations. The ESD Commissioner reports to the Governor.

### **Background: WorkSource Washington**

WorkSource Washington is Washington State's One-Stop delivery system. It provides a comprehensive and integrated interface that allows both employers and job seekers easier access to workforce services and information through WorkSource Centers and affiliate sites.

WorkSource Washington consists of 12 geographic workforce development areas (WDA): Olympic Consortium, Pacific Mountain WDC, Northwest WDC, WDC Snohomish County, Seattle-King County WDC, Tacoma/Pierce County WDC, Southwest Washington WDC, North Central Washington WDC, South Central WDC, Eastern Washington Partnership WDC, Benton-Franklin WDC, and Spokane Area WDC. Each of the WDAs is headed by a Local Workforce Investment Board (LWIB.) For purposes of this document, the local workforce investment boards will be referred to



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as the Workforce Development Councils (WDC). Attachment 1C provides a list of the WDCs, their addresses, and the names of the directors.

In 1999 Governor Gary Locke issued Executive Order No. 99-02 in compliance with WIA requirements. Section 1 of the Executive Order directs that, *"The Workforce Board shall act as the Workforce Investment Board for purposes of the federal WIA of 1998."* (See Attachment 1D)

In accordance with RCW 28C.18.020, the Workforce Investment Board consists of nine voting members. Each is appointed by the Governor, with the Washington State Senate's consent, and consists of three representatives from each of the following sectors: business, labor, and state government. State government is represented by the Superintendent of Public Instruction, the Executive Director of the State Board for Community and Technical Colleges and the Commissioner of the Employment Security Department. There are also two nonvoting participants: the Board Chair, who represents the Governor, and one other individual appointed by the chair to represent racial and ethnic minorities, women and people with disabilities. The Board and the 12 WDCs work in partnership to develop the state-unified plan, designed to meet WIA implementation requirements.

### **EO Officer Designation at State Level**

**M**r. Kintu Nnambi, Diversity, Inclusion and Equal Opportunity Manager, is the designated State Equal Opportunity Officer. Attached are ESD's and the Human Resource Services Division's organizational charts to show the location of the State EO Officer. (Attachments 1A-1 and 1A-2) Mr. Nnambi has oversight responsibility for coordinating, implementing, maintaining and monitoring the nondiscrimination and equal opportunity requirements under the U.S. Department of Labor (USDOL) regulations 29 CFR Part 37 and Title VI of the Civil Rights Act of 1964, as amended. (See Attachment 1B-1)

Mr. Nnambi reports to Mary Frost, Workforce Readiness and Training Manager. Ms. Frost reports to Ron Marshall, Assistant Commissioner, Human Resource Services Division. On matters related to EO and nondiscrimination, Mr. Nnambi has direct access to the Commissioner, Paul Trause, and the Deputy Commissioner, Joel Sacks. Mr. Nnambi periodically informs the Commissioner and Deputy Commissioner of the status of EO issues through Senior Leadership Team meetings and performance and accountability presentations. As needed, Mr. Nnambi informs the Commissioner or Deputy Commissioner about EO issues by e-mail, phone or personal appointment.

Mr. Nnambi's position description does not include duties and responsibilities that would constitute or appear to constitute a conflict of interest. If instances arise where the appearance of a conflict is presented, the Assistant Commissioner of the Human



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Resource Services Division will assign the duties to other staff or contract the work out to an independent investigator. Examples of potential conflicts of interest include discrimination complaints by HR managers and discrimination complaints about personnel selections in which the State EO Officer or the Assistant Commissioner of the Human Resource Services Division was involved in the selection process.

Mr. Nnambi's duties include the following:

- Coordinating and ensuring Washington State compliance with Section 188 of the WIA, 29 CFR Part 37 and Title VI of the Civil Rights of 1964, as amended.
- Serving as the state's liaison with the Civil Rights Center.
- Providing technical guidance to local-level EO Officers statewide to ensure compliance with Civil Rights Center's and other federal and state laws, regulations, policies, procedures and directives.
- Monitoring and investigating recipients' activities to ensure compliance with WIA nondiscrimination and EO requirements.

Mr. Nnambi has more than 20 years of experience in equal opportunity/non-discrimination programs. Mr. Nnambi's experience and his extensive training have provided him with a strong background in the areas needed to successfully carry out his assigned duties as the State EO Officer. He has a Masters degree in Public Administration and a Bachelor of Arts degree in Social Sciences.

The Civil Rights Center (CRC) will be promptly notified if the designation of the State EO Officer changes.

Staff resources in support of Mr. Nnambi are as follows:

- Compliance Specialist: Ms. Karen Huber was appointed as the Nondiscrimination Compliance Specialist on October 16, 2010, reporting to Mr. Nnambi. (Attachment 1B-2) Ms. Huber's primary duties are:
  - Conducting WDC, Unemployment Insurance (UI) and Wagner Peyser compliance monitoring reviews.
  - Developing and maintaining the Limited English Proficiency (LEP) plan and policy, and updating the plan annually.
  - Preparing and submitting biennial Methods of Administration (MOA) recertifications.
  - Developing a best-practices manual and other compliance documents.
  - Providing technical assistance and training to WDC EO Officers and ESD staff on compliance issues, as needed.
  - Conducting annual WDC EO Officers meetings.



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- Verifying data and training staff on EO data reports.
- Developing and maintaining a project schedule for nondiscrimination projects underway.
- Diversity, Inclusion and EO Specialist: Ms. Altavia Jones was appointed to the Diversity Specialist position on March 1, 2010, and reports to Mr. Nnambi. (Attachment 1B-3)

With regard to WIA Title I and Title VI, the Diversity Specialist's duties are:

- Conducting investigations of discrimination complaints by ESD employees and clients. Notifying complainants of receipt of the complaint, determining jurisdiction, explaining rights to complainants, and assigning mediation, if necessary.
  - Providing consultation to ESD staff on equal opportunity in recruiting and other aspects of employment.
  - Preparing and updating ESD's state-required Affirmative Action Plan.
  - Developing and updating ESD's equal opportunity policies (discrimination complaint processing, harassment, etc.).
  - Providing training to ESD staff on ESD's equal opportunity policies, sexual and other harassment issues as needed.
  - Developing discrimination complaint responses to the U.S. Department of Labor Civil Rights Center or other federal and state civil rights enforcement agencies and responding to other inquiries from those agencies.
- Administrative Assistant: Ms. Shannon Masuoka provides administrative support to the EO staff. (Attachment 1B-4)
  - WSID Program Support: The WorkSource Standards and Integration Division (WSID) administers WIA Title I. Mr. Alberto Isiordia and Ms. Lisa McCormick are program complaint leads for WIA and Wagner-Peyser complaints elevated to the state level. They refer discrimination complaints to the State EO Officer. (Attachments 1B-5 and 1B-6)

Mr. Isiordia is the State Monitor Advocate. He forwards discrimination complaints from the Monitor Advocate program to the State EO Officer and collaborates, when needed, on the investigation.

- Unemployment Insurance Division Support: The UI Division administers the unemployment benefits as well as the tax assessment and collections programs.



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- UI Community Outreach and Coordination Manager: Ms. Sharnelle Moore works closely with UI program staff in referring discrimination complaints to the State EO Officer. She provides technical assistance on customer complaints, expanding UI outreach efforts and identifying ways to expand universal access to UI programs and services. Ms. Moore is also the American Indian Policy Coordinator for ESD. (Attachment 1B-7)
- UI Policy Unit EO / LEP Coordinator: Ms. Alicia Cárdenas-Short is the Communications Consultant for the UI Division. She conducts outreach and coordinates language services. She uses her expert skills as a certified Spanish language interpreter and translator to translate agency materials. Ms. Cárdenas-Short works with the State EO Officer in addressing customer and constituent language service complaints. She is an advisor on the agency's Diversity Steering Committee. She is a staff of the UI Benefits and Policy Administration Unit and serves on an established three-member team that reviews and interprets the quarterly EO data reports. (Attachment 1B-9)
- Claims Center Operations: Ms. Paula Lonergan is the liaison between the UI Division and other ESD Divisions, i.e., WSID and the Employment and Career Development Division (ECDD). She assists in developing, educating and coordinating with other Divisions on new UI integration initiatives designed to enhance customer service, universal access, and coordination with other areas where mutual customers are provided services. Additionally, she assists the State EO Officer in gathering and providing information for customer service and/or discrimination complaints in the UI Benefits Program. (Attachment 1B-8)

This structure adheres to USDOL requirements by designating a higher-level officer of the agency with direct access to the Commissioner and Deputy Commissioner who is accountable for equal opportunity/nondiscrimination in agency services and employment practices. This reflects the State of Washington's firm commitment to ensuring accessibility and nondiscrimination in all client services provided under the Workforce Investment Act's One-Stop system and in all ESD's employment practices.

Also attached are job descriptions for the State EO Officer, Diversity/Equal Opportunity Specialist, Nondiscrimination Compliance Specialist and the WIA and UI Program Officers. (Attachments 1B-1 – 1B-9)



**EO Officer Designation at the Local Level**

In compliance with the nondiscrimination requirements for the MOA, each WDC has a designated local EO Officer: Bob Potter, Olympic Consortium; Craig Clark, Pacific Mountain WDC; Dan Vogel, Northwest WDC; Debbie Little, WDC Snohomish County; Marcelle Wellington, Seattle-King County WDC; Dolly Garcia, Tacoma/Pierce County WDC; Amy Gimlin, Southwest Washington WDC; Dave Petersen, North Central Washington WDC; Terie Dohrman, South Central WDC; Tom O’Brien, Eastern Washington Partnership WDC; Sylvia Duran, Benton-Franklin WDC; and Seth Dyson, Spokane WDC. Attached are the names of the designated EO Officers, job descriptions, organizational charts, and percentages of time committed to EO matters (also outlined in the table below). (Attachments 1E-1 – 1E-12) Washington State addresses designation of Local EO Officers, potential conflicts of interest and accountability on a case-by-case basis. It continues to be reviewed through the monitoring process by the State EO Officer. To date there have been no conflicts of interest.

Local EO Officers are responsible for, but are not limited to:

- Conducting monitoring reviews and investigating the activities of the One-Stop system partners and service providers in their area to ensure compliance with the nondiscrimination and EO obligations under WIA and 29 CFR Part 37.
- Reviewing written policies to ensure they are nondiscriminatory.
- Developing and publishing procedures for processing discrimination complaints and ensuring adherence to the procedures.
- Coordinating local-level WIA EO responsibilities to include ensuring service providers’ compliance with the nondiscrimination and EO provisions of WIA.

