

**ELEMENT ONE**  
DESIGNATION OF STATE AND LOCAL  
EQUAL OPPORTUNITY (EO) OFFICERS

## **Introduction**

The Illinois Department of Commerce and Economic Opportunity's (DCEO) Office of EO Monitoring & Compliance (EOMC), oversees the implementation of the nondiscrimination and equal opportunity (EO) provisions of the Workforce Investment Act of 1998 (WIA).

As instructed in the nondiscrimination and equal opportunity provisions contained in **29 CFR 37.23 through 28 and 54**, EOMC through has set clear direction on who can serve as EO Officers as well as defined responsibilities at the state and local level. EO/WIA Policy Letter No. 00-01 issued June 20, 2001 sets forth the requirements at the local level (see [Attachment 1.1](#)).

### **State Level EO Officer**

Mr. Kevin L. Bell, MPA, has been designated as the State WIA EO Officer by DCEO Director Warren Ribley and serves as the Deputy Director of the Office of Equal Opportunity Monitoring and Compliance. As required by federal statute, Mr. Bell is a senior-level employee at the state level and reports directly to the Director on all matters related to his position. Mr. Bell will also oversee DCEO's Agency-wide EO Compliance/Education & Training Programs.

DCEO initialized a best practice by not only creating a new office for equal opportunity issues, but has engaged in a structural format change by organizationally providing a direct chain of command to the Director. This best practice alleviates the previous CRC's ruling to DCEO's non-compliance. In the rare instance were a perceived or actual conflict of interest occurs that prohibits Mr. Bell from fulfilling his duties, the Agency's Director will take whatever necessary actions are needed (i.e. use a EOMC staff member who has the necessary knowledge, skills, and abilities or, as the regulations prescribe, the matters are directed to the CRC to preserve due process) to eliminate the conflict.

As Deputy Director, Mr. Bell provides the oversight responsibility for coordinating, implementing, maintaining and monitoring the nondiscrimination and EO requirements under 29 CFR 37 ensuring the state compliance with WIA EO provisions. ([Attachment 1.2](#))

- Provides oversight on behalf of DCEO's Director for all WIA EO issues;

- Assumes and coordinates state EO responsibilities under WIA Section 188 and 29 CFR Part 37;
- Assumes overall responsibility for developing, implementing, and updating the Methods of Administration (MOA);
- Oversees DCEO's Agency-wide EO Compliance/Education and Training Programs;
- Compiles weekly work reports and quarterly report to the Director;
- Provides oversight and assumes responsibility for DCEO's EO/Affirmative Action Program;
- Ensures uniformity in nondiscriminatory policy of EO requirements for grant recipients.
- Conducts training to educate LWIA EO Officers, managers, and staff of their roles and responsibilities regarding the WIA equal opportunity policies and procedures;
- Provides technical assistance to LWIA EO Officers on analysis, and coordinates with general counsel regarding issues such as rehabilitation legislation, regulatory law, and Federal policies and programs;
- Monitors entities receiving WIA Title 1 Funds to ensure compliance; and,
- Implements corrective actions when there are findings of noncompliance.

In addition, Mr. Bell oversees DCEO's Agency-wide EO Compliance/Education & Training Programs. He has the oversight responsibility for DCEO's Agency-wide Equal Opportunity/Affirmative Action Program to ensure that all DCEO employees, inclusive of management, understand and comply with all Equal Opportunity Non-Discrimination rules and regulations under Section 2-105 of the Illinois Human Rights Act; Title 56 of the Illinois Administrative Code, Chapter II: Part 2520: Subpart H of the Human Rights Rules and Regulations and all other federal related EEO laws. The Deputy Director also oversees the Department's Education and Training, Tuition Reimbursement and Drug-Free Workplace Programs.

Two full time staff are assigned to the Deputy Director of the Office of Equal Opportunity Monitoring and Compliance to conduct WIA EO investigations, monitoring, and compliance activities. In addition, a third full-time staff is responsible for monitoring DCEO's internal EO, Affirmative Action, Drug Free Workforce, Tuition Reimbursement, and Americans with Disabilities initiatives. This staff trains and monitors statewide grantees associated with DCEO programs to ensure full compliance with all EO/Non-discrimination provisions of State & Federal laws, rules, regulations, ordinances, & Executive Orders. (See [Attachment 1.3](#) for the organizational structure of the EO Office):

Office staff will answer questions, provide technical assistance and conduct on-site visits at the Illinois workNet Centers and other service providers to ensure that WIA Title I financially assisted programs and activities operate in a non-discriminatory manner. Using the monitoring tools and processes described in detail under Element 7 of this MOA, the EO staff works with recipients to identify problem areas and to develop a plan for corrective action where deficiencies are found. Follow-up visits are scheduled to ensure that the appropriate actions were fulfilled.

### **Local Level EO Officers**

Each local workforce area must designate an EO Officer as stipulated by the above referenced policy letter. It details all elements required of local WIA EO Officers, and defines their roles, responsibilities and requirements to comply with 29 CFR Part 37.23-37.28 (See [Attachment 1.4](#) for a listing of LWIA EO Officers and [Attachment 1.5](#), sample of LWIA organizational chart).

The State WIA EO Officer reviews all LWIA EO officer designees to ensure they meet the eligibility requirements and other duties or responsibilities do not create a conflict, or the appearance of a conflict with the responsibilities of an EO Officer.

The LWIA EO Officer's duties include, but are not limited to:

- Serving as the LWIA grant recipient's designated local WIA EO officer and liaison with the State WIA EO Officer;
- Monitoring and investigating the LWIA recipient's and sub-recipient's activities for compliance with the nondiscrimination and equal opportunity obligations under WIA Title I and 29 CFR Part 37; developing and publishing the LWIA grant recipient's procedures for processing discrimination complaints under Sections 37.76 through 37.79 of 29 CFR Part 37, and ensuring that those procedures are followed;
- Reviewing the local written policies to ensure that they are nondiscriminatory; and coordinating and conducting EO training sessions to train LWIA managers and staff of their roles and responsibilities regarding the WIA equal opportunity policies and procedures;
- Providing technical assistance to LWIA grant recipient management on analysis and interpretation of federal civil rights and rehabilitation legislation, regulations, policies and programs affecting the service delivery operations within the Illinois WIA program; and,
- Reporting directly to the LWIA grant recipient about all local equal opportunity matters. (See [Attachment 1.6](#), Sample of LWIA EO Officer Job Descriptions).

In instances where a perceived or actual conflict of interest arises at the LWIA level, the senior level administrator may reassign to another qualified staff, person, or ask the State WIA EO Officer for assistance.

### **Publicizing WIA EO Officer Information**

DCEO makes the identity of the State WIA EO Officer known to any interested member of the public by the following methods:

- Formal notice to USDOL, LWIA recipients, and partners (See [Attachment 1.7](#), sample State Notice of WIA EO Appointment);
- Posting of the notice “Equal Opportunity is the Law” prominently in common areas in all local Illinois workNet Centers. The poster notice gives the name, organization name, address, e-mail address, telephone, and TDD/TTY numbers of the State WIA EO Officer and the relevant LWIA EO Officer. The notice is posted in English and Spanish and any other languages spoken by significant portions of the population of the area in which the notice is posted;
- Publishing the name of the State WIA EO Officer in the Department's general phone directory (available on the Internet and in hard-copy), along with equal opportunity policies and procedures applicable to WIA employees and procedural manuals providing guidelines for handling complaints from WIA applicants, employees and third parties; and,
- Disseminating written notice brochures to WIA Partners and to any interested member of the public.
- DCEO's web page contains EO information for the workforce investment community that includes contact information for the State and LWIA EO Officers.

LWIA's publicize the name of their LWIA EO Officer to the State, partners, WIA applicants, and the public by the following methods:

- Submitting formal notice to the State WIA EO Officer. (See [Attachment 1.8](#), sample local notices).
- LWIA EO officer names on the notice “Equal Opportunity is The Law” prominently, in reasonable numbers and places, in local workNet and affiliated centers;
- LWIA staff members provide the name of the LWIA EO Officer through internal documents and memoranda and other written or electronic communication; orientation and application processes in employer handbooks and manuals; and ensuring the “Equal Opportunity is the Law” notice is made available to each participant during the intake process and made part of the participant's file; and,

- Listing the names and contact information of each LWIA EO Officer on the web pages of independent LWIAs.

## Resources

The types of administrative support the State WIA EO Officer receives from various resources include:

- Legal Counsel to ensure that DCEO's nondiscrimination and EO Obligations are appropriately addressed;
- Assistance by DCEO Agency Services for professional graphics operations including the publication of posters, brochures and training manuals;
- Information sharing with the Illinois Department of Employment Security (IDES) and Illinois Work Net on regional labor market and demographic data;
- Technical advice from the Illinois Department of Labor;
- Training by the Illinois Department of Human Services, Division of Rehabilitation Services on technology programs to the Illinois workNet Centers staff;
- Technical assistance and resources by the USDOL Offices for planning training initiatives, as well as with complaint proceedings;
- Assistance by the USDOL Civil Rights Center with technical information regarding development policies and procedures for implementing the nondiscriminatory policies for the State and local levels; and,
- Disability resource, educational information, and employment opportunities for people with disabilities is available through **disabilityworks**.