The percentage of time each local-level EO Officer spends on EO-related matters is referenced in the table below:

WDA	Workforce Development Council	EO Officer	% of Time on EO Matters
I.	Olympic Consortium	Bob Potter	10%
II.	Pacific Mountain	Craig Clark	16%
III.	Northwest	Dan Vogel	10 – 25%
IV.	Snohomish County	Debbie Little	10%
V.	Seattle-King County	Marcelle Wellington	30%
VI.	Tacoma/Pierce County	Dolly Garcia	8%
VII.	Southwest Washington	Amy Gimlin	10%
VIII.	North Central Washington	Dave Petersen	35%

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WDA	Workforce Development Council	EO Officer	% of Time on EO Matters
IX.	South Central	Terie Dohrman	25%
X.	Eastern Washington Partnership	Tom O'Brien	10%
XI.	Benton-Franklin	Sylvia Duran	10%
XII.	Spokane Area	Seth Dyson	5%

Sixty-nine (69) WorkSource Centers and affiliate sites are located within the 12 workforce development areas. All offices refer EO-related matters to their local WDC-designated EO Officer or the State EO Officer, as appropriate. The WDC EO Officers may refer issues to ESD, partner EO Officers or other entities depending on who has jurisdiction. This ensures nondiscrimination and accessibility in services provided to WorkSource clients. Each WDC develops a policy to administer this requirement. Attached is a list of the WorkSource Centers and affiliate sites. (Attachment 1F)

Attachment 1G includes the October 2000 letters sent to the 12 WDCs and to Chris Webster, former ESD WIA Manager, regarding identification of individuals designated as local EO Officers. The same information is collected today when new local EO Officers are appointed. The staff of the WSID program monitoring team collaborates with the State EO Officer to ensure compliance with the EO/nondiscrimination requirements of Section 188 of the WIA and 29 CFR Part 37. If they come across what appears to be an EO issue during one of their reviews, they notify the State EO Officer. Attachment 1H identifies the local EO Officers, along with their position titles, telephone numbers, mail and e-mail addresses, and TTY numbers.

### **Resources and Training**

The WIA "Equal Opportunity is the Law" posters have been distributed to the local WDCs and partner offices. The posters, which are placed in prominent locations for public viewing, provide all applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment, as well as interested members of the public, with the identity of the local EO Officer and State EO Officer. The posters provide e-mail and business addresses and telephone numbers (including TTY or relay service numbers.) In response to comments received from CRC regarding these posters, the State EO Officer notified all 12 EO Officers that a larger font size was needed on the posters. Labels with a larger font size were sent to all WDCs. See Attachment 2I-1.1 and 2I-1.2 for a copy of the Equal Opportunity Notice poster in English and Spanish.

In addition, CRC's "Discrimination is Against the Law!" posters have also been disseminated to the WDCs and service providers. The State EO Officer provided instructions that these posters are to supplement, not replace, the WIA "Equal Opportunity is the Law" posters. These posters are available on the CRC website at

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[www.dol.gov/oasam/programs/crc/diatl.pdf](http://www.dol.gov/oasam/programs/crc/diatl.pdf). They allow for letter-sized posters in English and 11 other languages to be used at service provider locations. (Attachment 2K-3)

Each EO Officer was carefully selected. The State EO Officer is proactive in identifying and meeting the training needs of the local EO Officers. The State EO Officer uses the USDOL MOA training developed by TATC Consulting. (Attachment 2P)

On December 11-13, 2001, a three-day MOA Training Conference was held in conjunction with a team from CRC. The focus was to ensure that individuals with a critical role in the provision of training and services understand the EO/nondiscrimination requirements in the regulations. This early WIA conference set the tone for successful EO/nondiscrimination compliance within WorkSource Washington. (Attachment 1J)

On April 28, 2010, local EO Officers, WorkSource Administrators and other partner staff attended a one-day EO Officer's annual meeting, which provided training, best practices and new information for ensuring nondiscrimination in the One-Stop system. (Attachment 1I) Similar meetings were held in 2002 and 2004. However, due to budget constraints, two-hour webinars were held in 2011 and 2012. We are considering holding these webinars twice a year until our budgets improve. The objective is to move WDCs from simply observing EO compliance to a position of "best practices" to ensure each WorkSource Center and affiliate is welcoming and accessible to all clients.

In 2011, the State EO Officer and two local EO Officers attended the USDOL National Annual EO Training Symposium. The focus is on ensuring that individuals with a critical role in the provision of services understand the requirements of the EO/nondiscrimination regulations. The State EO Officer and various WDC EO Officers have attended these symposiums since 2002. The State EO Officer has presented workshops at the symposiums since 2007.

With the appointment of a dedicated Nondiscrimination Compliance Specialist under the guidance of the State EO Officer, training on the elements of the MOA will be provided to ESD managers, supervisors and coordinators whose staff provide services to clients (including UI Claims Center staff and WorkSource partner managers and supervisors). This effort will ensure that the management of service delivery units understand the EO/nondiscrimination requirements and that service delivery complies with these laws and regulations.

The State EO Officer and Nondiscrimination Compliance Specialist also provide EO technical assistance and training to the local EO Officers on an ongoing basis.



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## Documentation

### Attachments for Element One

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- 1A 1 - ESD Organizational Chart
- 2 - Human Resource Services Division Organizational Chart
- 1B 1 - Job Description and Organization Chart for Kintu Nnambi, State EO Officer
- 2 - Job Description for Karen Huber, Compliance Specialist
- 3 - Job Description for Altavia Jones, Diversity/Compliance Specialist
- 4 - Job Description for Shannon Masuoka, Administrative Assistant
- 5 - Job Description for Alberto Isiordia, State Monitor Advocate
- 6 - Job Description for Lisa McCormick, Program Complaint Lead
- 7 - Job Description for Sharnelle Moore, Outreach Coordination Mgr, UI Division
- 8 - Job Description for Paula Lonergan, Cross-Division Coordination/Special Projects Manager, UI Division, TeleCenter Operations
- 9 - Job Description for Alicia Cárdenas-Short, Communications Consultant, EO / LEP UI Policy
  
- 1C Workforce Development Council List
  
- 1D Governor's Executive Order No. 99-02
  
- 1E 1 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Bob Potter
- 2 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Craig Clark
- 3 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Dan Vogel
- 4 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Debbie Little
- 5 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Marcelle Wellington
- 6 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Dolly Garcia
- 7 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Amy Gimlin



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## Documentation

### Attachments for Element One - Continued

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- 8 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Dave Petersen
- 9 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Terie Dohrman
- 10 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Tom O'Brien
- 11 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Sylvia Duran
- 12 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Seth Dyson

1F List of WorkSource Centers and Affiliate Sites

1G October 26, 2000, Letters to WDCs and ESD WIA Manager

1H List of WDC EO Officers

1I EO Officer's Training in April 2010, June 2011, September 2012

1J WIA/EO MOA Training Conference in Collaboration with CRC, December 2001



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## ELEMENT TWO

### NOTICE AND COMMUNICATION (29 CFR 37.54(d)(1)(iii))

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.29 through 37.36. States should ensure the establishment of a notice and communication system that makes all registrants, applicants, eligible applicants/registrants, applicants for employment, employees and interested members of the public aware of both the recipient's obligation to operate its programs and activities in a nondiscriminatory manner, and the extent of the rights of members of these groups to file complaints of discrimination.*

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#### **Background**

**T**he State of Washington is committed to providing equal opportunity (EO) and ensuring nondiscrimination in employment and services. The Revised Code of Washington (RCW) 49.60 - the Washington Law Against Discrimination, prohibits discrimination on the basis of age, sex, marital status, race, creed, color, national origin, military or veterans status, sexual orientation or gender identity, the presence of any physical, sensory or mental disability, and the use of a trained dog or service animal by a person with a disability. (Attachment 2A)

In addition, the following Executive Orders and Directives were issued:

- Executive Order No. 12-02 Workforce Diversity and Inclusion (Attachment 2B)
- Executive Order No. 89-01 Sexual Harassment (Attachment 2D)
- Executive Order No. 96-04 Implementing the Americans with Disabilities Act (Attachment 2E)
- Governor's Directive No. 98-01 Implementation of Initiative Measure 200 (Attachment 2F)

In 1998 Washington State voters approved the passage of Initiative 200, which supports equal opportunity but forbids race, color national origin and sex to be considered in the final selection of candidates for employment. The statute does not impede Washington's ability to comply with federal nondiscrimination provisions or requirements.



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### **Notice and Communication**

Within WorkSource Washington, the Employment Security Department (ESD) and its partner organizations, as well as clients, unions, the public and professional organizations, have been informed of the nondiscrimination and equal opportunity requirements in the Workforce Investment Act (WIA). WIA Policy Number 3445 - Equal Opportunity and Nondiscrimination is distributed to WorkSource staff and partners when the two-hour EO training for WorkSource staff is conducted. (Attachment 2G) All ESD employees have been provided with a copy of ESD's Equal Opportunity/Affirmative Action Policy Number 0021 which was revised in September 2011. (Attachment 2H)

Both the WIA and ESD equal opportunity and nondiscrimination policies incorporate the following laws and regulations:

- ◆ Title VI and Title VII of the Civil Rights Act of 1964, as amended;
- ◆ Section 504 of the Rehabilitation Act of 1973, as amended;
- ◆ Americans with Disabilities Act of 1990, as amended;
- ◆ The Age Discrimination Act of 1975, as amended;
- ◆ The Age Discrimination in Employment Act of 1967, as amended;
- ◆ Title IX of the Education Amendments of 1972, as amended;
- ◆ Section 188 of the Workforce Investment Act (WIA) of 1998; and
- ◆ Title 29, Code of Federal Regulations, Part 37.

The WIA "Equal Opportunity is the Law" posters (in English and Spanish) with the wording specified in 29 CFR Part 37.54(d)(1)(iii) are distributed on 11-inch by 17-inch posters statewide within the WorkSource Washington system. (Attachment 2I-1.1 and 2I-1.2) Workforce Development Council (WDC) Directors received additional guidance to ensure that service providers throughout the state display these posters. Copies of the November 1, 2000, notice and memorandum, issued by Janet Leach-Ruth, then Acting Assistant Commissioner of the Administrative Services Division, instructing the WDC Directors to place these posters in prominent locations. (Attachment 2I-2)

A memo was also sent on December 22, 2000 to ESD Assistant Commissioners, WorkSource Administrators and Claims Center Administrators on the requirement to include alternate communication modes when telephone numbers are listed. (Attachment 2I-3) Where telephone numbers are listed, a Teletype (TTY) number will be included. The Washington Relay Service toll-free number 711 can be used in lieu of a TTY device. However, centers are encouraged to retain their TTY devices in case an individual with a disability needs to call out from the center. A memo was sent on



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November 27, 2000 to the agency's Communications Director regarding WIA nondiscrimination and EO requirements in notices and communication. (Attachment 2J)

Notice and communication is discussed during "EO Training for WorkSource Staff and Partners" conducted by local EO Officers (hereafter referred to as WDC EO Officers). The training is monitored for compliance during EO/nondiscrimination monitoring reviews.

Efforts are made to ensure that communications with individuals with disabilities are just as effective as communications with others. WDC EO Officers and WorkSource Center Administrators are informed during each monitoring review that they may develop an EO Notice on cassette tape or compact discs (CD) for individuals who are blind or sight impaired. They may also read the notice to the person. The WDC in Spokane County has made the EO notice available in Braille throughout its service area.

EO Notice posters are now prominently displayed in all WorkSource Centers, WorkSource Affiliate sites and other service providers in the One-Stop system in Washington. During monitoring reviews, the EO posters are checked for compliance. Posters are available upon request and can be ordered through the State EO Officer.

The EO Notice has been made available to all registrants, applicants, eligible applicants/registrants, participants, applicants for employment and employees, unions, and interested members of the public. The EO Notice, policies and forms to file a discrimination complaint are also available online in English and Spanish on ESD's equal opportunity web page at:

<http://www.esd.wa.gov/newsandinformation/formsandpubs/equal-opportunity-nondiscrimination-information.php>.

In addition, WIA service providers require registered participants to sign a statement and/or provide acknowledgement that they understand their rights and have received an EO Notice handout. When signed, a copy of this notice is placed in participants' files. (Attachments 2K-1 and 2K-2) See Element 7, Attachment A, for the monitoring tool, which addresses adherence to this policy. Also see Element 3, Attachment 3B-2, page 21, for the General Terms and Conditions of Grant Agreements.

The "Discrimination is Against the Law!" posters distributed by the Civil Rights Center (CRC) in 2009 are also available for service providers to supplement the WIA "Equal Opportunity is the Law" posters. They can be downloaded in letter-size and in various languages as provided by CRC. (Attachment 2K-3)

ESD and its partners have included the following tagline on their official web sites, job announcements, brochures and advertisements:



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“WorkSource Washington (or name of recipient) is an equal opportunity employer and provider of employment and training services. Auxiliary aids and services are available upon request to persons with disabilities.”

In a memo dated December 21, 2000, addressed to the 12 WDC Executive Directors, all grantees are instructed to include the EO tagline in “. . . recruitment brochures and 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, to describe WIA Title I financially assisted programs or activities. . . .” Requirements for tagline usage are also spelled out in WIA and ESD EO/nondiscrimination policies. During each monitoring review, service providers are checked for compliance.

Tagline language, the Equal Opportunity Notice in English and Spanish and the discrimination complaint procedures are accessible from the “Equal Opportunity” link at the bottom of the ESD Internet home page at [www.esd.wa.gov](http://www.esd.wa.gov). (Attachment 2L)

Attached are sample materials, job announcements, brochures, and publications that include EO tagline language. (Attachments 2M-1 – 2M-11) As additional materials are produced to market programs and services, the EO tagline language will continue to be used.

The Unemployment Insurance (UI) Benefit Administration and Policy Unit places the EO tagline on UI publications and on ESD’s website. ESD’s Office of Communications, which prepares many of the UI flyers and brochures, complies with agency Policy #0033 – Graphic Standards, which requires the use of the EO tagline on all publications. This policy also describes the requirements for non-English publications. After the enactment of WIA a memo was issued regarding the tagline requirements. (Attachment 2J)

The current UI Claims Kit includes additional information on filing a discrimination complaint. (Attachment 2M-9) Both the UI Claims Kit and the “What’s Next” flyer are translated into Spanish. (Attachment 2M-10 & 2M-11) The claims kit includes a statement in seven languages, other than English, instructing limited English proficient (LEP) persons on how to get help to understand the claims kit. ESD developed the following videos in English, Spanish and Open Caption: How to Apply for UI Benefits; Apply for Unemployment Benefits; How to File your Weekly Claim; and, How to Complete your UI Job Search Log. Since 2011, the UI Division has added videos online such as: Training Benefits; How to Prepare and Present your Case; and Plan and Pay your Taxes. In August 2012, ESD added more to its repertoire of online resources such as the “Other Languages” page, which includes pictorial and voice language assistance for 15 different languages. Here LEP customers are able to obtain assistance in navigating the claims process in their own language.



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**Information Dissemination and Training**

Registrants, applicants, eligible applicants/registrants and participants are advised of their rights to file a discrimination complaint during orientations for WIA services. All eligible participants are provided with the notice of rights to file a discrimination complaint (Equal Opportunity is the Law Notice) at orientations and/or registration by subrecipients or contractors. Follow-up monitoring is conducted by the WDC to ensure that a copy of this document is provided for signature.

ESD updated its new employee orientation and it is now available online. All ESD employees are provided with copies of relevant EO policies and procedures: Harassment Prevention; Reasonable Accommodation and Nondiscrimination on the Basis of Disability; Discrimination Complaint Processing Procedures; and Equal Opportunity and Affirmative Action. Agency staff is required to review and sign off that they have read these policies, which are listed among those mandated for annual review. Attachment 2Q contains ongoing training. Staff continues to receive training and technical assistance relative to these policies and procedures.

The State EO Officer and EO staff proactively provides training for local EO Officers. (Attachment 2P)

On June 19, 2001, EO Officers, WorkSource administrators and other partner staff participated in a WIA/EO MOA Orientation, which provided a high-level overview of the nondiscrimination and EO requirements of the WIA regulations.

Equal opportunity training is presented on request. The State EO Officer provides periodic EO informational updates, as well as notices of EO-related training sponsored by other sources, such as the annual CRC National EO Training Symposium. The State EO Officer also provides technical assistance to the local-level EO Officers on an ongoing basis.



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## Documentation Attachments for Element Two

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- 2A - RCW 49.60 Discrimination – Human Rights Commission
- 2B - Executive Order No. 12-02
- 2C - [Removed]
- 2D - Executive Order No. 89-01
- 2E - Executive Order No. 96-04
- 2F - Governor’s Directive No. 98-01
- 2G - Revised Final WIA Policy Number 3445 on Nondiscrimination and EO Requirements
- 2H - ESD EO Policy Number 0021 - Equal Opportunity/Affirmative Action
- 2I
  - 1.1- *Equal Opportunity is the Law* Poster in English
  - 1.2- *Equal Opportunity is the Law* Poster in Spanish
  - 2 - November 1, 2000, Memo to WDC Directors
  - 3 - December 22, 2000, Memo to Assistant Commissioners & WorkSource, Job Service, TeleCenter and W-Plex Administrators
- 2J - November 27, 2000, Memo to Assistant Commissioner of the Office of Public Affairs
- 2K
  - 1 - “Equal Opportunity is the Law” Notice Sample: Pacific Mountain
  - 2 - “Equal Opportunity is the Law” Notice Sample: Snohomish
  - 3 - “Discrimination is Against the Law!” Posters (in several languages)
- 2L - ESD Internet Home Page and the Equal Opportunity Page



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## Documentation

### Attachments for Element Two - continued

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- 2M 1 - UI Brochure / "What You Need to Know"
- 2 - October 3, 2012, Online Job Bulletin for Employment Security
- 3 - Sample templates WorkSource Brochures
- 4 - SkillSource Newspaper Job Postings from Jan 2009 and Sept 2010
- 5 - SkillSource Marketing Brochure
- 6 - WorkSource Snohomish Workshop Information
- 7 - WorkSource Brand Manual
- 8 - UI Job Search Log
- 9 - UI Claims Kit (in English)
- 10 - UI Claims Kit (in Spanish)
- 11 - UI "What's Next" Flyer (in English)
- 12 - UI "What's Next" Flyer (in Spanish)
  
- 2O [REMOVED]
  
- 2P [REMOVED]
  
- 2Q MOA Training for EO Officers and Implementation Staff – Participant Guide
  
- 2R Ongoing Training



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## ELEMENT THREE

### REVIEW ASSURANCES, JOB TRAINING PLANS, CONTRACTS AND POLICIES AND PROCEDURES (29 CFR 37.54(d)(1)(i) and (d)(2)(i), (iii) and (iv))

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.20 – 37.22 and 37.54(d)(1)(i) and (d)(2)(i), (iii) and (iv) regarding the review of assurances, job training plans, contracts, and policies and procedures. Additionally, Washington State addresses the procedures it and its recipients are following and will continue to follow in assessing the ability of grant applicants, if funded, or training providers, if declared eligible, to comply with WIA Section 188 and 29 CFR Part 37.*

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#### **Background**

The State of Washington does not knowingly do business with any entity that discriminates. It is the Employment Security Department's (ESD) policy to include a nondiscrimination and equal opportunity (EO) statement in all training plans, contracts and agreements. In addition, policies issued at the state and local levels reinforce ESD's commitment to ensure nondiscrimination throughout the One-Stop system.

ESD requires all grant applicants to include the EO assurance language verbatim, or its citation, in their grants, contracts and cooperative agreements. The assurance language commits the recipient to "comply fully with the nondiscrimination and equal opportunity provisions" of Section 188 of the Workforce Investment Act (WIA); Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; Title IX of the Education Amendments of 1972, as amended; and 29 CFR Part 37 and other regulations implementing these laws. The assurance language acknowledges the government's right to seek judicial enforcement if these laws are not adhered to. The specific language for this assurance is found at 29 CFR Part 37.20 (a)(1). If a citation is used it should be the following, "The nondiscrimination assurance at 29 CFR Part 37.20(a)(1) applies to this [contract/agreement/etc.]." ESD has issued guidance on EO assurances to Workforce Development Councils (WDC) in the State Operations Plan. (See Attachment 3D)



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### Assurances

**W**ithin the Budget, Performance and Research Division of ESD, the Contracts Office routinely reviews all contracts and agreements prior to finalization and execution to ensure EO assurances are included. The agency requires all applications for federal financial assistance under WIA to include EO assurances, thereby committing potential recipients and subrecipients to full compliance with the EO/nondiscrimination provisions of WIA.

The agency's State EO Officer works with the Contracts Office and the WorkSource Standards and Integration Division program staff to develop language that incorporates nondiscrimination clauses, EO assurances and sanctions in contracts, grant agreements, interagency agreements, personal service contracts, and requests for proposal processes where state and federal funds are expended to provide services. A contracting guide that includes the assurance language is available online. (Attachments 3A) The WIA grant agreements contain Exhibit A, General Terms & Conditions, Part II-C, Assurances. (Attachments 3B-1 and 3B-2) All ESD contracts contain an Exhibit B, General Terms & Conditions, Part II-E, Assurances. (Attachment 3B-3)

ESD has issued guidance to the WDCs regarding EO assurances. (Attachment 3C-1) Each recipient is expected to ensure their training plans, contracts and agreements are consistent with the EO and nondiscrimination provisions of WIA. (Attachment 3C-2)

The State EO Officer monitors the WorkSource system using technical assistance visits, desk audits and on-site reviews. On-site architectural accessibility, parking for individuals with disabilities, designated restrooms, program accessibility and effective communication with persons with disabilities are some of the elements monitored.

WDC EO Officers are required to monitor facilities in their respective workforce development areas for EO/nondiscrimination compliance. The State EO Officer monitors each workforce development area biennially. The State EO Officer's ESD and WDC Equal Opportunity and Nondiscrimination Monitoring Guide includes specific monitoring review guidelines to ensure that all plans and contracts contain the required assurance language. (See Element 7)

ESD and its partners have developed this Methods of Administration detailing the actions that have been and will be taken to ensure compliance with 29 CFR Part 37. This document will be reviewed and updated every two years and substantive changes will be forwarded to the Civil Rights Center.