Financial support for the WIA EO activities is provided by WIA 5% administrative funds. This expenditure authority is approved by the state legislative body (the Illinois General Assembly) on an annual basis (See [Attachment 1.9](#), WIA budget).

All LWIAs receive their annual WIA Title I federal program budgets from the State. This process begins with the annual submission grant application complete with budget and program objectives. All LWIAs at a minimum fund one EO Officer from their administrative WIA Title I funding levels. (See [Attachment 1.10](#), sample LWIA budgets).

## **Training**

29 CFR 37.26 requires the State WIA EO Officer and LWIA EO Officers and their staffs to be sufficiently funded, administratively supported, and trained to maintain competency to commensurate with their level of assignment, knowledge, skills, and abilities necessary to carry out their responsibilities and comply with the language found in 29 CFR 34.22 (a). DCEO has instituted best practices that ensure EO staff receive adequate training.

The State EO Officer provides opportunities for scheduled training that includes activities such as: ([Attachment 1.11](#)):

- Information and resource sharing and regional best practices shared.
- Collaborative efforts and partnerships that communicate statewide EO accountability, ADA accessibility, and LWIA monitoring activities.
- On-site or regional technical assistance is requested from USDOL Civil Rights Center Staff to train State and LWIA EO personnel.
- WIA EO Officers and staff are encouraged to attend training at the Annual USDOL Civil Rights Center National Equal Opportunity Conference in Washington, D.C.

**ELEMENT TWO**  
NOTICE AND COMMUNICATION  
29 CFR 37.54 (d) (iii)

## **Introduction**

Widespread notification and communication of equal opportunity policy ensures DCEO's commitment to nondiscrimination. Notices and other forms of communication are distributed to all appropriate parties.

Element Two details how DCEO, LWIAs, and EOMC comply with **29 CFR 37.29 through 37.36** in ensuring individuals are informed of the state's and the recipient's obligation to operate its programs and activities in a nondiscriminatory manner, and the extent of the rights to file complaints of discrimination.

### **Notification – Initial and Ongoing**

The "Equal Opportunity Is the Law" notice was disseminated to all Local Workforce Investment Board (LWIB) Chairpersons, WIA recipients, WIA State, and Local Partner Agencies through the Illinois Policy Letter system, specifically Policy Letter No. 99-3 and Policy Letter 00-02. (See [Attachment 2.1](#), Policy Letters: This Policy Letter required that the "Equal Opportunity Is the Law" notice be:

- Posted prominently, in reasonable numbers and places;
- Disseminated in internal memoranda and other written or electronic communications (i.e. Illinois workNet Welcome Internet Homepage);
- Included in handbooks or manuals;
- Made available to each participant and made a part of the participant's file;
- Provided in appropriate formats to individuals with visual impairments; and,
- Where notice has been given in an alternative format to a participant with a visual impairment, a record that such notice has been given is to be made a part of the participant's file.

The "Equal Opportunity is the Law" notice (See [Attachment 2.2](#)) is posted prominently in English and Spanish for the benefit of the public and clients in all of the appropriate locations at DCEO as well as all affiliated WIA Illinois workNet (both physical and electronic versions) Centers and Satellite locations in the State. Posters are available in English, Spanish, and Polish (in the City of Chicago). The notice is also available in alternative formats such as by audiocassette for the visually impaired.

## **Notification to Individuals with Disabilities**

The “Equal Opportunity is the Law” notice is available to individuals with disabilities in the following ways:

- Large print, Braille and audiocassette versions of the notice are available to persons with visual impairments;
- Readers are made available to the visually impaired for use with websites where the notice is electronically posted at LWIA sites and Illinois workNet Centers; and,
- When requested, sign language interpreters are made available to persons with hearing impairments should they have questions about the notice or the filing process.

Each WIA Illinois workNet resource room provides auxiliary aids and services such as:

- Qualified interpreters;
- Assistive listening headsets;
- Closed and open captioning on videos;
- Telecommunication devices for deaf persons;
- Computers that allow voice input and output;
- Readers;
- Taped texts;
- Brailed materials;
- Video-text imaging displays; and,
- Transcription services.

Every LWIA must indicate that a TDD/TTY number, or an equally effective means of communicating with individuals with hearing impairments, is noted on its local recruitment and marketing materials whenever a phone number is included. All public information includes the tag, “auxiliary aids and services are available upon request to individuals with disabilities,” on local recruitment and marketing materials. Each WIA Illinois workNet Center is monitored for being physically and programmatically accessible (including telecommunication and computer accessibility) to individuals with disabilities every three (3) years.

## **Recruitment Notification and Communication**

When the State advertises for employment positions, the “DCEO is an Equal Opportunity employer” statement is always included. The main employment application utilized by the State of Illinois, Department of Central Management Services, includes the following language:

In compliance with the state and federal constitutions, the Illinois Human Rights Act, the U.S. Civil Rights Act, the Americans with Disabilities Act, and Section 504 of the Federal Rehabilitation Act, the Department of Central Management Services does not discriminate in employment, contracts, or any other activity. If you have a complaint, please contact the Department of Central Management Services at Springfield (217) 785-1985 or (217) 524-1383 (TTD/TTY only) before the date of the test (See [Attachment 2.3](#), CMS Employment Application).

## **Notification to Persons of Limited English Proficiency**

It is the responsibility of all WIA recipients and sub-recipients to ensure equal opportunity and equal access within their specific facility. When clients and applicants arrive for WIA Title I services, and need assistance in a language other than English, the LWIA staff utilizes established procedures to provide translation services for the client.

To provide effective communication methods, DCEO and its partners utilize the language interpreter services (LanguageLine) contracted through the Illinois Department of Central Management (CMS) Telecommunication Unit. When using the service, employees follow the instructions described on the call flow chart (See [Attachment 2.4](#)):

## **Orientation Notification**

Every new employee DCEO hires receives a new employee orientation manual and has access to the Agency’s Affirmative Action Plan that contains an EO policy statements implemented by the Director (See [Attachment 2.5](#)). At the local level, LWIAs discuss the rights of registrants and applicants for WIA services during orientation briefings. Each applicant attending the orientation briefing signs a statement which lists all training objectives, sign a statement indicating they were given “Equal Opportunity is the Law” brochure, how to file a discrimination

complaint, the name of the LWIA EO Officer, and how to use the resource room. This statement is deposited in the applicant's file (See [Attachment 2.6](#)).

## **Training**

Preventing employment discrimination from occurring in the workplace in the first place is preferable to remedying the consequences of discrimination. EMOC is committed to providing training and technical assistance, outreach and education programs to understand and prevent discrimination. DCEO holds required annual cyclic (i.e. quarterly) training opportunities (i.e. webinars, teleconferences, video conferences, on-site training, informational alerts, and provide latest EO news bulletins) for LWIA EO Officers on EO requirements as the need arises. Individualized specialized technical assistance provided by State WIA EO Officers help training LWIAs on situational occurrences so that they may perform their intended job functions with the established best practices engaged by EMOC. DCEO also supports training for LWIA EO Officers through the educational seminars and skill-building workshops provided by the Illinois Department of Human Rights (IDHR).

As economic times are tough, IDHR continues to provide a [no-cost outreach and education programs](#). DCEO prefers this best practice of utilizing free educational services and virtually every WIA EO Officer has attended and received Certificate of Training through this venue. Expected outcomes are to eliminate discriminatory practices, sexual harassment, and other EO issues in the workplace (See [Attachment 2.7](#)). EMOC staff is certified in Internal Investigations, including degrees of certificate from George Washington University in Conducting Advanced Workplace Investigations as well as Writing Final Agency Actions through the EEOC in Washington D.C.

## **ELEMENT THREE**

REVIEW ASSURANCES, JOB TRAINING PLAN, CONTRACTS, POLICIES, AND PROCEDURES  
29 CFR 37.54 (D) (I) (I) AND (D) (2) (I), (III) AND (IV)

### **Introduction**

It is DCEO's policy to include a nondiscrimination and equal opportunity statement in all training plans, contracts, requests for proposals, assurance clauses, and agreements. In addition, policies issued at the State and local levels reinforce the Department's commitment to ensure nondiscrimination at all levels.

All grant applicants and training providers are required to adhere to the nondiscrimination provisions of WIA Section 188 regarding assurances of nondiscrimination and equal opportunity. The assurance commits the recipient to "comply fully with the nondiscrimination and equal opportunity provisions" of WIA and acknowledges the government's right to seek judicial enforcement of the assurance. The specific assurance language is found in 37.20 (a) (1). Additionally, all WIA funds recipients and training providers must ensure that the required EO assurance language is included in all documents. Where necessary, language regarding both programmatic and architectural accessibility to accommodate individuals with disabilities is also included. The Office of Employment and Training has issued guidance to the LWIAs in EO/WIA Policy Letter 00-03 that requires documentation attesting to the fact that such language was included.

Element Three addresses how BOWD implements **29 CFR 37.20 and 54** regarding the review of assurances, job training plans, contracts and policies and procedures.