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## Documentation

### Attachments for Element Three

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3A Contracting Guide (August 2008)

- 3B 1 - WIA Grant Agreement (used in grants by WDAs)
- 2 - General Terms and Conditions for Grant Agreements Under WIA

- 3C 1 - December 21, 2000, Memo to Workforce Development Council Directors Regarding Updated Language for Operations Plan
- 2 - Professional Services Agreement from Pacific Mountain Workforce Consortium
- 3 - [Removed]

3D State Operations Plan (July 1, 2012 - June 30, 2016)



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## ELEMENT FOUR

### UNIVERSAL ACCESS (29 CFR 37.54(d)(1)(v)) (29 CFR 37.42)

*Washington State addresses how it and its recipients are complying with and will continue to comply with the requirements of 29 CFR 37.42 relating to the provision of universal access to programs and activities.*

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#### ONE-STOP CENTERS

##### Background

Through a \$9 million grant from the United States Department of Labor (USDOL), Washington State began developing its One-Stop system prior to the Workforce Investment Act (WIA) being signed. The core elements of the system were customer focus, integration of services, universal access to the system and a strong accountability for outcomes. The One-Stop system was designed by a multitude of partners at both the state and local level with oversight by the Executive Policy Council (EPC). The EPC also required One-Stop partners to take into account the needs of the target populations including, at a minimum, dislocated workers, veterans, migrant and seasonal farmworkers, disadvantaged adults and youth, job seekers with disabilities, older workers, and welfare recipients seeking employment. (Attachment 4A-1, pages 1, 6 and 9)

The planning and decision-making process in the development of One-Stop Centers laid much of the groundwork for WorkSource Washington. During the implementation of the WIA, planning directions were sent to the chief local elected officials. The planning directions included a required assessment of current and future employment opportunities and skills needs, current and future workforces, current workforce development systems, goals, objectives and strategies. Universal services for WIA Title I-B funded employment and training services to youth, adults and dislocated workers were also a requirement in the plan. (Attachment 4A-2, pages 1, 2 and 4)

WorkSource Washington's electronic One-Stop system has been developed to reach out universally to all individuals interested in employment and training services. It is a customer service network designed to assist a broad range of job seekers and employers. The web site address is [www.go2worksource.com](http://www.go2worksource.com), and it includes a link to equal opportunity (EO) language. We have continued our efforts to ensure the inclusion of the EO tagline language in all official web sites, job announcements, brochures and



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advertisements. See Element 2 for sample publications. On the “go2worksource” website individuals are able to place their resumes on the web site for employers’ review; request referrals to listed job openings; obtain information from classified ads, government jobs, company web sites, and US jobs; and obtain information about apprenticeship programs, training benefits and labor market information. The site can be accessed any time. It offers opportunities for targeted populations to use and benefit from WIA services. (Attachment 4B-1 and 4B-2)

From the “go2worksource” web site, individuals can also access services available locally by clicking on the link to Local Connections. This allows users to find the name of their local Workforce Development Councils (WDC) and the WorkSource Centers and/or affiliate sites that operate within their area. Outreach efforts that encourage participation by all segments of the population eligible for services are evident through these web sites. We have made great strides in ensuring all web sites are accessible and contain links to disability information for both job seekers and employers. Many are available in languages other than English and in alternate formats, where applicable. These sites provide notices of employment and training opportunities, upcoming job fairs and workshops, and an orientation video. Links to partner services help publicize services available to everyone. See web site examples in Attachments 4B-3, 4B-4 and 4B-5.

Where bilingual media is available and its use is appropriate, it will be used to reach those who may not know about and/or have access to services. WDCs have been made aware of their obligation to provide appropriate language assistance to individuals with limited English proficiency in order to ensure meaningful access to programs and services in accordance with U.S. Department of Labor (USDOL) requirements and guidance.

Teletype (TTY) devices and the Washington Relay Service are available in local offices and in unemployment insurance (UI) Claims Centers to help ensure communications for all.

Service and training providers are co-located at the WorkSource Centers and affiliate sites across the state. This enables program access by WorkSource customers without their having to go to another site to obtain services. Customers are able to access services through self-service, staff-assisted service, workshops and training classes, and through one-on-one staff-directed services. The levels of services are based on the needs of the customer. The criteria for priority of services for the various programs are provided in a nondiscriminatory manner. Staff at the state level has communicated to WDCs their obligation to provide universal access and to include both sexes, various racial, ethnic and age groups, and individuals with disabilities. The WDCs incorporate this information into their WIA Operations and Strategic Plans. (Attachments 4A-2 and Section B of 4C-1 and Section 2 of 4C-2)



Toby Olson, Executive Secretary of the Governor's Committee on Disability Issues and Employment (GCDE), continues to work with ESD and its partners to ensure universal access for persons with disabilities and to provide training for staff who assist customers. GCDE operates an information clearinghouse for persons with disabilities and employers; identifies needs and develops programs and resources to provide effective employment and training services for people with disabilities; and, builds capacity within the WorkSource system to serve job seekers with disabilities. (Attachment 4E-1 and 4E-2)

At WorkSource Centers, customers are provided UI information and assistance using self-service direct telephone lines. Staff serving as UI / WorkSource liaisons receive formal classroom training to assist walk-in customers needing basic UI assistance. Many of these claimants are limited in English proficiency and clients with special needs who require assistance with our agency forms and publications. UI/WorkSource liaisons show claimants how to access and use agency online resources and telephone self-service technology. They also provide training and assistance to UI claimants in developing training plans and job searches. Liaisons continue to receive ongoing information by email on claims center changes in UI programs and service delivery.

In 1999, the UI Program transitioned its primary service delivery into UI Claims Centers for initial claims, weekly claims and adjudication of issues. Claimants call a toll-free number and, after selecting their language and identifying the reason for the call, are connected through an automated call distribution system to an agent.

All agents who work in the UI Claims Center participate in an intensive intake training program. The program includes a component on customer service with a focus on how to better serve persons who need language assistance. If needed, staff at each site uses third party telephone interpretation services as well as TTY devices. Calls are routed across the state regardless of the caller's location so customers' wait times are reduced. Customers needing language assistance or TTY are routed to the appropriate agent. Special emphasis has been placed on publishing forms and scripts used to file claims in plain language.

### **Ensuring Accessibility**

**W**orkSource Washington is committed to making all services, facilities and information accessible and usable by limited English proficient (LEP) clients. For the purposes of this document, "limited English proficient client" means "a person applying for or receiving department and partner services, either directly or indirectly, who, because of a non-English speaking cultural background, cannot readily speak or understand the English language." In addition, efforts are made to include both men and women, racial and ethnic minorities, and individuals with disabilities. See



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Attachment 4K for an "Equal Opportunity is the Law" notice provided to the GCDE mailing list.

Where needs have been identified, bilingual positions have been established throughout the Employment Security Department (ESD) to ensure effective communication with LEP clients. ESD's Human Resource Services Division approves the establishment of these positions based on skills and abilities, as well as other identified criteria. ESD currently has more than 100 bilingual staff in the UI Claims Centers to provide language assistance in several languages including Chinese, Korean, Russian, Spanish, and Vietnamese and access to all other languages.

Targeted outreach efforts have been underway to promote WorkSource, WorkFirst (Welfare to Work), UI benefits and veterans services. Persons with disabilities are also one of the targeted outreach groups. All UI online videos have open caption for individuals with hearing impairments.

ESD formed a Limited English Proficiency (LEP) Committee to address several key requirements in the LEP guidance issued by the United States Department of Labor Civil Rights Center. Individuals on the LEP Committee were charged with developing an agency-wide LEP plan and policy that provides guidance on:

- Conducting the required assessment of LEP demographics and language needs.
- Identifying the incidence in population and the kinds of services provided in the local areas.
- Developing the guidance and timetables for local planning.
- Identifying the documents in each program that require written translation, and the priority for completion of written translation into the various required languages.

An LEP plan and policy are in draft form and we are waiting on executive approval. (Attachment 4I) It should be noted however, ESD and its partners have continually provided meaningful access to LEP customers. The State EO Officer has ensured meaningful access through EO/nondiscrimination compliance monitoring reviews.

Census statistics continue to indicate that Spanish is the primary language used among the LEP population in Washington State. Should this change, the LEP Committee will assess and identify the need to provide the additional assistance required in the new primary language.

In 2002, the UI Division developed and implemented an LEP Policy titled "UI Program Policy on Providing Services to Customers with Limited English Proficiency (LEP)," which was distributed in UI Circular 15-02. (Attachment 4J)



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UI claimants needing language assistance are assisted by bilingual staff or connected with a language line interpreter. To meet the demand of our customers, the agency continues to recruit additional bilingual staff. ESD regularly reviews interpreter service call data to identify our customers' language needs. Claimants can receive free interpretation of any UI documents. Claiming instructions and forms are provided in several languages including Chinese, Korean, Russian, Spanish, and Vietnamese.

UI claims can be filed online at [www.esd.wa.gov](http://www.esd.wa.gov). This function is available in English and Spanish and many forms are available in both languages. We currently have online information in 16 languages with calling instructions to get basic information and questions answered about UI.

The current Unemployment Claims Kit includes additional information on filing a discrimination complaint. (Attachment 2M-9) Both the Unemployment Claims Kit and the "What's Next" flyer are translated into Spanish. (Attachment 2M-10 & 2M-12) The claims kit includes a statement in seven languages other than English, instructing limited English proficient persons on how to get help to understand the claims kit.

In March 2010, ESD launched two new videos to explain how to apply for UI benefits and submit weekly claims. Another video was added to inform viewers about the agency's work search requirements and proper documentation. These videos are available in the Publications section of our agency's web site and are available in English, open caption and Spanish. In September 2010, the English version of the training benefits video was added, followed by the Spanish version.

ESD developed and has available the following videos in English, Spanish and Open Caption: Applying for Unemployment Benefits; Submitting your Weekly Claim; and How to Complete your Job Search Log. Since 2011, the UI Division has added videos online such as Training Benefits; How to Prepare and Present your Case; and Plan and Pay your Taxes. In August 2012, ESD added more to its repertoire of online resources such as the "Other Languages" page, which includes pictorial and voice language assistance for 16 languages. Here LEP customers are able to obtain assistance in navigating the claims process in their own language.

Appeal information is provided by the Office of Administrative Hearings (OAH), a separate state agency with funds provided by ESD. OAH's booklet, "How to Prepare and Present your Case," is available in 16 languages: English, Amharic, Arabic, Cambodian/Kramer, Chinese Simplified, Chinese Traditional, Farsi, Korean Laotian, Oromo, Punjabi, Russian, Somali, Spanish, Tagalog, and Vietnamese. (Attachment 4F)

OAH provides interpreters free of charge in any language to those appealing a decision and requesting assistance. ESD also provides online information on filing an appeal in English and Spanish. This information is available in the local WorkSource Centers.



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Also available is information on how to contact outside advocacy organizations should a customer seek assistance preparing for and participating in the appeal hearing. (Attachment 4G)

### **Outreach and Recruitment**

Efforts to provide services to a substantial segment of the population are based on census data, labor market analysis, service need assessments, and information from community and social service organizations, educational institutions, employers, and labor and community service advocates. The WDCs are made up of representatives of public and private agencies, educators, employers, and community-based organizations that provide services to the disadvantaged, underserved, underemployed and targeted groups within their communities. They share a mutual interest in improving employment opportunities to meet the needs of employers and in improving the economic conditions in their communities. Through the development of local strategic plans, cooperative efforts are now in place for all partners in the workforce development system. Improvements in communications were made with the business sector and economic development organizations. Better collaborations from these new relationships have created an environment for a stronger, more responsive, and more proactive workforce development system.

Ongoing activities will continue to provide universal access. Samples documenting demographic information can be found in the attached local area strategic plans for North Central Washington and Benton Franklin workforce development areas (WDA). The plans include samples of data such as: current and future workforce; school dropout rates; percent of population by gender, race, and Hispanic origin; state and county population by age; public/private school enrollment by race/ethnic origin; persons with disability status; people of all ages in poverty; and, other data used by the WDCs to help determine program priorities and provide universal access for all. (Attachment 4C-1 and 4C-2)

Recipients continue to encourage their service providers and their contractors to provide universal access. Attached are two examples of outreach and enrollments from two contractors of the South Central WDA that focus on providing services to youth. Their outreach plans include public service announcements on community television and radio stations, as well as advertisements in Spanish and bilingual media. In addition, outreach and promotional efforts include a campaign to recruit individuals with disabilities. (Attachments 4D-1 and 4D-2)

Earlier this year, ESD replaced its UI multi-language flyer. The updated version continues to have instructions on how to contact the UI claims center for information or to apply for benefits and includes an EO tagline. Aside from the toll free number, it also provides the number to select for assistance in the customer's preferred language. This



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flyer includes an abbreviated EO tagline translated into 16 languages informing customers that language services are available upon request free of charge to conduct UI business. (Attachment 4H)

A copy of the multi-language flyer was distributed to WorkSource centers across the state and is now available online. Now, a customer will not only have the option to see the translated text but will hear a recording of that text in any of 13 languages. Additionally, wherever additional UI information is translated, such as the weekly claims form and other publications, ESD added corresponding links from the ESD main language page for easier access.