### **General Assurances**

The State of Illinois assures that the language contained in 29 CFR 37.20 is included in each application for financial assistance using Policy Letters and contractual obligations with the LWIA Agencies. WIA recipients are also required to include the required language in all sub-recipient applications as well. EO/WIA Policy Letter 00-03 requires that LWIAs furnish documents attesting to the fact that such language was included. The specific federal citing of this requirement is included in the State's standard boilerplate grant agreements, which the recipient and sub-recipient sign attesting to compliance of this requirement. (See [Attachment 3.1](#), Policy Letter 00-03).

Illinois' WIA Two Year Strategic Plan (See [Attachment 3.2](#)) contains specific provisions relating to Assurances. Below is a reflection of Illinois' specific assurances within the plan:

- The State assures that it will establish, in accordance with Section 184 of WIA, fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State through the allotments made under Sections 127 and 132. (§112)(b)(I1);
- The State assures that it will comply with Section 184(a)(6), which requires the Governor, every two years, certify to the Secretary, that - (A) the State has implemented the uniform administrative requirements referred to in Section 184(a)(3); (B) the State monitors local workforce areas to ensure compliance with the uniform administrative requirements as required under Section 184(a)(4); and (C) the State has taken appropriate action to secure compliance pursuant to Section 184(a)(5-6);
- The State assures that veterans will be afforded employment and training activities authorized in Section 134 of WIA, to the extent practicable. (§112)(b)(17)(B);
- The State assures that it will comply with the confidentiality requirements of Section 136(f)(3);
- The State assures that no funds received under WIA will be used to assist, promote, or deter union organizing. (§181)(b)(7);
- The State assures that it will comply with the nondiscrimination provisions of Section 188, including an assurance that a Methods of Administration has been developed and implemented; and,
- The State assures that it will collect and maintain data necessary to show compliance with the nondiscrimination provisions of Section 188.

At the local level, LWIA's are required to provide a narrative describing the local reviews of assurance, job-training plans, contracts and policies and procedures (See [Attachment 3.3](#)). LWIAs address how they are complying and will comply with the requirements of 37.20 and 37.54(d)(1)(i), and (2)(iii) and (iv), regarding the review of job training plans, contracts, and policies and procedures by developing a narrative to address:

- How each grant applicant and training provider seeking eligibility includes the equal opportunity assurance in its application for financial assistance under Title I of WIA;

- How the assurance is incorporated into each grant, cooperative agreement, contract or other arrangement whereby federal financial assistance under WIA Title I is made available;
- How each grant applicant and approved training provider is able to provide programmatic and architectural accessibility as required by subpart C of part 32; and
- The procedures of how job training plans, contract assurances, and other similar agreements entered into by recipients are both nondiscriminatory and contain required language regarding nondiscrimination and equal opportunity.

As part of the monitoring process, samples of job training plans, contracts and other agreements are reviewed to ensure nondiscrimination and contain the required language regarding nondiscrimination and equal opportunity. Element 7 of this MOA provides additional information regarding the monitoring process.

### **Assuring Accessibility**

Through the State contractual grant agreement obligations, (See [Attachment 3.4](#)) each WIA recipient and training provider must assure, by annual submission and sub-recipients agreements, that they provide programmatic and architectural accessibility for individuals with disabilities. When DCEO enters into contractual agreements with WIA recipients, compliance with program-specific laws and regulations are specified as the standard boilerplate language within the Program Terms and Conditions. This same language is further specified that any sub-recipients would be required to comply as well.

Monitoring of facilities using the ADA checklist provided within Element 7 provides the basis for examining accessibility issues. The State of Illinois reserves the right to cancel any award or to remove any training provider from the statewide list that does not provide programmatic and architectural accessibility as assured, as well as the right to conduct pre-award, on-site inspections of grant applicants to determine accessibility to individuals with disabilities.

### **Policy Development**

Policy issuances are reviewed and approved by DCEO staff, Legal Counsel, and members of the Policy Committee of the Illinois Workforce Partnership Association (consisting of all 26 local WIA recipients and other Workforce partners/officials)

**ELEMENT FOUR**  
UNIVERSAL ACCESS  
29 CFR 37.54 (D) (1) (VI)

## **Introduction**

The Illinois Department of Commerce and Economic Opportunity is addressing requirements found in *29 CFR 37.54 (d)(1)(vi)* and *29 CFR 37.42* by providing equitable services among substantial portions of the eligible population through its outreach programs designed to broaden the composition of the pool of those considered for participation in programs administered through the Workforce Investment Act to include: members of both sexes; various race/ethnicity and age groups, and individuals with disabilities. These requirements were communicated to recipients in Policy Letter No. 00-04. (See [Attachment 4.1](#)) All recipients will be monitored based on customer demographic characteristics and composition in their local areas.

DCEO outlined how these efforts will be accomplished in Outreach and Recruitment Programs, Communication Programs, Alternate Formats, and in Monitoring Programs mentioned below.

## **Outreach and Recruitment**

All LWIAs describe outreach, recruitment, and priority of service efforts in their local methods of administration materials as well as their five-year plans. (See [Attachments 4.2](#))

Illinois' Disability Program Navigator (DPN) has been upgraded and contracted to the Chicagoland Chamber of Commerce; to be administered on a Statewide basis by **disabilityworks** which is a non-profit initiative sponsored by DCEO and the Chicagoland Chamber of Commerce. The goals and objectives have been expanded. The Navigators are now known as Disability Resource Coordinators (dRC). The main goal of the program is to increase access to services for customers with disabilities as well as improve the employment opportunities for customers with disabilities in the Illinois workNet system, in businesses, and in educational activities. Through **disabilityworks**, employers, people with disabilities and disability/employment service providers are strategically linked. To accomplish this goal **disabilityworks** is implementing the following objectives:

- Encourage employers to join a network of business leaders that have expanded their bottom lines through hiring people with disabilities. There are tax advantages which are noted when businesses hire people with disabilities.
- Find small business development opportunities or centers (SBDC).

- Find jobs in the non-profit sector.
- Encourage colleges, universities, and job placement/training organizations to join a network of disability/employment service providers. (CPLN).
- Market disability services to Illinois workNet and social services for community-based organizations serving people with disabilities;
- Work with LWIA EO Officers to remove physical, programmatic and technological barriers in Illinois workNet Centers;
- Conduct disability training in LWIAs, private businesses, and on scholastic campuses as necessary; and
- Build relationships with local employers and human resource professionals

Area dRCs are located in Chicago, Chicago Metro Area, Rockford, Quincy, Peoria, Springfield, East St. Louis, and Mt. Vernon. They serve as a liaison, trainer, and educator for community-based service providers, postsecondary educational institutions, and economic development organizations. This helps ensure that people with disabilities have full inclusion to employment opportunities

## **Communication**

Recipients must ensure they take appropriate steps to communicate with individuals with disabilities, and that such communication is as effective as communications with others. In addition, when a significant proportion of persons to be served are individuals with limited English proficiency, the recipient must provide the same information in languages other than English.

All public materials (brochures, pamphlets, publications, etc.) that describe WIA programs or activities must include the required language ("taglines") indicating that the program or activity in question is an **"equal opportunity employer/program"** and that **"auxiliary aids and services are available upon request to individuals with disabilities."** (Attachment 4.3 provides samples)

## **Assistive Technology and Auxiliary Aids (AT)**

DCEO continues to work with workNet Centers (One-Stops) to replace obsolete assistive technology. LWIAs are encouraged to routinely identify obsolete or outdated assistive hardware and software programs. In addition, LWIAs must program and plan budgets or work with partners to replace obsolete items. (See Attachment 4-4)

**ELEMENT FIVE**  
COMPLIANCE WITH SECTION 504  
29 CFR 37.54 (D) (2) (V)

## **Introduction**

DCEO is committed to providing services to persons with disabilities that are as effective as mainstream services, and EOMC ensures that the LWIAs comply with requirements found in *29 CFR 37.54 (d)(2)(v)* and *29 CFR 37.7, 37.8, and 37.9 Sub Parts B and C of 29 CFR Part 32*. By ensuring that WIA program and site access are accessible to individuals with disabilities, EO/WIA Policy Letter No. 00-05 requires recipients to submit and maintain documentation required to meet their obligation not to discriminate based on disability ([Attachment 5.1](#)). Policies and procedures with respect to requiring reasonable accommodations and auxiliary aids and services, effective communications; site selection to assure accessibility, and conducting self-evaluations which include corrective action plans have been developed. Ongoing efforts will continue to be made to ensure program and site access to individuals with disabilities.

## **Legal Structure for Serving Individuals with Disabilities**

DCEO ensures all recipients and service providers commit to provide written assurances and certificates in their agreements, grants, and contracts that they will comply with the requirements of:

- WIA Section 188;
- Rehabilitation Act of 1973 (the Rehab Act);
- The Americans With Disabilities Act of 1990 (ADA); and,
- Section 504, as implemented by Title 29, Part 32 of the Code of Federal Regulations; and all applicable disability laws.

These three laws are the legal foundation of our obligation to provide services to individuals with disabilities. The specific standards and terminology in these three laws are **NOT** identical. However, the general principles under these laws are consistent. Viewed together, these laws represent a collective shift toward a world in which people with disabilities are able to fulfill their potential in the workplace.

## **Equal Effective Participation**

The foundation of the general requirements in Section 188 is the principle that qualified individuals with disabilities must be provided an equal opportunity to

participate in and benefit from the programs and services provided by the recipient. The State of Illinois recognizes in all of its practices the following definition of a "qualified individual with a disability" as:

- A person who has the requisite skills, experience, education, and other job-related requirements of the employment or training position that the individual holds or desires and who, with or without reasonable accommodation, can perform the essential functions of the position.

A primary goal of the general requirements is the 'equally effective' participation of qualified individuals with disabilities by ensuring that individuals with disabilities are integrated to the maximum extent appropriate. This goal does not preclude a recipient from providing different or separate services or programs for individuals with disabilities. However, it does mean that these separate, or special, services must be as effective as the mainstream services – those programs and services designed for persons without disabilities. It also means that an individual with a disability cannot be forced to participate in these special programs and services.

### **State Laws Ban Discrimination**

WIA required that states offer a range of different job training, education, and other human resource programs through their service delivery systems. Section 188 of WIA bars discrimination on the basis of disability in programs, services, and employment. DCEO reformed their job training systems in a number of ways, including emphasizing the need to provide services to individuals with disabilities, must be alongside – not segregated from – people without disabilities, to the greatest extent possible. Among the types of discrimination prohibited by these regulations on the grounds of disability are:

- Denying a qualified individual with a disability the opportunity to participate in or benefit from aid, services or training;
- Affording a qualified individual with a disability an opportunity to participate in or benefit from the aid, services, or training that is not equal to that afforded others;
- Providing a qualified individual with a disability with an aid, service or training that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
- Providing different, segregated or separate aid, services, or training to individuals with disabilities unless such action is necessary to provide qualified individuals with disabilities with aid, services or training that are as effective as those provided to others;

- Denying a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards; or,
- Otherwise limiting a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service, or training.

In addition, DCEO provides reasonable accommodations to qualified individuals with disabilities in all aspects of its programs, services, and activities (29 CFR 32.13). Accommodations may include, but are not limited to, qualified sign language interpreters, readers, auxiliary aids, and alternate formats. Reasonable modifications in policies, practices, or procedures are made, when necessary, to avoid discrimination based on disability, unless making the modifications would result in an undue hardship on the Agency (i.e. unreasonable cost or would fundamentally alter the nature of the service, program, or activity).

Finally, the State WIA EO Officer provides guidance to staff and recipients with regard to the disability related requirements of applicable federal and state laws and regulations.

## **Two Types of Accessibility**

DCEO recognizes and complies the two types of accessibility measurements contained within Section 188; architectural and programmatic accessibility. Architectural Accessibility includes the kinds of physical modifications that are most commonly thought of as access for persons with disabilities. In other words, when one reads the sign “Accessible” at the front door of an operation, most people would think of what we talked about earlier – wheelchair ramps and wide bathroom stalls. Program accessibility means that a program or activity must be set up in advance to be accessible to qualified persons with disabilities.

Program access must be prepared to accommodate individuals with physical disabilities, well as those with cognitive disabilities, such as mental retardation or learning disabilities. An example of being accessible for an individual with a cognitive disability may be to have a quiet space to write in, or using less complex wording in verbal and written communications. Both architectural and programmatic accessibility are addressed below in further detail.

## **Architectural Accessibility**

DCEO works with State and LWIA partners to ensure architectural accessibility compliance at each workNet Center (One-Stop) or Affiliate site location. We require each site to comply with the most stringent physical accessibility guidelines in

accordance with the Illinois Accessibility Code. (See [Attachment 5.2](#), Illinois Accessibility Code). Approved reasonable accommodations is provided for people who have difficulty walking or maintaining balance, people who use wheelchairs, crutches, canes, walkers or have restrictive gaits. Surfaces must be hard surface and slip resistant. Parking lots, walkways, corridors, elevators, carpets, and entry doors must comply with Disabilities Act Accessibility Guidelines (ADAAG). Regular on-site monitoring of workNet Centers and their affiliated sites ensures architectural accessibility. Examples of the types of physical modifications of facilities to accommodate use by individuals with disabilities include:

- Parking lots and walkways
- Buildings
- Rooms
- Indoor facilities (*e.g.*, computer kiosk, office cubicle)
- Alarm systems
- Signs

### **Programmatic Accessibility**

Providing accessibility for people with disabilities does not mean that WIA recipients can wait for persons with disabilities to show up at their doorstep and ask to participate in their programs and activities. Rather, it means that the recipient must both plan and act ahead of time. They must plan for and take a wide range of actions, in advance, to be ready to provide effective services – long before the first person with a disability shows up. A recipient is not required to make every part of all of its facilities accessible. However, if a particular program is available in only one location, that site must be made accessible or the program must be made available at an alternative, accessible, site.

DCEO complies with the programmatic-related provisions of Section 188 that contain the provisions prohibits discrimination against qualified individuals with disabilities seeking services within the workNet systems of service delivery. DCEO also prohibits disability-based discrimination by public entities whether or not they receive federal financial assistance. DCEO adopted the WIA implementing regulations that involves the three-part definition used by the Rehab Act and the ADA to define “disability” as:

- A physical or mental impairment that substantially limits one or more of the major life activities of such an individual
- A record of such an impairment; or
- Being regarded as having such an impairment (*i.e.* person is considered as having a disability if that person has a history or record of a physical or mental impairment that substantially limited one or more major life activity).

A person who qualifies under any of these criteria is deemed an individual with a disability for purposes of coverage under Section 188 of WIA. The federal laws barring discrimination on the basis of disability do contain several exceptions to the definition of "individual with a disability." These exceptions deal with disorders or diseases that affect job performance and safety -- sexual behavior disorders, current illegal use of drugs, current alcohol abuse, or currently contagious disease or infection.

DCEO recognizes the following examples of actions considered programmatically discriminatory under Section 188 of WIA:

- When a qualified person with a disability applies to participate in a WIA-funded activity and he is denied because of his disability
- When a person with a disability is not given an equal opportunity to get the same results or benefits from a program or activity that people without disabilities receive
- When a particular person or group with a disability is asked to pay any extra fees to cover the extra cost of accommodating their disability

EOMC enforces all actions considered discriminatory and unlawful. Even if an individual or entity has not intended to discriminate, the above actions are, by themselves, unlawful and prohibited. The intent may be not to discriminate, but the impact is that of discrimination and un-equal opportunity, and the penalty for such crimes will be sanctioned through the enforcement mechanisms provided within Element Nine of this MOA.

To help assist EMOC disseminating programmatic accessibility awareness, DCEO also advertises the taglines that "auxiliary aids and services are available upon request to individuals with disabilities in all of our Illinois workNet Centers" on all printed materials. Auxiliary aids and services are those qualified persons, tools, equipment, or services that effectively deliver materials to persons with disabilities. Recipients are required to furnish appropriate auxiliary aids or services when necessary. The recipient must provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice. Recipients should give deference to the request of the person with a disability because:

- There is a wide range of disabilities
- A person with a disability may or may not be aware of various auxiliary aids and services that are available
- Personal circumstances impact a person's choice of one or another auxiliary aid or service.

Effectively communicating with persons with disabilities also includes the following:

- Recipients should let interested individuals know of the existence and location of accessible facilities and services, and
- When a facility is not accessible or does not provide accessible services, recipients should provide adequate signage at the primary entrance to directing users to where they can obtain information about accessible facilities and services

Finally, recipients must use the international symbol for accessibility at each primary entrance of an accessible facility. Additional alternative forms of communication provided at the workNet Centers, include TTY/TDD (NextTalk Services), Braille, Dragon Speak, the Illinois Relay Center, and Interpreter services. These services are described below:

- **Teletypewriter (TTY/TDD)** – Individuals with impaired hearing who have questions or require information about WIA programs are advised to call 1-800-785-6055. This number is published on the “Equal Opportunity is the Law” poster that is distributed statewide to all WIA Illinois workNet Centers.
- **Illinois Relay Center** - The Illinois Relay Service (IRC), also known as Telecommunications Relay Service (TRS), is a free service provided 24-hour a day, seven day a week, service providing a communication link between persons using a text telephone (TT) and persons using a standard voice telephone (See Attachment 5.3). Specially trained communications assistants relay conversations over the telephone between a person using a TT and a person using a standard voice telephone simultaneously. All calls through the IRC are strictly confidential, as employees may not discuss any information seen or heard as they assist with calls. Communication Assistants will relay entire conversations, and there is no record of the call, other than billing data, after the conversation is completed. TT users dial 1- 800-526-0844; telephone users dial 1-800-526-0857.
- **Interpreter Services** - DCEO and workNet Centers contact the Illinois Deaf and Hard of Hearing Commission (IDHHC) through their web site ([www.idhhc.state.il.us](http://www.idhhc.state.il.us)) or by calling 877-455-3323 for assistance.. The State WIA EO Officer assists managers and staff in making referrals using Illinois' Interpreter Registry (See [Attachment 5.4](#)) to appropriate sources for WIA services.

### **Pre-employment or Pre-training Inquiries**

Generally, a recipient may not ask an applicant for employment or training whether he or she has a disability or the nature or severity of a disability exception for the following reasons:

- When a recipient taking remedial action to correct the effects of past performance;
- When the recipient or the government is attempting to determine the extent to which the recipient has operated its programs in a nondiscriminatory way; and,
- When the recipient or the government is collecting EO data.