### Monitoring

**W**DCs continue to monitor their client composition by comparing the local labor market information with data from the WorkSource enterprise case management database, SKIES. These reports show the makeup of their participants, including members of both sexes; various racial and ethnic groups; individuals with disabilities; and individuals in differing age groups. They work with their partners and other community organizations to share information, sponsor job fairs, and continue to focus on providing outreach to target various populations.

To ensure equitable services to all segments of our population, a staff person in the UI Policy Unit is assigned the responsibility of reviewing quarterly EO reports and coordinating access to third-party-interpreters. This position reports to the UI Benefit Policy and Training Manager. Copies of the EO reports are provided to the State EO Officer.

Through onsite compliance reviews, the State EO Officer continually monitors and evaluates efforts by ESD and its recipients to broaden representation of persons in programs and employment. (See Element 7)



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## Documentation

### Attachments for Element Four

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- 4A 1 - Washington's One-Stop System Decisions
- 2 - Local Workforce Development Council Formation and Certification
  
- 4B 1 - WorkSource Washington Web Site Home Page
- 2 - WorkSource Washington Training Programs Page
- 3 - WorkSource Spokane Web Site (Tagline, Disability, Languages)
- 4 - WorkSource Redmond Web Site (Taglines/Employer Links/Partners/Disability)
- 5 - WorkSource Thurston County (Disabilities/ Partners)
  
- 4C Workforce Development Council Strategic Plans
  - 1 - North Central Washington Development Council 2009-2011
  - 2 - Benton-Franklin Workforce Development Council 2009-2014
  
- 4D 1 - YVOIC Outreach and Enrollment
- 2 - NCAC Outreach and Enrollment
  
- 4E 1 - RCW 50.12.250 Information clearinghouse to assist in employment of persons of disability
- 2 - GCDE Overview
  
- 4F OAH's Booklet "How to Prepare and Present Your Case" (Spanish)
  
- 4G Unemployment Law Project information
  
- 4H Multi-Language Poster (2012)
  
- 4I Draft LEP Plan
  
- 4J UI Circular 15-02 - UI Program Policy on Providing Services to Customers with Limited English Proficiency (LEP)
  
- 4K "Equal Opportunity is the Law" Notice Provided to GCDE Mailing List



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## ELEMENT FIVE

### COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended, and 29 CFR Part 37 (29 CFR 37.54 (d)(2)(v)) (29 CFR 37.7 – 37.9)

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of the disability-related requirements of WIA Section 188; Section 504 of the Rehabilitation Act of 1973, as amended; and their implementing regulations, including but not limited to 29 CFR 37.7, 37.8, and 37.9 and Subparts B and C of 29 CFR Part 32; the Americans with Disabilities Act and RCW 49.60.*

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#### **Background**

**W**ashington State is committed to making all services, facilities and information accessible and usable by individuals with disabilities. (Attachments 5A-1 – 5A-4) This applies to all programs, activities, and services provided by or made available within the WorkSource Washington system to potential employees, volunteers, contractors/service providers, licensees, clients, and potential clients.

Washington State ensures nondiscrimination on the basis of disability by:

1. Providing opportunities for participation or benefits equal to that afforded to others;
2. Providing financial aid, benefits, services or training equal to that provided to others;
3. Ensuring that qualified individuals with disabilities are offered the option of participating in the same programs or activities offered to non-disabled individuals.
4. Denying assistance, either directly or through contractual licensing or other arrangements, to any agency, organization or person that discriminates on the basis of disability;
5. Ensuring that licensing and/or certification programs operate in a matter which does not discriminate against qualified individuals with disabilities;
6. Ensuring that eligibility criteria do not screen out individuals with disabilities from fully and equally enjoying any aid, benefit, service, training, program, or activity, unless such criteria can be shown to be necessary for the provision of the aid, benefit, service, training, program, or activity being offered; and
7. Eliminating barriers to employment and providing accommodations in the workplace.



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Employment practices are evaluated to ensure there are no barriers to employment. The State Equal Opportunity (EO) Officer evaluates the process during monitoring reviews. (See Element 7)

### **Reasonable Accommodation for a Disability**

Washington State is committed to providing reasonable accommodation to qualified individuals with disabilities in all aspects of its programs, services and activities, unless providing the accommodation would cause undue hardship. Reasonable accommodations are 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. See a comprehensive definition/explanation of reasonable accommodations on page 36. Accommodations may include, but are not limited to, qualified sign language interpreters, auxiliary aids and alternate formats. Reasonable modifications in policies, practices, or procedures are made, when necessary, to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity.

### **Program Accessibility**

Steps taken by the Employment Security Department (ESD) and WorkSource Washington to ensure services, programs, and activities are readily accessible by individuals with physical, mental, or sensory impairments include the following:

- Policy and Procedure Number 0013-1 - Reasonable Accommodation and Nondiscrimination on the Basis of Disability, indicates ESD's firm commitment to providing timely, reasonable accommodations to the known physical, mental or sensory limitations of an otherwise-qualified employee or client with a disability. The accommodations may include adjustments and modifications which allow a person with a disability to perform the essential functions of the job, enjoy the benefits and privileges of employment, or participate in department programs, services and activities. Qualified sign language interpreters, readers, and other auxiliary aids are provided upon request. (Attachment 5B-4)
- WorkSource Washington operates each service, program, or activity so that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. All program services and activities are offered to individuals with disabilities in the most integrated setting appropriate to them. To achieve program accessibility, WorkSource Washington considers the redesigning of equipment, as well as the provision of appropriate auxiliary aids.

The Workforce Investment Act (WIA) Equal Opportunity and Nondiscrimination Policy Number 3445 states that grantees, subrecipients and contractors funded



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under WIA, whether in whole or in part, are instructed to administer “. . . WIA-funded programs and activities to ensure physical as well as program accessibility to individuals with disabilities, that programs are provided in the most integrated environment appropriate to individuals with disabilities, and that communications with individuals with disabilities are as effective as communications with others.” (Attachment 2G)

- To ensure program accessibility and technical assistance, Disability Specialists are located in each WorkSource Center. These specialists provide services and technical assistance regarding the needs of individuals with disabilities. Policy 0013-1 and a list of specialists are attached. (Attachments 5C-1 – 5C-2)
- Building Skills 2010, a training conference for workforce development professionals, was held in October 2010. Disability-related sessions presented were: “Seven Steps to Reasonable Accommodation,” “Assistive Technology: Helping People with Disabilities Perform and Produce in the Workplace,” “Non-Apparent Disabilities and Jobs,” and “About Hidden Disabilities: The Legal, Practical and Human Side of Non-Obvious Disabilities.” (Attachment 5D)
- In 2010 ESD determined it would review program accessibility at WorkSource Centers to determine if the assistive technology devices and software in place for individuals with disabilities could be updated systemically rather than by individual sites. A team was formed and the status of the assistive technology at each WorkSource Center was surveyed. The team analyzed costs and feasibility to determine how much, if any, can be updated and/or tracked centrally at ESD level. However, due to the current economic crisis and budget difficulties, ESD is unable to assist systemically. Assistive technology is to be considered at the local level.

The U.S. Department of Labor (USDOL) Office of Disability Employment Policy's disability checklist has been distributed to all Workforce Development Councils (WDC).

Washington State continues in its efforts to assist registrants, applicants, eligible applicants/registrants and participants with disabilities.

- Comprehensive accessibility assessments — Assessments have been completed for all WorkSource Centers and eleven affiliates.
- Individual disability access improvement plans — Plans have been developed by each center based on the results of their assessment. Model policies and procedures for serving customers with disabilities have been developed and disseminated.



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- Removal of access barriers in the existing Information Technology infrastructure — in 2005 more than \$750,000 of assistive technology was purchased and distributed to centers and affiliates along with training and technical support.
- Staff Training — Training on issues related to serving people with disabilities has been incorporated into all of the major WorkSource conferences and training events held in the state. Two WorkSource Centers have instituted a practice of holding a one-hour training session for staff each month on a different disability issue or program. Trainers in the Employment and Career Development Division have developed a "Disability 101" training session that will be offered to Disability Placement Specialists and to other WorkSource staff.
- Technical Assistance — ESD, the Governor's Committee on Disability Issues and Employment (GCDE) and the Department of Social Health Services' Division of Vocational Rehabilitation have established a Technical Assistance Clearinghouse. The Clearinghouse serves as a single point of contact on issues related to serving people with disabilities and provides access to information, linkage to useful resources and assistance with creative problem solving.
- Pilot Projects — Through the Workforce Incentive, Disability Program Navigator, One-Stop Ticket Success and Disability Employment Initiatives, Washington has made a substantial multi-year investment in building the capacity and competence of the WorkSource system in serving and achieving successful outcomes for job seekers with disabilities.

### Architectural Accessibility

State entities and ESD WIA Title I recipients are required to follow specific requirements of the Americans with Disabilities Act, as amended (ADA). WDCs have been informed of their obligation to abide by federal EO and nondiscrimination provisions, to include the ADA. This has been communicated through the Strategic Plan, the self-assessment process for certification of WorkSource Centers and affiliate sites, and the assurance language in WIA grant agreements. WorkSource Centers that are not state-owned/leased must abide by local building codes and standards for accessibility as well.

Some steps taken by ESD and WorkSource Washington to ensure all programs and activities are architecturally accessible to individuals with disabilities are:

- ESD Policy and Procedure Number 0013-1 - Reasonable Accommodation and Nondiscrimination on the Basis of Disability states:

“ . . . The Department shall provide its services and operate its programs and/or



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activities so that, when viewed in their entirety, they are accessible to qualified persons with a disability.”

“A program must be accessible to clients, or a comparable program must be made available at an alternate site that is accessible.” (Attachment 5B-4)

- The ESD Facilities Unit inspects ESD’s facilities at lease renewal to ensure compliance with requirements of the Americans with Disabilities Act of 1990, as amended. A checklist was developed by the State of Washington with the help of GCDE, members of the disabled community and client agencies. This checklist meets the requirements for barrier-free access in Washington State and is more stringent than federal standards. It is used for the evaluation and selection of new and existing facilities. The evaluation focuses on: site access; signage at primary building entrances of inaccessible facilities; interior door and corridor widths; public restroom requirements; and other architectural specifications of the ADA Accessible Guidelines. The purpose is to ensure compliance with Washington Administrative Code (WAC) 51-50-005 and the Washington State Building Code. (Attachment 5E) Copies of the facility evaluations are maintained in the Facilities Unit. In an effort to ensure compliance, the Facilities Unit has also instituted a new program addressing signage in all facilities. The checklist and sample evaluations are included in Attachments 5F-1 – 5F-3. Upon request, the Facilities Unit provides assistance to the partners.
- The WDCs provide criteria that must be followed for WorkSource Center certification. Each WDC provided this information in the way that worked best for their area. An example is Pacific Mountain WDC’s facilities review. The Pacific Mountain WDC chose a well-known expert on client disability issues to conduct their review (Payne & Associates, Inc.). (Attachment 5G)
- During the 2010 EO Officers meeting, the Executive Secretary of GCDE agreed to supply participants with ADA measuring devices – a pressure gauge and an ADA tape measure. They were purchased and distributed later that year. The instruments assist EO Officers in conducting their monitoring reviews and WorkSource Center Administrators in keeping their centers accessible for individuals with disabilities.