The prohibition against asking an applicant about a disability does not apply where such an inquiry is required or necessitated by federal law or regulation. However, before applicants are asked to provide information about their medical condition or history, even if the question is allowable under one of the exceptions, applicants must be:

- Told that the information is being requested on a voluntary basis.
- Informed about the ways in which the information will be used and the narrow circumstances under which the information may be disclosed.

Recipients may not require pre-employment medical examinations. However, they may condition a job offer on the results of a medical examination to be conducted prior to the individual's entrance on duty under any of the following circumstances:

- A medical examination is required for that job regardless of disability status
- Results are not to be used unjustifiably to discriminate on the basis of disability
- Information is kept confidential

## **Reasonable Accommodation**

While accessibility is proactive, meaning there requires planning before any person with a disability asks to participate in the program. By contrast, reasonable accommodation is reactive as it refers to the actions a program must take at **the time that** a particular person with a disability wants **to take part in the program or service**, based on that person's individual needs. DCEO adheres to the regulations, provides accessibility for individuals with disabilities, and encourages reasonable accommodations for persons with disabilities. Individuals with known disabilities are entitled to reasonable accommodations for the application process or admissions process. Once an applicant with a known disability is admitted, reasonable accommodations are changes that can be made to allow the individual to receive equal benefits. For individuals with disabilities hired to work for the program, reasonable accommodations are changes that can be made to enable them to perform the essential functions of the job.

EMOC follows a three phase operational plan to address accommodations as listed below:

1. In the first phase, a person with a disability must be accommodated so that he or she can go through the application or admission process.
2. In the second phase, once admitted to a program, a person with a disability must receive accommodation to allow him or her to receive benefits.
3. In the third phase, once a person with a disability is hired to work for a program, reasonable accommodations must be made to allow that person to do his or her job.

Accommodations vary from person to person and situation to situation. These general principles simply provide a context for understanding how EMOC applies the concept of reasonable accommodation. Requests for reasonable accommodations may be made by the individuals making the request, or their representatives. DCEO requires recipients to provide reasonable accommodations for individuals with disabilities, unless providing the accommodation would impose an undue hardship on the program.

Undue hardship may result if a requested accommodation requires “significant difficulty or expense” to complete. The factors listed here summarize what the recipient must consider in deciding whether a particular accommodation would impose an undue hardship. Factors EMOC and its recipients consider when determining the feasibility of the accommodation include:

- Type of accommodation asked for
- Net cost of the accommodation
- Overall size of the program
- Overall financial resources
- Effect that providing the accommodation would have on the program or facility's ability to serve other customers and carry out its mission.

If the recipient decides that a requested accommodation creates an undue hardship, it must take any steps that eliminate the hardship, but that will enable the person with a disability to participate in the program to the maximum extent possible. Additionally, the recipient must prepare a written statement of the reasons underlying their decision and provide a copy of that statement to the person who requested the accommodation. The recipient is obligated to provide reasonable accommodations as expeditiously as possible, but in not more than 60 days from the time that the request is acknowledged, except where structural changes in facilities are necessary.

In the event that structural changes are necessary, the recipient must develop a transition plan, establishing the steps necessary, including a time frame, to complete the required changes. This plan must be developed in partnership with the individual for whom the accommodation is being designed.

## **Employment Related Provisions**

The Illinois WIA program requires its recipients to promote employment opportunities for individuals with disabilities and encourages its recipients to consider qualified individuals with disabilities for their job openings. Each Illinois workNet Center has an operational plan that addresses how these services are accomplished.

The Department of Human Services (DHS) provides services and activities to individuals with disabilities and is partnered in Illinois workNet Centers. DHS staff works with the WIA client case managers, when necessary, to ensure WIA services are made available. Through this cooperative partnership, evaluation of the clients' employment capabilities, appropriate work environment, and identification and development of suitable job openings is accomplished. Employment counseling through DHS and LWIAs helps clients recognize vocational options, develop a plan to achieve employment goals, overcome barriers to employment, and adjust to the work environment. Job-ready individuals with disabilities receive consideration for suitable openings in the job matching process.

## **Confidentiality**

The State WIA EO Officer, through the monitoring process, ensures WIA recipients maintain the confidentiality of medical information provided by applicants and registrants. Some of the items that are reviewed by the State WIA EO Officer include:

- The LWIAs develop a written confidentiality policy that specifically addresses medical information and staff has been trained/apprised of the policy;
- Medical information is maintained in a separate locked container.
- Medical information is available only to persons with a need to know as outlined in 32.15 (d) (1 - 4).

There are very limited circumstances under which recipients may disclose medical information, including the fact that the participant has a disability. These include the following:

- Medical information may be disclosed to Supervisors and managers so that they can understand the limitations on activities that the participant or

employee can perform and plan accordingly. They would also need disability information to arrange for reasonable accommodation;

- First aid and emergency personnel need to be told about medical conditions that may require emergency treatment; and,
- Government officials who are investigating compliance with disability nondiscrimination laws should receive medical information if they request it.

Recipients must keep disability-related records confidential. This includes records containing information about the results of medical examinations. This means that recipients must keep this information separate from other information about each participant, whether this information is on paper or in an electronic format.

### **Integration**

The State provides technical assistance and provides training to recipients to apprise them of their duty to serve individuals with disabilities in the most integrated setting appropriate to that individual.

**ELEMENT SIX**  
DATA AND INFORMATION COLLECTION  
29 CFR 37.54 (D) (1) (IV) AND (VI)

## **Introduction**

Consistent with 29 CFR 37.54 (d) (1) (iv) and (vi) and 29 CFR 37.37 through 37.41 and 29 CFR 37.53, DCEO collects, maintains and is able to provide data and reports necessary to assist the CRC, state, and LWIA EO officers to monitor a recipient's performance and to identify instances or areas of discrimination. Policy Letter No. 00-06 (See [Attachment 6.1](#)) addressed how the LWIAs and its sub-recipients are complying and will continue to comply with the requirements regarding data collection and maintenance. The Code of Federal Regulations names three key requirements for Data and Information Collection and Maintenance:

- 1. Ensure a properly functioning data collection and maintenance system.**  
Each recipient must establish a properly functioning system that will collect data and information in accordance with WIA regulations.
- 2. Provide information to the Director of the CRC.** The CRC requires both regulatory and discretionary information be provided to verify that the recipient has complied with WIA regulations.
- 3. Maintain confidentiality of data.** All applicants for and recipients of WIA funding have the responsibility to maintain the confidentiality of information that is collected.

## **Data Categories**

Monitoring activities are critical to identifying discriminatory practices and largely depend on the existence of verifiable applicant and participant data. Data is collected and maintained by race, ethnicity, sex, age, and disability status. All applicant characteristics are collected at point of intake and/or service. Race/ethnicity categories are stipulated through Federal requirements and our data collection efforts reflect these classifications: White; African-American; Hispanic; Native American and Asian/Pacific Islander. The information is used only for record keeping, reporting, determining applicant eligibility, and determining program compliance with nondiscrimination requirements for specified, targeted groups. The collection of data reflects the composition of the LWIA workforce at each geographical location, by race, national origin, sex and disability, and any other category that DCEO may require.

## **Illinois Workforce Development System**

The Illinois Workforce Development System (IWDS) records and stores WIA programmatic and demographic data. IWDS is compliant with 29 CFR 37.37 through 37.41 in the collection of the required EO statistical data at the point in which the job

seeker/client is “registered” or the person hired becomes an employee of the agency or its partnerships.

A fundamental goal of IWDS is to provide case managers with a state-of-the art tool for managing their customers’ programs, by collecting data about the participants who apply for and receive services funded by WIA programs. This includes evaluating client eligibility, recording assessment results, developing and implementing service plans, inserting case notes and exit outcomes. Values for the recorded Title VII categories include: White; Black; American Indian; Alaskan Native; Asian; Native Hawaiian/Pacific Islander; Hispanic, and disability status.

### **Data Confidentiality**

Included in the Department’s Discrimination Complaint Procedures are the laws and regulations that govern the Department’s use of personal information. These policies and procedures in place to safeguard documentation pertaining to specific job seekers, program participants, enrollees, benefit claimants, employers, and agency/partnership employees. Data is accessible only to authorized personnel needing access to the systems providing direct services. IWDS collects demographic information, as required by USDOL, and reflects the composition of each LWIA’s workforce by race, national origin, sex, and disability. This information is confidential and used for determining program compliance with nondiscrimination requirements.

DCEO mandates that all recipients financially assisted under Title I of the WIA must have in place a written policy regarding who has access to medical information. Records, particularly those containing medical information, are stored in a manner that ensures their confidentiality. Only persons with a need to know will be privy to the information as outlined in 32.15 (d) (1), (2), (3), and (4). All non-medical records are kept in a separate place from records that contain medical information. Medical records might include insurance application forms as well as health certificates, and results from physical exams.

Within each WIA recipient grant agreement, records retention and right of inspection clauses are included. At the local level, each LWIA is required to provide a copy of its' written procedures, demonstrating data collection, access and maintenance to records meeting the requirements of 29 CFR 37.37 through 37.41. Each grant recipient and sub-recipient is accountable for all funds received and shall maintain for a minimum of three (3) years, following the date of submission by the Grantee of its final expenditure report, all books, records, and supporting documentation necessary to verify the expenditure and use of expended funds.

As anthropological observations made on-site are often invaluable in determining patterns that may indicate discrimination, EOMC staff must be given access to the

applicant's or recipient's operational premises as well as to the employees and participants who are on the premises when a complaint investigation or compliance review are being conducted during normal business hours. If another entity has the information but will not provide it, the applicant or recipient must provide, in writing, the name and address of this entity and a description of their efforts to obtain the information. Asserted considerations of privacy or confidentiality are not a basis for withholding information from EOMC and will not bar EMOC from evaluating or seeking to enforce compliance. No entity can refuse to provide information to the CRC Director by raising issues of privacy or confidentiality. EMOC has the right to such information if it is needed to determine compliance with or violation of EO and nondiscrimination policies and procedures. In any event, if necessary, DCEO can enforce compliance through administrative and other legal processes.

In summary:

- Grant applicants and recipients are ultimately responsible;
- Records must be stored to ensure confidentiality;
- Only staff who need to know should have access to records and information; and,
- Complainants and those who provide information must be protected against retaliation.

## **Complaint Logs**

DCEO maintains a confidential discrimination complaint log that includes:

- (a) complainant name and address;
- (b) grounds of the complaint;
- (c) description of the complaint;
- (d) date filed;
- (e) disposition and date; and,
- (f) any other pertinent information.

As required, EOMC maintains the complaint log and actions taken on the complaints for a period of not less than three years from the date of the resolution of the complaint. As WIA regulations grant authority to the CRC Director to require additional information to determine compliance with EO rules:

- Recipients must notify the CRC Director if an administrative action or lawsuit is filed against them alleging discrimination.
- Applicants and recipients must let the CRC Director know the name of any federal agency that has conducted an investigation and found the applicant or recipient to be

in noncompliance with civil rights procedures if that investigation was within two years prior to the time the WIA application was filed. This constitutes their EO history. See Element 8 for additional information on the data maintained in the complaint log.

**ELEMENT SEVEN**  
COMPLIANCE MONITORING  
29 CFR 37.54 (D) (2) (II)

## **Introduction**

Element Seven describes the compliance monitoring procedures that ensure DCEO's compliance with the requirements of Section 188 and 29 CFR 37. DCEO is responsible for monitoring all WIA financially assisted programs for compliance with the nondiscrimination and equal opportunity provisions. DCEO issuance of EO/WIA Policy Letter 00-07 assures all LWIAs establish procedures to monitor periodically all aspects of compliance with Section 188 and 29 CFR 37 (See [Attachment 7.1](#)).

## **Monitoring Responsibilities**

29 CFR 37.5 – 37.10 requires detailed information for the EO monitoring process. DCEO meets the standards of periodic monitoring set forth by the CFR by providing monitoring information described by the following:

- The procedure for reviewing recipients' policies and procedures to ensure that these policies and procedures do not violate the prohibitions outlined in section 188 of WIA, specifically;
- The written reports prepared for each review. These reports must provide, among other things, that the results of the monitoring review will be made available to the recipient(s) reviewed;
- The involvement of the state and sub-state level EO Officer(s) in conducting reviews. Where individuals other than the state or sub-state level EO Officers carry EO monitoring out, the narrative should provide the names, job titles, and the WIA organizations in which these persons are employed;
- Level of training provided, and by whom, to these individuals, and how does the state officer coordinate the review efforts from start to finish; and,
- The procedure for determining which recipients are to be reviewed, the frequency of reviews of recipients, and the number of recipients to be reviewed per year.

Both the State and LWIAs share equal responsibility to monitor for compliance. The monitoring schedule is comprehensive, and it involves the State WIA Officer, LWIA Executive Officers/Administrators, key management staff, LWIA EO Officers, and the assigned dRCs. The State's WIA EOMC staff will visit each LWIA site once every three years. Additional visits may be scheduled if the situation warrants ensuring implementation of corrective measures.

DCEO imposes specific requirements upon itself as well as the LWIAs for complying with monitoring responsibilities. Each EO monitoring review must include a review of each recipient's programs and operations to determine if:

- The recipient is complying with its administrative obligations under Section 188 of WIA. These administrative obligations are designating an EO Officer, Notice and Communications, and Assurances;
- The recipient is complying with its responsibilities assigned through the MOA; and,
- Discrimination is occurring in the operations of the recipient's programs and services.

In order to make the above assessments ensuring nondiscrimination in EO operations, DCEO's periodic monitoring review includes:

- Conducting EO monitoring/evaluation reviews
- Evaluating policy development, communication, and training
- Analyses by race/ethnicity, sex, age, and disability status to determine significant differences; and,
- Analyses of records, interviews, and other appropriate methods to determine causes of differences.

When there are significant differences, a follow-up investigation will be conducted to determine whether the differences are due to discriminatory conduct or to some other factors. Investigations may be conducted using record reviews, interviews, and other appropriate investigation techniques. In addition, the process used to conduct these evaluations and the persons responsible should be identified. To ensure compliance when violations are found, **DCEO will use enforcement through corrective actions and sanctions as discussed in more detail in Element 9.**

## **Local Workforce Areas**

The State of Illinois has twenty-six (26) LWIAs. There are forty-five (45) workNet Centers (One-Stops) and 65 Affiliate Site locations. Each monitoring cycle will consist of at least eight (8) monitoring visits to LWIA's and their affiliates annually. In turn, each LWIA will monitor their sub-recipients annually and provide DCEO with their findings and corrective actions. Each LWIA is expected to monitor all of their workNet Centers and affiliates using a 3-year cycle similar to the method used by the State.

Monitoring tools used are as follows:

- a. **Monitoring Instrument** -The procedures for monitoring are listed in the monitoring instrument per policy letters and the MOA. (See Attachment 7-2)
- b. **One-Stop Accessibility Checklist** - This checklist was comprised from relevant guidance referenced in the ADAAG and the Illinois Accessibility Code. (See Attachment 7-3)
- c. **Self Evaluation Tool** - Official information provided to the State about the EO/ADA status in the LWIA. (See Attachment 7-4) This instrument provides a terse view of the important checkpoints in the LWIA.
- d. **DCEO Site Review Survey** - This tool measures staff effectiveness, training, and knowledge about the EO/ADA programs. (See Attachment 7-5)
- e. **Client Survey** - This is a marketing tool used to measure customer satisfaction. The tool is crafted to collect feedback information from clients or applicants. (See Attachment 7-6)
- f. **Sample Monitoring Visit Announcement Letter** - These letters are provided to the LWIA's Executive Directors and EO Officers to finalize important coordination matters (i.e. inspection dates, inspection team, purpose of the visit, areas to be inspected, to establish points of contacts, and to secure administrative details and set up entrance and exit briefings). (See Attachment 7-7)
- g. **Current Monitoring Schedule** (See Attachment 7.8).

State and LWIA monitors will use similar monitoring tools and processes to identify problem areas, operational weaknesses, and to develop corrective actions plans. Follow-up visits may be scheduled to ensure that the appropriate corrective actions have been taken.

In demonstrating compliance with CRC regulations, it is necessary for an LWIA grant recipient who has received WIA financial assistance from the state to show its adherence to policies, procedures, and systems contained in the State's WIA MOA. Included in the documents section is the monitoring instrument used during on-site monitoring visits to acquire data from the LWIA recipients. The monitoring instrument is modeled after the nine elements of the WIA Methods of Administration (MOA). The monitoring instrument does not create new legal requirements or change current legal requirements, as its purpose is to facilitate an evaluation of the extent to which recipients are complying with the following administrative obligations:

- Equal Opportunity Officers (37.23-37.28)
- Notice and Communication (37.29-37.36)
- Assurances, job training plans, contracts and policies and procedures (37.20-37.22)
- Universal Access (37.42)
- Data Collection and Record Keeping (37.37)

- Section 504 of the Rehabilitation Act
- Data and Information Collection and Maintenance (37.37-37.41)
- Complaint Processing Procedures (37.70-37.80)
- Corrective Actions and Sanctions (37.54(d)(2)(vii))

DCEO also utilizes the Disability Checklist as an extension of the monitoring instrument in determining compliance with the disability requirements found in 29 CFR Part 37. The State WIA EO Officer uses the Disability Checklist while conducting monitoring for compliance of Section 188 pertaining to persons with disabilities. The Disability Checklist identifies the basic requirements under Section 188 of WIA; including portions of the regulations implementing Section 504 of the Rehabilitation Act as applicable to LWIA grant recipients concerning the operation of their WIA programs and activities.

## **Desk Reviews**

Desk reviews begin with a self-evaluation conducted by the LWIA EO Officer. Incomplete or incorrect responses to the self-evaluation will, at a minimum, prompt technical assistance and further monitoring. LWIA EO Officers submit self-evaluation reports prior to the on-site monitoring visit to assist DCEO EO monitors conducting their comprehensive review. In years where on-site monitoring is not scheduled, each LWIA submits annual self-evaluations to the State WIA EO Officer. Those evaluations are reviewed by DCEO staff.