### Communication

**W**orkSource Washington partners take appropriate steps to ensure that communications with applicants, clients, and members of the public with disabilities are as effective as communications with others. Auxiliary aids and services are provided, when appropriate and necessary, to afford individuals with



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disabilities opportunities to participate in and enjoy the benefits of WIA Title I financially assisted programs and activities. TTY or equally effective telecommunications systems to communicate with individuals with impaired hearing or speech are available when needed. Where telephone numbers are given, a TTY number or relay service number must also be provided.

The WDCs are aware of their obligation to ensure that communications with members of the public, clients, and applicants with disabilities are as effective as communications with others. WIA Equal Opportunity and Nondiscrimination Policy Number 3445 states that recipients must ensure that programs are provided in the most integrated setting appropriate for the needs of individuals with disabilities, and that communications with individuals with disabilities are as effective as communications with others.

ESD is committed to ensuring that all aspects of its employment practices, services, programs, and activities, when viewed in their entirety, are readily accessible by individuals with physical, mental, or sensory impairments. Where required, qualified sign language interpreters, readers, and other auxiliary aids will be provided. Documents and publications will also be made available in alternate formats.

### **Records**

**E**SD and the WDCs ensure the confidentiality of information related to an individual's medical condition that may reveal the presence of a disability as noted in 29 CFR Part 32, Subpart B and the Americans with Disabilities Act, as amended. Medical condition information is kept in a single, secured location separate and apart from other files. Electronic systems also support separate recordkeeping for medical condition information. Pre-employment/employment medical inquiries are conducted in accordance with WIA, ADA and the regulations of Section 504 of the Rehabilitation Act of 1973, as amended. Specific guidance is referenced in the recipients' policies. EO monitoring ensures adherence to these provisions. (See Elements 2, 6 and 7)

ESD's Policy and Procedure Number 0013-1, Reasonable Accommodation and Nondiscrimination on the Basis of Disability, states in the employee section, "Upon completing the reasonable accommodation process, all supporting information needs to be forwarded to the Human Resource Services Division. It will be filed in a secure location, separate from an employee's personnel file. Information about an individual's disability is limited to designated personnel and only provided on a need-to-know basis." (Attachment 5B-4)



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## Element Five Definitions

**Auxiliary aids or services** includes: (1) Qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TTY/TDD), videotext displays, or other effective means of making aurally delivered materials available to individuals with hearing impairments; (2) Qualified readers, taped texts, audio recordings, Braille materials, large print materials, or other effective means of making visually delivered materials available to individuals with visual impairments; (3) Acquisition or modification of equipment or devices; and (4) Other similar services and actions.

**Disability** means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment; or a physical, mental or sensory impairment that is abnormal, and medically cognizable.

**Employment practices** means a recipient's practices related to employment, including but not limited to: (1) Recruitment or recruitment advertising; (2) Selection, placement, layoff or termination of employees; (3) Upgrading, promotion, demotion or transfer of employees; (4) Training, including employment-related training; (5) Participation in upward mobility programs; (6) Deciding rates of pay or other forms of compensation; (7) Use of facilities; or (8) Deciding other terms, conditions, benefits and/or privileges of employment. Employment-related training means training that allows or enables an individual to obtain employment.

**Facility** means all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, rolling stock or other conveyances, or other real or personal property or interest in such property, including the site where the building, property, structure, or equipment is located. The phrase "real or personal property" in the preceding sentence includes indoor constructs that may or may not be permanently attached to a building or structure. Such constructs include, but are not limited to, office cubicles, computer kiosks, and similar constructs.

**Fundamental alteration** means: (1) A change in the essential nature of a program or activity as defined in this part, including but not limited to an aid, service, benefit, or training; or (2) A cost that a recipient can demonstrate would result in an undue burden. Factors to be considered in making the determination whether the cost of a modification would result in such a burden include: (a) The nature and net cost of the modification needed, taking into consideration the availability of tax credits and deductions, and/or outside financial assistance, for the modification; (b) The overall financial resources of



## METHODS OF ADMINISTRATION

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the facility or facilities involved in the provision of the modification, including: (i) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities; and (ii) The effect the modification would have on the expenses and resources of the facility or facilities; (c) The overall financial resources of the recipient, including: (i) The overall size of the recipient; (ii) The number of persons aided, benefited, served, trained, or employed by the recipient; and (iii) The number, type and location of the recipient's facilities; (d) The type of operation or operations of the recipient, including: (i) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient; and (ii) Where the modification sought is employment-related, the composition, structure and functions of the recipient's workforce; and (e) The impact of the modification upon the operation of the facility or facilities, including: (i) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties; and (ii) The impact on the facility's ability to carry out its mission.

**Qualified individual with a disability** means: (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.

**Qualified interpreter** means an interpreter who is able to interpret effectively, accurately, and impartially, either for individuals with disabilities or for individuals with limited English skills. The interpreter must be able to interpret both receptively and expressively, using any necessary specialized vocabulary.

**Reasonable accommodation:** (1) The term "reasonable accommodation" means: (i) Modifications or adjustments to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, training, or employment that the qualified applicant/registrant desires; or (ii) 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. These modifications or adjustments may be made to: (A) The environment where work is performed or aid, benefits, services, or training are given; or (B) The customary manner in which, or circumstances under which, a job is performed or aid, benefits, services, or training are given; or (iii) 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. (2) Reasonable accommodation includes, but is not limited to: (i) Making existing facilities used by applicants, registrants, eligible applicants/registrants, participants, applicants for employment, and employees readily accessible to and



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usable by individuals with disabilities; and (ii) Restructuring of a job or a service, or of the way in which aid, benefits, or training is/are provided; part-time or modified work or training schedules; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of readers or interpreters; and other similar accommodations for individuals with disabilities. (3) To determine the appropriate reasonable accommodation, it may be necessary for the recipient to initiate an informal, interactive process with the qualified individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

**Undue hardship** means, with regard to reasonable accommodation of individuals with disabilities, significant difficulty or expense incurred by a recipient, when considered in light of the following factors. Factors to be considered in determining whether an accommodation would impose an undue hardship on a recipient include: (A) The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions, and/or outside funding, for the accommodation; (B) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, including: (1) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities, and (2) The effect the accommodation would have on the expenses and resources of the facility or facilities; (C) The overall financial resources of the recipient, including: (1) The overall size of the recipient, (2) The number of persons aided, benefited, served, trained, or employed by the recipient, and (3) The number, type and location of the recipient's facilities; (D) The type of operation or operations of the recipient, including: (1) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient, and (2) Where the individual is seeking an employment-related accommodation, the composition, structure and functions of the recipient's workforce; and (E) The impact of the accommodation upon the operation of the facility or facilities, including: (1) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties, and (2) The impact on the facility's ability to carry out its mission.



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## Documentation

### Attachments for Element Five

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- 5A 1 - RCW 50.12.210 Employment Services for Handicapped
- 2 - Title 162 WAC Human Rights Commission (Applicable Chapters)
- 3 - Disability Access Information - Department of Enterprise Services website
- 4 - Executive Order No. 96-04 Implementing the Americans with Disabilities Act and Superseding 93-03
  
- 5B 1 - [Removed]
- 2 - [Removed]
- 3 - [Removed]
- 4 - Policy and Procedure Number 0013-1: Reasonable Accommodation and Nondiscrimination on the Basis of Disability
- 5 - [Removed]
- 6 - [Removed]
  
- 5C 1 - Disability Placement Services Policy #4040
- 2 - List: Local Disability Placement Specialists
- 3 - [Removed]
  
- 5D Building Skills 2010 Agenda
  
- 5E WAC 51-50-005 International Building Code Requirements for Barrier Free Accessibility
  
- 5F 1 - Barrier-Free Access/A Checklist for State Leased Facilities
- 2 - Alaska Job Center Network Site Access Checklist (Sample of Office Checklist)
- 3 - Checklist for Accessibility, ADA Checklist Evaluation Report/ South Central WDA (Sample of Office Checklist)
  
- 5G Certification Criteria for Pacific Mountain Workforce Development Area II



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## ELEMENT SIX

### DATA AND INFORMATION COLLECTION AND MAINTENANCE

(29 CFR 37.54(d)(1)(iv) and (vi))  
(29 CFR 37.37 – 37.41 and 29 CFR 37.53)

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.37 through 37.41 related to data and information collection and maintenance.*

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#### Background

Washington State has ensured that policies and procedures are established for data collection. Data on job seekers, employers and agency employees for all Workforce Investment Act (WIA) Title I state programs is covered. The Employment Security Department (ESD) also maintains and annually updates a Data Information/Technology Security plan through the Washington State Department of Information Services. This plan ensures that data collected is secure and provides contingency plans for unexpected failures. ESD currently maintains two data systems that capture, store and report information considered confidential. These systems fall under the guidelines and requirements for our policy and procedures, as well as the Technology Security Plan.

#### Data Collection

All agency systems have been modified to meet the requirements for capturing and reporting equal opportunity (EO) data elements. Unemployment insurance (UI) EO data reports are produced quarterly from the General Unemployment Insurance Development Effort (GUIDE) system. Standardized WIA and Labor Exchange EO reports are available from the Services Knowledge Information and Exchange System (SKIES).

ESD data, including employee information, is captured in the following systems:

GUIDE	General Unemployment Insurance Development Effort, for tracking UI benefits and claimant activities. (Questions Asked - Attachment 6C-1; Claimant Profile Screen – Attachment 6C-2; EO data report for UI claimants - Attachment 6A-3)
HRMS	Human Resources Management System, for capturing and



maintaining data on agency employees. (Attachment 6E)

**SKIES** Services Knowledge and Information Exchange System, a management information system for tracking WIA Title I and Trade Adjustment Assistance/North American Free Trade Agreement participants, a case management tool for the One-Stop system for Washington State. This is a job matching, case management and information-tracking system that supports the collection of data used for reporting purposes. The SKIES application has been developed to meet the EO reporting requirements identified in 29 CFR 37.37 through 37.41. (WIA EO Data Report - Attachment 6A-1; Labor Exchange EO Data Report - Attachment 6A-2)

Washington State's One-Stop system is compliant with 29 CFR 37.37 through 37.41. We are in the planning stages of making the system compliant with ET Handbook No. 406 in the collection of the required EO demographic information. For self-service and staff assisted services, we will collect the EO demographic information at the point the customer provides personally identifiable information, such as social security number or address. This holds true for applicants for employment also. (Attachment 6P-4, Section II.D. and Appendix E) For customers seeking to enroll in a program, if we have not already captured the information we will ask at the point at which the job seeker or customer is "registered." (Attachments 6P-1 and 6P-3)

Policies, procedures and security plans are in place to safeguard collected information pertaining to specific job seekers, program participants, enrollees, benefit claimants, employers and agency/partnership employees. These policies, procedures and plans are reviewed and modified, if necessary, on an annual basis. Data is accessible only to program managers, program monitors, case managers, and a limited number of other "authorized" personnel needing access to these systems to provide direct services. (Attachments 6D and 6M)

The GUIDE system is used to process UI claims. It stores EO demographic information as required by the U.S. Department of Labor (USDOL) Civil Rights Center (CRC). The information is collected voluntarily when applying online or using a touchtone pad of a telephone. Regarding equal opportunity, each claimant is asked to voluntarily provide his or her:

- Race/ethnicity
- Sex
- Age
- Disability status



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This information is confidential and is used for the purposes of recordkeeping and reporting and determining program compliance with nondiscrimination requirements. Claimant information is automatically transferred to our job registration system unless the claimant requests to be excluded.