In addition to the self-evaluation, the desk review will include:

- EO Appointment Letter
- EO Job Description
- Agency's Organizational Chart
- Review of reports from previous non-discrimination program reports;
- Review of discrimination complaint files;
- Review of compliance monitoring reports prepared by the LWIA EO Officer;
- Review of program accessibility self-evaluation and procedures to ensure compliance with requirements pertinent to individuals with disabilities; and
- Review of facility accessibility surveys; and,
- Review of Demographic Data

This information will be compiled and analyzed to determine deficiencies. A report will be issued to the LWIA after the review.

## **On-Site Reviews**

On-Site Reviews provide the opportunity to meet and discuss policies, procedures, or issues with top LWIA management and the EO Officer. It may be used to clarify

information from the desk review. The primary contact during this phase of the review is the LWIA EO Officer. The site review consists of the following:

- An entrance conference, to include discussion of the results of the desk review;
- Policy and Procedures Review (i.e. EO Program staff training, Sexual Harassment, Complaints, Monitoring Procedures, LEP Program, Random sample of Applicant Files);  
Site locations, points-of-contacts, and route coordination;
- Website Accessibility
- Staff surveys and interviews;
- Customer surveys and interviews;
- Facility-accessibility survey review and assessment;
- Review of customer information materials, tag lines, bulletin boards, to include materials in alternative formats and languages other than English;
- Review of community contact programs;
- Complaint-file review;
- Discussion of program intake and assessment processes, to include provisions to serve individuals with disabilities or who are non-English speaking;
- Contracts and assurances boiler plate clauses and other similar agreements are reviewed to ensure that they are nondiscriminatory;
- Review of EO role-related training and budgets for equal opportunity officers planned and accomplished to date; and,
- An exit conference, to include discussion of preliminary findings, if any.

Nothing will preclude additional technical assistance on program-related matters either, during the on-site visit or scheduled for or, as time permits, scheduled at a future date.

## **Local Monitoring**

Each LWIA EO Officer, using the same monitoring process developed and used at the State level, monitors the activities of the Illinois workNet Center, satellite locations, and the activities of its contractors to ensure their EO compliance. The monitoring process provides compliance reviews as specified in 29 CFR 37. In addition, DCEO developed the monitoring tools to ensure a consistent statewide approach to monitoring for nondiscrimination and equal opportunity in the Illinois workNet system.

## **Findings Letter**

DCEO monitors will prepare a monitoring findings letter that details the findings and deficiencies identified during the monitoring activities. LWIA Directors will be

responsible for responding to the letter with a written response to the findings with proposed corrective actions. (See [Attachment 7.9 - Report](#))

### **Conducting Follow Up**

Upon receipt of the monitoring report, the LWIA Director will respond to the corrective action identified as to how the LWIA is going to implement the corrective activities described in the monitoring review. This written response is sent to the State WIA EO Officer for review and approval. If the on-site follow-up monitoring determines the causes for the initial finding have not been appropriately corrected, technical assistance is offered, and further corrective actions are mandated. In the event if follow up activities are necessary, DCEO EO Compliance Monitors will schedule follow up visits to ensure that corrective actions have been implemented.

**ELEMENT EIGHT**  
COMPLAINT PROCESSING PROCEDURES  
29 CFR 37.54 (D) (I) (V)

## **Introduction**

DCEO's complaint processing procedure to advise LWIA customers and employees of their right to file a complaint is outlined in PY '00 EO/WIA Policy Letter No. 00 – 08 (See [Attachment 8.1](#)). The policy letter is consistent with **29 CFR Part 37.76 through 37.79**, and identifies the requirements by which recipients (those entities to which financial assistance under WIA Title I is extended, either directly from the USDOL or through the Governor or another recipient) comply with complaint processing.

## **Recipients That Must Comply With Complaint Procedures**

As previously stated, a recipient is any entity that qualifies and receives financial assistance to provide WIA programs or services. As defined under subpart A 37.54 (3), Illinois WorkNet Center partners are treated as recipients and are subject to the nondiscrimination and equal opportunity requirements based on their participation in the workNet Center delivery system. The list of recipients that must comply with EOMC's complaint procedures include, but is not limited to:

- State-level agencies that administer WIA funds;
- State Employment Security Agencies (UI);
- State and Local Workforce Investment Boards;
- LWIA Grant recipients;
- workNet Center operators and partners;
- Providers of services, and benefits;
- On-the-job (OJT) employers;
- Job Corps contractors and center operators (excluding federally operated centers); and,
- Placement agencies, including Job Corps contractors that perform these functions.

## **Key Elements of the Complaint**

1. 29 CFR 37 outlines specific elements that must be apparent in the recipient's complaint processing procedures. The procedures must include the following elements as described in attachment 8.2:**Initial written notice including:**
  - Acknowledgment of the written complaint

- Notice to the complainant of his or her right to be represented in the complaint process.

## 2. **Written statement of issues including:**

- List of the issues raised in the complaint
- Statement whether the recipient accepts the issue for investigation or rejects the issue and the reasons for each rejection

## 3. **Process for investigation or fact-finding**

- The choice to use customary process rests with the complainant

## 4. **Alternative Dispute Resolution Process**

- Choice for the complainant to use ADR or the customary process
- Provision for any party to file a complaint with the CRC Director if ADR agreement is breached

## 5. **Written Notice of Final Action including:**

- The recipient's decision and explanation (investigation or fact-finding) or of the way the parties resolved the issue if using ADR;
- A notice stating that if the complainant is dissatisfied with the recipient's resolution of the complaint, he or she has the right to file a complaint with CRC within 30 days

- **Notice of final Action;** and,
- **Record keeping.**

## **Jurisdiction**

Any person, or any specific class of individuals, who believes that they have been or are being subjected to discrimination on the basis of race, color, national origin, religion, sex, age, disability, political affiliation or belief and, for participants only, citizenship may file a complaint under WIA. Examples of typical complainants include, but are not limited to:

- Applicants and/or registrants for aid, benefits, services, or training;
- Eligible applicants/registrants;
- Participants;
- Employees;
- Applicants for employment;

- Service providers who may be attributed a racial, national origin, or other characteristic entitled to protection under WIA; and
- Eligible service providers.

Complainants may file a written complaint either on their own or through a representative. These complaints can take one of three forms: individual, class action, or third party. An individual complaint occurs when an individual alleging they have been personally subjected to discrimination. A class action complaint occurs when one or more individuals file the complaint. This action is not only on behalf of themselves, but also on behalf of a group of similarly situated individuals. In order to file this complaint, the complainant must have standing by being a member of the class and have been adversely affected by the alleged discrimination. In addition, all individuals included in the complaint must provide a signed consent document. Class action secures a remedy that eliminates the following:

- a. Discrimination against person(s) named in the complaint;
- b. Discrimination against other injured parties, regardless of whether they have been individually named in the complaint; or,
- c. Discrimination caused by a practice or policy.

Lastly, EOMC accepts third party complaints when an authorized representative of injured individual (s), alleges discrimination against another group or individual after being subjected to discrimination. The complainant may file a discrimination charge if an organization, such as the NAACP, provides the necessary contact information for the injured party.

### **Information Required for a Complaint**

A complaint must be filed in writing using the complaint form developed by the State or the CRC's Complaint Information Form and must contain standard information as described in 29 CFR 37.73:

- Complainant's contact information;
- The identity of the respondent or entity alleged to have discriminated;
- Correct jurisdiction;
- Timeliness of filing (180 days of the alleged incident filing timeframe);
- A signature from the complainant or their authorized representative

It is important that the allegations be described in sufficient detail to determine the apparent merit of the complaint covered by EOMC's jurisdiction. This means that the

allegation of discrimination, or complaint, if proven true, would violate WIA regulations. There is no apparent merit if the allegation of discrimination does not reference a basis prohibited under Section 188 of WIA. Once the complainant demonstrates apparent merit, EOMC then establishes:

### **Written Notification**

A Notice of Receipt will be issued within five (5) working days from the date of receipt of a written complaint. Should the complainant be accepted or rejected for jurisdictional reasons, EOMC will send the complainant a Written Notice of Lack of Jurisdiction including:

- The reason(s) for the determination;
- Notice that the complainant has a right to file a complaint with CRC within 30 days of receiving the Written Notice of Lack of Jurisdiction

### **90-day Processing Timeframe**

Within 90 days of receipt of the complaint, EOMC will either issue:

- a Written Notice of Lack of Jurisdiction; or
- Refer the complainant to another federal grant-making agency for investigation where there is dual jurisdiction; or,
- Issue a Written Notice of Final Action.

### **Notice of Complaint Processing Procedures**

All Illinois workNet Centers, affiliates, contractors, and partners may access EOMC's complaint processing procedures on DCEO's website (see [Attachment 8.2](#)).

Applicants receive a copy and are required to sign a statement indicating they understand the complaint processing procedures. Recipients may receive alternate formats to all handouts upon request. In addition, DCEO's web site provides a link to resources that will tell recipients what to do if they experience discrimination.

### **Roles and Responsibilities**

The State WIA EO Officer has overall responsibility for developing and implementing complaint procedures, as well as ensuring appropriate complaint processing training to LWIA EO Officers. The State WIA EO Officer provides oversight, monitoring and technical consultation for the processing of all discrimination complaints regarding WIA Title I services, including provision of the ADR required under 29 CFR Part 37.25

Responsibilities for LWIA EO Officers include:

- Adopting, publicizing and implementing the state discrimination process in their area in accordance with these regulations;
- Assisting customers in filing a complaint;
- Providing oversight and monitoring for logging, tracking, reporting and processing of all discrimination complaints filed regarding WIA Title I services;
- Providing EO guidance to local intake services for discrimination complaints to determine if the complaint is covered by 29 CFR Part 37, resolving jurisdictional issues, and, if appropriate, routing the complaint to the appropriate entity for processing;
- Monitoring the activities of the recipient to ensure that nondiscrimination and equal opportunity obligations are not being violated, and to review written policies to ensure that those policies are nondiscriminatory;
- The LWIA EO Officer confers with the State WIA EO Officer promptly upon receipt of the complaint, prior to determining jurisdiction over the matter;
- Conducting the fact-finding, facilitating mediation as appropriate, and issuing Notices of Final Action in complaints filed at the local level; and,

### **Record Keeping**

As previously stated in Element 6, both the LWIA EO Officer and the WIA State EO Officer shall maintain records regarding complaints and actions taken for three years from the date of resolution of the complaint. The complaint log will contain the following:

- The number assigned to the complaint. To standardize case numbers assigned to complaints, the following method is to be used -the consecutive order in which the complaint was received, and the current program year;
- The date the complaint was received;
- The name and address of the complainant; category of complainant (i.e., employee, applicant, participant, client or organization);
- The name and address of the respondent; category of respondent (service provider, administrative entity, grant recipient or private employer);
- The basis/ issue(s) of complaint; and,
- Date and results of determination.

### **Alternative Dispute Resolution (ADR)**

ADR consists of a variety of approaches and techniques for dispute resolution that include: coaching, facilitation, mediation, and arbitration. Each ADR technique provides an

opportunity to discuss and consider possible solutions with the assistance of a neutral third party. The Notice of Receipt contains information instructing the complainant of ADR and the options available. If the complainant selects ADR, and the method proves unsuccessful in mitigating their complaint, the complainant can select another technique of ADR. Should a situation arise that necessitates a third party dispute professional, the Office of Equal Opportunity Monitoring and Compliance will contract with an appropriate service vendor to conduct the ADR activity.

### **Due Process**

Upon receiving and processing complaint, EOMC provides written notice to all parties who have a legitimate interest in the complaint. Regulations require that an “impartial” decision-maker investigate and process complaints. All parties receive due process during the investigative process including:

- Representation
- Present evidence
- Question others who present evidence
- File with CRC when they are not satisfied with an agency’s decision
- Decisions should be made strictly on the basis of evidence gathered (no outside factors will be taken into consideration).

### **Fact Finding/Investigation**

Both State and LWIA investigators gather information relating to the alleged discriminatory actions during the fact-finding process, including:

- Discussions with the complainant in order to record all elements of the complaint;
- Interviews with any witnesses or others who have knowledge of the issue involved;
- Review of written and electronic files and records which pertain to the complainant and the alleged discrimination; and,
- Interviews with the respondent.

### **Notice of Final Action**

The Complainant receives a written Notice of Final Action within 90 days of the receipt of a complaint. If the investigating authority finds reasonable cause to believe that the respondent has violated the nondiscrimination and equal opportunity provisions of WIA or 29 CFR Part 37, the Notice of Final Action shall include:

- The specific findings of the investigation;
- An explanation of the reasons underlying the decision;
- A description of the way the parties resolved the issue;
- The corrective action and timeline; and,
- Notice that the complainant has the right to file a complaint with the Civil Rights Center Director within 30 days of the issuance date of the Notice of Final Action if the complainant is dissatisfied.

## **Retaliation**

DCEO has a zero tolerance policy that prohibits retaliation, intimidation or reprisal during the course of any protected activity in the course of complaint investigations. Individuals have the right to file complaints if they believe they have been subjected to intimidation, coercion, or other threatening behavior because they:

- Filed or threatened to file a complaint;
- Opposed a practice prohibited by the non-discrimination and equal opportunity provisions of WIA; or,
- Exercised any rights and privileges, including furnishing information to, or assisting in any manner, an investigation, review, hearing, or any other activity related to the provisions under 29 CFR 37.

In general, EOMC maintains confidentiality regarding the identity of individuals who file complaints, supply information, oppose discriminatory actions or behaviors, or participate in investigations. However, at a certain point in the process of an investigation, that confidentiality will need to be breached. In that situation, DCEO and its recipients are obliged to take all reasonable steps needed to protect these individuals against retaliation.

**ELEMENT NINE**  
CORRECTIVE ACTIONS/SANCTIONS  
29 CFR 37.54 (D) (2) (VII)

## **Introduction**

Recipients determined to be in violation of the nondiscrimination portions of the Workforce Investment Act as a result of a discrimination complaint, monitoring reviews or both, are required to take prompt corrective and/or remedial action. Element Nine demonstrates DCEO's compliance in applying appropriate corrective action and/or sanctions as instructed in **29 CFR 37.54 ((d) (2) (vii))**. (See [Attachment 9.1](#))

## **Corrective Actions**

A corrective action is required from a recipient when there is probable cause to believe a violation of the nondiscrimination and equal opportunity requirements of WIA has occurred. A violation is a failure to comply with WIA regulation and may range in seriousness from an infraction, or a technical violation, to a more significant discrimination violation. DCEO recognizes two different types of violations that if identified, must require corrective actions. These two types are identified and explained below as technical and discriminatory violations.

### **Technical Violation**

Technical violations are based on a strict adherence contained within the implementation of the nondiscrimination provisions of 29 CFR Part 37 and to the policy, rules and procedures predicated from all applicable Federal and State laws. For example, a technical violation involving the failure to include tag lines in a communication would result in a corrective action to re-issue the communication with the tag lines included.

### **Whole Relief**

Discrimination violations tend to be more serious breaches of regulations and may require more investigation than technical violations. To correct a discrimination violation, the appropriate corrective action shall include provisions to make "whole relief." Make-whole relief retroactively provides the victim(s) with whole or full monetary compensation or program services that may have been wrongly denied because of the discriminatory practice by bringing the person to the condition they would be in if, the discrimination had not occurred. Such relief might involve back pay, front pay, retroactive benefits, training, or any service discriminatorily denied.

## **Violation Compensation**

Corrective action procedures include the execution of a written agreement or assurance documenting that the violation has been or will be corrected in a time frame that demonstrates that the corrective action will be completed as soon as possible. The procedures must also include the steps to be taken to ensure that the violation is not repeated. Federal funds may not be used to provide make-whole or any other form of monetary relief. The recipient is obliged to find another financial source, such as local tax dollars, to compensate the victim.

Both technical and discriminatory violations require corrective actions to be taken in a timely manner, and addressed in an appropriate and reasonable manner. An appropriate corrective or remedial action is designed to completely correct each violation. DCEO will seek corrective action from an LWIA in the following circumstances:

- Technical deficiencies such as a failure to follow through on written assurances or a barrier to universal access causing a disparate impact in services;
- Assessment of the circumstances surrounding a complaint and/or grievance, and/or the use of desk audits, on-site reviews, investigation, or other fact-finding tools in conjunction with the assessment process, reveals barriers to equal opportunity or access to WIA services; and,
- Refusals to implement voluntary corrective action, submit requested data or documentation, or provide access to premises or records during a compliance review.

## **Conciliation Agreements**

When it is not possible to immediately carry out or complete a corrective action, a conciliation agreement is required. Examples of this situation include, but are not limited to instance involving:

- Correcting and republishing a brochure to include appropriate language regarding access for individuals with disabilities;
- Developing and delivering an EO training program; or,
- Providing whole relief to an individual or group of participants.

The conciliation agreement must follow the guidelines listed below:

- The agreement must be in writing and describe the violation(s);
- Specify the time frame for the applied corrective or remedial action

- Be sufficient in scope to avoid reoccurrence
- Institute periodic reporting on the status and allow for enforcement procedures

The state and EO officer must follow up to ensure that Prospective Relief Plans and Conciliation Agreements are fulfilled.

## **Sanctions**

When a recipient does not have the capacity to correct a violation(s), or when it's clear that the recipient has failed or refuses to do so, DCEO is required to respond by imposing sanctions. EOMC has procedures in place to impose sanctions when all attempts to provide assistance to effect voluntary correction of a violation have failed or when it is apparent that the recipient fails or refuses to correct the violation within the timeframe established. DCEO reserves the right to take enforcement proceedings when corrective actions are not carried out to comply with WIA regulations include suspension, termination, and denial of funding. DCEO explicitly considers sanctions as the actions enforced through judicial process when a recipient refuses or fails to carry out corrective actions.

Due to either findings of discrimination as part of a complaint investigation, or compliance review, written notifications shall be issued to recipients of their noncompliance. Supportive documentation will indicate findings and methods to accomplish voluntary compliance in a corrective-action plan. The State WIA EO Officer works with the non-compliant entity to establish necessary schedules to correct the violation. In the case of a finding of discrimination, the corrective-action plan must provide for whole relief. The State WIA EO Officer may request corrective action recommendations from DCEO's Director for sanctioned activities when the recipient does not comply with the established action plan. (See [Attachment 9.2](#)).