Access to this information is limited to those persons with a legitimate business need to access the systems. Access and use of information maintained by ESD is covered in the following policies and procedures:

- ESD Policy and Procedure Number 0006, Public Record requests (Attachment 6L-2.1);
- ESD Policy and Procedure Number 0029, Online or Bulk Data/Information Sharing Policy, covering the confidentiality of information obtained by ESD (Attachment 6L-2.2);
- ESD Policy and Procedure Number 1016, Employee Conduct (Attachment 6M); and
- ESD Policy and Procedure Number 2010, Automated Systems Security. (Attachment 6L-2.3.)

ESD Policy and Procedure Number 1016, Employee Conduct, page 8, states that the penalty for failure to comply with the requirements for confidentiality of data will be grounds for nothing less than disciplinary action up to, and including, dismissal. (Attachment 6M)

### **Data Storage and Reports**

ESD Administrators and Workforce Development Councils have access portals to SKIES to analyze compliance with 29 CFR Part 37. SKIES can produce several reports, including EO reports.

SKIES allows EO data to be downloaded upon request to be forwarded to CRC to allow them to conduct specific statistical/quantifiable data analyses. The State EO Officer uses the EO data reports for WIA and Labor Exchange to monitor customer participation. Certain data is reported to the USDOL quarterly according to the individual program's reporting requirements.

The public and employers can also access nonconfidential consolidated employment data generated by the agency's Labor Market and Economic Analysis unit for use in affirmative action analysis. Samples are included in the documentation for Element 7.

The UI Policy Unit EO/Limited English Proficiency staff receives automated statewide equal opportunity reports by race/ethnicity, gender, age, and disability to determine



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whether groups are adequately represented in various steps of the benefit process. When there are instances of disparities in representation, the disparities are discussed with UI program management and shared with the State EO Officer. (Attachment 6A-3)

### **Self-Service and Monitoring**

**C**lients who sign in to the resource room computers to use the self-service features of the WorkSource System must provide basic information to create a profile in the Self Service Membership Services (SSMS) system. An initial registration is automatically created in SKIES if a seeker record does not already exist. This data allows tracking of resource room self-service and is necessary to meet client tracking requirements.

Local EO Officers observe self-service activity, meet with and interview staff members regarding their observations and identify corrective action, if necessary. The State EO Officer, in conjunction with the WDC EO Officers, will also monitor self-service. (See Element 7)

ESD is in the planning stages of collecting EO demographic information at the point the customer provides personally identifiable information, such as a social security number or address. This will allow the State and WDC EO Officers to analyze self-service customer participation for adverse impact.

### **Logs**

**E**ach WDC EO Officer and the State EO Officer maintains a log of discrimination complaints filed on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship and participation in a WIA Title I program. The State EO Officer's log is a rollup of discrimination complaints in the system. See Attachment 6F-1 for a sample copy of a log. These records are maintained for a minimum period of three (3) years. Instructions are incorporated into policy directions and are included in Attachments 6F-1 and 6F-2. Also see Element 8.

### **Records**

**R**ecords containing medical condition information that may reveal the presence of a disability are confidentially stored, secured and kept separate and apart from other information. If an entity is found to be out of compliance, corrective actions are administered. See Elements 3 and 5. Also see: Attachment 3D, State Operations Plan, regarding "Maintenance of Records"; Attachment 5B-4 for the Reasonable Accommodation Policy; and State Policy Guidelines. (Attachments 6G, 6J-1, 6J-2, 6K, 6L-1, 6L-2.1 – 6L-2.3, and 6P-2)



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Records are maintained for at least three years, in compliance with state and federal regulatory requirements. Audit standards and OMB A133 compliance requirements ensure that records are maintained for the correct amount of time and meet confidentiality requirements. (Attachments 6J-1, 6J-2, and 6K)

### **Enforcement Actions**

**T**he Director of CRC will be informed of all administrative enforcement actions or lawsuits that allege discrimination on one or more of the bases outlined above and prohibited by Section 188 of the WIA.



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## Documentation

### Attachments for Element Six

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- 6A
  - 1 - SKIES WIA EO Data Report
  - 2 - SKIES Labor Exchange EO Data Report
  - 3 - GUIDE EO Data Report for UI Claimants
  
- 6B
  - 1 - [Removed]
  - 2 - [Removed]
  
- 6C
  - 1 - Interactive Voice Response Questions for Data Collection /UI
  - 2 - Guide Screen-Claimant Profile
  
- 6D Claimant Data Sharing Notice/UI
  
- 6E HRMS Data Analysis for an Employee
  
- 6F
  - 1 - Discrimination Complaint Log
  - 2 - Instructions
  
- 6G Overview of Executive Order 00-03 - Public Records Privacy Protections
  
- 6H [Removed]
  
- 6I [Removed]
  
- 6J
  - 1 - Records and Reports: Sample of Local Partner Ordinance on Record Retention
  - 2 - RCW 50.13 Records and Information – Privacy and Confidentiality
  
- 6K WIA Policy Number 3415, Revision 1, Records: Retention and Public Access
  
- 6L
  - 1 - Revised Code of Washington (RCW) Chapter 40.14 RCW – Preservation and Destruction of Public Records
  - 2.1 ESD Policy and Procedure Number 0006, Public Record Requests



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## Documentation

### Attachments for Element Six - continued

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2.2 ESD Policy and Procedure Number 0029, Online or Bulk Data/Information Sharing Policy

2.3 ESD Policy and Procedure Number 2010, Automated Systems Security

6M ESD Policy and Procedure Number 1016 – Employee Conduct

6N [Removed]

6O [Removed]

6P 1 - SKIES – Seeker Program – Enrollment Validation

2 - SKIES – Assessment, includes Health Instructions, page L131

3 - SKIES – Core Services

4 - ET Handbook No. 406



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## ELEMENT SEVEN

### MONITOR RECIPIENTS FOR COMPLIANCE (29 CFR 37.51 – 37.54)

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.54(d)(2)(ii). The State is required to establish procedures to monitor periodically all aspects of the recipient's compliance with WIA Section 188 and 29 CFR Part 37.*

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The State Equal Opportunity (EO) Officer monitors the Workforce Development Councils (WDC) on a periodic basis in order to assess their compliance with the EO and nondiscrimination provisions of Section 188 of the Workforce Investment Act (WIA) and 29 CFR Part 37; conducts in-depth EO/nondiscrimination compliance monitoring reviews of each WDC biennially; and provides training and technical assistance to WDC EO Officers regarding their monitoring responsibilities and activities. (Attachments 7C-1 – 7C-3)

The WIA Monitoring Unit within ESD's WorkSource Standards and Integration Division (WSID) conducts on-site program monitoring reviews of WDCs and selected subrecipients once a year. When the Monitoring Unit staff finds what appears to be an EO/nondiscrimination issue, the staff informs the State EO Officer. The State EO Officer reviews the information and determines whether or not follow-up, technical assistance and/or an in-depth EO compliance review are necessary.

WDC EO Officers develop procedures and monitoring tools for monitoring their subrecipients' compliance with Section 188 of the WIA, 29 CFR Part 37 and applicable WIA state policies. Each WDC EO Officer monitors the activities of the WDC's One-Stop system providers in his or her workforce development area to ensure EO/nondiscrimination. Policies and procedures regarding monitoring and oversight requirements for compliance reviews have been disseminated to the local level. The monitoring and oversight requirements for EO compliance reviews, together with EO monitoring instruments, are the methods and processes used to conduct and organize the review. (Attachments 2G and 7A-1)

The State EO compliance monitoring visits consist of on-site reviews and monitoring reviews. They consist of, but are not limited to, a review of job orders, interviews with staff and customers, a review of EO reports, data analysis, and a check for accessibility and display of posters. Following the monitoring review, the State EO Officer conducts an exit meeting with the appropriate manager to discuss the findings. Each WDC is



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reviewed every two years (more if warranted) for factors such as repeat findings, failure to attain compliance by stipulated timeframes, failure to monitor its subrecipients, discrimination complaints or deficient statistical reports, etc. Follow-up monitoring may be scheduled if deficiencies are found or corrective action is needed. The State EO Officer is responsible for developing a report of each visit. The WDC Executive Director and EO Officer, and the WSID, Employment and Career Development Division, and Human Resource Services Division Assistant Commissioners receive a copy of the report. (Attachment 7A-1 and 7A-2)

The WorkSource Centers and/or affiliate sites that have a significant number of Migrant and Seasonal Farmworkers in their area are overseen by the State Monitor Advocate. The Monitor Advocate is also ESD's Employment Service Complaint Officer and is located WSID. The State Monitor Advocate forwards discrimination complaints to the State EO Officer.

The Unemployment Insurance (UI) Division reviews the EO data reports and language preference reports at least quarterly to identify potential issues. The division EO Coordinator provides a copy of these statistical reports to the State EO Officer on a quarterly basis. See Element 6. The State EO Officer conducts in-depth biennial monitoring reviews of the UI Benefit program for compliance with Section 188 of the WIA and 29 CFR Part 37.

### **Monitoring Elements**

State and WDC EO monitoring and oversight activities use the following models and guides to monitor recipients. The State EO Officer is responsible for monitoring state programs as defined in 29 CFR Part 37.

Recipients, as defined in 29 CFR Part 37.4, include: State Employment Security Agencies; Local Workforce Investment Area grant recipients; state and local Workforce Investment Boards; One-Stop operators; service providers; eligible training providers; On-the-Job Training (OJT) employers; and One-Stop partners, as defined in section 121(b) of the WIA, "to the extent that they participate in the One-Stop delivery system."

State Programs, as defined by 29 CFR Part 37.4, "includes State Employment Security Agencies, State Employment Service Agencies, and/or State Unemployment Compensation Agencies."

All are subject to the equal opportunity/nondiscrimination requirements of 29 CFR Part 37 and related regulations.



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Monitoring is conducted in the following areas (the list is not all inclusive):

- **Assurances** (29 CFR 37.20 - 37.22)  
Review training plans, contracts, agreements, and policies and procedures to ensure EO/nondiscrimination compliance.
- **EO Officer Designation** (29 CFR 37.23 - 37.28)  
Ensure that EO Officers have been appointed, training is ongoing, assigned EO duties do not constitute a conflict of interest, EO duties are being carried out, and the name of the EO Officer is identified.
- **Notice and Communication** (29 CFR 37.29 - 37.36)  
Ensure that "Equal Opportunity is the Law" posters have been distributed and posted in prominent locations for public viewing and that recruitment brochures and other materials include the EO tagline and a teletype (TTY) number or relay service number for individuals with disabilities. Additionally, any written materials (policies, notices, checklists, brochures, etc.) are reviewed to ensure the EO/nondiscrimination requirements have been met.
- **Data and Information Collection and Maintenance**  
(29 CFR 37.37 - 37.41)  
Ensure the collection and maintenance of records or data necessary to determine compliance, e.g., EO/nondiscrimination recordkeeping procedures, policy issuances, reports, complaint logs, etc.
- **Universal Access** (29 CFR 37.42)  
In their recruitment efforts, recipients ensure that materials, brochures, and public service announcements are aimed at broadening the pool of those considered for employment or participation in programs and activities. This includes members of both sexes, various racial/ethnic groups, various age groups, individuals with disabilities and persons with limited English proficiency.
- **Complaint Processing Procedures** (29 CFR 37.70 - 37.89)  
Ensure that the discrimination complaint procedures are adhered to and that complaint logs are maintained.
- **Development of a Monitoring System** (29 CFR 37.62 – 37.69)  
Ensure that monitoring tools and program policies are developed to ensure their programs and activities are operating in a nondiscriminatory way and their service providers receive on-site monitoring reviews.



- **Compliance with Section 504 of the Rehabilitation Act of 1973, as amended (29 CFR 37.57 – 37.9)**  
Ensure compliance with the disability-related requirements of WIA Section 188 and Section 504 of the Rehabilitation Act.

### **Adverse Impact Analysis**

ESD is finalizing its adverse impact analysis process for WIA Title I programs, including the unemployment insurance benefit program. Over the past year WDC's have been instructed in the overall process and will receive final instructions by December 31, 2012. The State EO Officer will conduct an analysis of the system at the statewide level while the WDCs will analyze their local areas.

ESD and the WDCs will conduct this periodic statistical analysis of data by race/ethnicity, sex, age and disability status. When significant differences are found we will investigate to determine if these differences appear to be caused by discrimination.

The State EO Officer will monitor WDCs for compliance in conducting adverse impact analysis during its periodic EO/nondiscrimination compliance monitoring reviews.

### **Sanctions**

If deficiencies are identified, State or WDC EO Officers provide on-site technical assistance. When the deficiencies are included in the compliance review report, the recipient or state program must comply by the due date. If compliance is not attained, a corrective action plan or conciliation agreement may be necessary to ensure that processes and procedures are in place to achieve voluntary compliance. After all attempts to provide assistance and correction of deficiencies fail to attain voluntary compliance, the imposition of sanctions will be considered, following due process. See Element 9.



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## Documentation Attachments for Element Seven

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- 7A 1 - Washington State ESD and WDC EO and Nondiscrimination Monitoring Guide
- 2 - State EO Monitoring Review Schedule
  
- 7B 1 - [Removed]
- 2 - [Removed]
- 3 - Sample of a Monitoring Report for a Local Area
- 4 - Sample of a Review Response from a Local Area
  
- 7C 1 - Pacific Mountain WDC Monitoring Schedule
- 2 - WSID Monitoring Schedule
- 3 - State Monitoring Processes and Flowchart
  
- 7D - [Removed]



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# ELEMENT EIGHT

## COMPLAINT PROCESSING PROCEDURES (29 CFR 37.54(d)(1)(vii)) (29 CFR 37.76 – 37.79)

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.76 through 37.79 regarding complaint processing procedures.*

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### **Background**

The Employment Security Department (ESD) and its partners maintain compliance with the Section 188 of the Workforce Investment Act (WIA) and its regulations regarding the processing of discrimination complaints.

Every recipient under WorkSource Washington adheres to WIA Policy Number 3450 - Discrimination Complaint Processing Policy and Procedures, and uses the attached discrimination complaint form. Workforce Development Councils (WDC) may develop their own discrimination complaint policies and procedures, but they must not conflict with WIA Policy 3450. (Attachment 8A)

ESD maintains a separate discrimination complaint policy and procedure for its employees and clients - ESD Policy and Procedure Number 0013 - Discrimination Complaint Processing. (Attachment 8B)

### **Process**

It is the policy of ESD and the WDCs to advise WorkSource clients and employees of their right to file a discrimination complaint. Any person who believes that he or she has been discriminated against on the basis of race, color, national origin, religion, sex, age, disability, political affiliation or belief (and for clients only, citizenship or participation in a WIA Title I program) has the right to file a discrimination complaint. Discrimination complaints must be filed within 180 days of the alleged discrimination. Clients may file with their WDC Equal Opportunity (EO) Officer, the State EO Officer or the Director of the Civil Rights Center, U.S. Department of Labor. If the complainant is at least 16 years old but less than 18 years old, the complainant's parent or legal guardian signs the written discrimination complaint.



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The discrimination complaint process provides for prompt and equitable resolution of complaints and includes the following elements:

- A written and signed discrimination complaint;
- An acknowledgement of receipt that includes: the issues raised in the complaint, identifying those that will be investigated and those that will not (and why not); a notice of right to representation; and an invitation to alternative dispute resolution (ADR) or mediation;
- A period of fact-finding that includes ADR if accepted; and
- A written Notice of Final Action.

Upon receipt of a discrimination complaint, EO Officers are required to keep the following information confidential to the maximum extent possible, consistent with applicable law and fair determination of the complaint:

- The fact that the complaint has been filed;
- The identity of the complainant(s);
- The identity of individual respondents to the allegations; and
- The identity of any persons(s) who furnished information or assisted in a complaint investigation.

If the State or WDC EO Officer determines that he or she does not have jurisdiction over a discrimination complaint, the EO Officer is required to: 1) inform the complainant of this decision in writing, 2) inform the complainant of the entity that has jurisdiction, and 3) promptly refer the complaint to that entity, explaining the circumstances.

A separate discrimination complaint log is maintained by each WDC EO Officer and at the state level for logging, tracking and reporting discrimination complaints. This log must contain: (1) the date the complaint was filed, (2) the name and address of complainant, (3) the basis of complaint, (4) a description of complaint, (5) the disposition of complaint, and (6) the date of the disposition. Information that could lead to the identification of a particular individual who filed a complaint must be kept confidential.

Recipients are monitored to ensure they comply with the discrimination complaint process.

### **Responsibilities**

**T**he State EO Officer has overall responsibility for developing and implementing departmental discrimination complaint procedures, ensuring agency partners develop their procedures, and ensuring staff (including partner staff) are provided the training required by 29 CFR Part 37. The State EO Officer provides oversight,



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monitoring and technical assistance for the processing of all discrimination complaints, including provision of the ADR/mediation services required under 29 CFR Part 37.

WDC EO Officers are responsible for:

- Publicizing and implementing their own or the WIA discrimination complaint process in their area, in accordance with Part 37;
- Assisting local WorkSource clients in filing a discrimination complaint;
- Providing oversight and monitoring for logging, tracking, reporting and processing of discrimination complaints filed against a local WorkSource partner or subrecipient in their workforce development area;
- Providing intake to determine if the complaint is covered by Part 37, resolving jurisdictional issues and, if appropriate, routing the discrimination complaint to the appropriate entity with jurisdiction for processing; and
- Providing EO/nondiscrimination training within their respective areas.

The WDC EO Officer confers with the State EO Officer promptly upon receipt of the discrimination complaint, prior to determining jurisdiction over the matter.

### **Communication**

Information about the discrimination complaint process is available to department and partner staff, as well as clients. We display posters informing and instructing individuals on discrimination complaint procedures throughout the WorkSource system at recipient, subrecipient, affiliate and co-location sites. During the initial applicant intake interview, an explanation of the full range of services available and the discrimination complaint process is provided to applicants. Applicants also receive a handout or brochure that explains department and partner services and the discrimination complaint process. This handout has been translated into Spanish and is accessible to clients needing other formats or additional assistance upon request. All ESD staff members have access to a copy of their discrimination complaint procedure.

UI claimants that apply for benefits receive a copy of the Unemployment Claims Kit mailed to them. This claims kit includes information on how to file a discrimination complaint. A copy of the claims kit is attached. (Attachment 2M-9)

The ESD Internet site contains a link to the EO page where the EO tagline, EO Notice of Rights, the WIA and ESD discrimination complaint procedures and forms are located. (See Elements 2 and 7)



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## Documentation

### Attachments for Element Eight

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- 8A WIA Policy Number 3450, Revision 1 - Discrimination Complaint Processing Policy and Procedure and attached USDOL/CRC Complaint Information Form
- 8B ESD Policy and Procedure Number 0013 - Discrimination Complaint Procedures including Complaint Form (for ESD employees and clients)



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# ELEMENT NINE

## CORRECTIVE ACTIONS/SANCTIONS (29 CFR 37.54(d)(2)(C)(vii))

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.54(d)(2)(C)(vii).*

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### **Background**

The Employment Security Department (ESD) will seek corrective action from a Workforce Investment Act (WIA) recipient or state program (as defined in 29 CFR Part 37.4) if a violation is identified in the following circumstances:

- The State Equal Opportunity (EO) Officer's EO/nondiscrimination monitoring review using desk audits, on-site reviews or observations identify" 1) a technical deficiency, 2) a failure to follow through on written assurances, or 3) a barrier to universal access to, or disparate impact in, programs or services.
- The assessment of the circumstances surrounding a discrimination complaint and/or investigation, or other fact-finding tools reveals barriers to equal opportunity or access to WIA, Employment Service, UI services or other state programs as defined in Part 37.4.
- A recipient refuses to implement voluntary corrective actions, submit requested data or documentation, or provide access to premises or records during a compliance review.

ESD has notified its recipients of their responsibility to adhere to the nondiscrimination requirements through issuance of WIA Title I-B Policy Number 3445 – Equal Opportunity and Nondiscrimination and the Methods of Administration. (Attachment 2G) Workforce Development Councils (WDC) are required to establish policy and procedures for obtaining prompt corrective action or, as needed, applying sanctions when a recipient is not in compliance with the EO/nondiscrimination provisions of Section 188 of the WIA, Title VI of the Civil Rights Act of 1964, as amended, or related laws.



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### **Voluntary Compliance**

LEVEL ONE - If the need for corrective action is identified by the State EO Officer, he or she notifies the recipient in writing of the violation(s), along with recommendations for voluntary corrective action. The recipient is given a due date to comply. When feasible, corrective action should be completed within 45 days from the date of initial notification of the violation. The State EO Officer provides technical assistance and consultation on the specific action(s) to correct the violation(s).

LEVEL TWO - If this fails, the entity and the State EO Officer enter into a conciliation agreement, specifying the commitment the entity will undertake to correct the violation(s), behavior and/or practice and to ensure it will not recur. The conciliation agreement must:

- Be in writing;
- Address each cited violation;
- Specify the corrective action or remedial action to be taken within a specified period of time to come into compliance;
- Provide for periodic reporting on the status of the corrective and remedial action;
- Provide that violations will not recur; and
- Provide for enforcement for a breach of agreement.

The State EO Officer or designee conducts follow-up visits or monitoring if required.

### **Final Determination**

LEVEL THREE – After all efforts for voluntary compliance have been exhausted, the State EO Officer notifies the ESD Commissioner in writing. This notice specifies the following:

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

The ESD Commissioner may secure voluntary compliance with the recipient through a written assurance and/or conciliation agreement. However, if voluntary compliance cannot be obtained, the Commissioner may issue a final determination which contains the following information:



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- A statement of the efforts made to achieve voluntary compliance, and a statement that those efforts have been unsuccessful;
- A statement of the areas of disagreement;
- A list of any modifications to the findings of fact or conclusions that were set forth in the initial notice of findings by the State EO Officer;
- A statement of the recipient's liability and, if appropriate, the extent of that liability;
- A description of the corrective or remedial actions that the recipient must take to come into compliance;
- A notice that if the grant applicant or recipient fails to come into compliance within 10 days of the date on which it receives the Final Determination, the recipient first will be given the opportunity for a hearing. The Commissioner then considers the following sanctions:
  - Termination of future funding;
  - Disallowance of selected costs;
  - Restriction from bidding on competitive or discretionary funds; or
  - Reduction in funding.

WDCs model these procedures for ensuring compliance with their subrecipients and service providers.



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# Documentation

## Attachments for Element Nine

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9A - [Removed]



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