

Element 2 — **Notice and Communication Nondiscrimination and Equal Opportunity Policies** (29 CFR 37.29 through 37.36)

**PART A**

WIOA and WIA Title I-funded Recipients must provide initial and continuous notice that they do not discriminate on any prohibited ground. They must establish procedures to notify registrants, applicants and eligible applicants/registrants, applicants for employment, new and existing employees, unions or professional organizations that hold collective bargaining agreements with the recipients, sub-recipients that receive WIA Title I-funds from the recipients, and members of the general public, including those with limited vision and hearing. These procedures shall describe how recipients will provide staff and customers information about the rights of members of the above groups to file complaints of discrimination, and instructions for doing so.

Each workforce agency has its own data collection. Data on customers and applicants to system services is collected on an annual basis for analysis by the State and LWIA Equal Opportunity (EO) Officers.

**1. Notice To Applicants for Service**

A notice (Exhibit A) is provided to all applicants for services under the Employment Security (ES) program who are required to sign and certify that they have read, understood, and received a copy of the notice. The signed notice is filed in the participant's folder. Similarly, Unemployment Insurance (UI) applicants are provided notices as they proceed through the required ES portion of the program.

**2. Notice Dissemination**

All persons receive notice and have access to all policy letters that are posted on all office bulletin boards and are available upon request by an employee or applicant for employment, at any time.

While each local area shall provide training to new employees on a regular basis, in order to communicate the policy of nondiscrimination and equal opportunity, the State EO Officer may coordinate with LWIA EO Officers, when feasible, joint workshop sessions.

**3. Posting of Notice by Recipients**

All recipients of the WIA Title I program, One-Stop Centers, and DLIR Offices are required to post in a clearly visible area of their offices to all applicants and employees, the "Equal Opportunity is the Law" poster (Exhibit B). In all locations, where recipients provide services funded by the WIA, language found at 29 CFR 37.30, notice of the identity of the State EOO and the local (LWIA) EOO (Exhibit B) must be posted. The Notice shall contain the following information:

(State EOO/LWIA EOO)  
Address  
Phone and TDD/TTY number

In accordance with 29 CFR 37.30, the following language shall be made available to all applicants' initial application for services and will be part of the applicant's file. Where participant records are maintained electronically, a data field in the initializing screen for a participant's record shall record that a paper copy of the notice has been provided to the participant. Alternative formats for the required language will be available upon request. Compliance with the provision of alternative formats will be monitored in accordance with the procedures described in Element 7.

### **EQUAL OPPORTUNITY IS THE LAW**

**It is against the law for this recipient of Federal assistance to discriminate on the following bases:**

**Against any individual in the United States, on the basis of race, color, religion, sex, National origin, age, disability, political affiliation or belief; and**

**Against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIA Title I-financially assisted program or activity.**

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

**deciding who will be admitted, or have access, to any WIA Title I-financially assisted program or activity;**

**providing opportunities in, or treating any person with regard to, such a program or activity; or**

**making employment decisions in the administration of, or in connection with, such a program or activity.**

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

**If you think that you have been subjected to discrimination under a WIA Title I-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either:**

**the recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose); or**

**the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200**

**Constitution Avenue NW, Room N-4123, Washington, DC 20210.**

**If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).**

**If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with CRC. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).**

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

#### **4. Other Means of Notification**

Recipients will disseminate notice of non-discrimination and equal opportunity initially, by all media (brochures, flyers, press releases, news stories, etc.) in the manner prescribed in 29 CFR 37.29 and .34(b). Recruitment and other public materials shall contain the following statements:

***"Equal Opportunity Employer/Program;" and, "Auxiliary aids and services are available upon request to individuals with disabilities,"***

Along with a TDD/TTY number (29 CFR 37.34 (a) (Exhibits C1-C3).

The following policies help ensure that all individuals with disabilities have communication access to programs, services, or activities of the State of Hawaii which are equally effective as that provided to individuals without disabilities:

- DLIR Directive No. 2011-01 - Policy Statement on Reasonable Accommodations for Persons with Disabilities (Exhibit D)
- DLIR Directive 2011-02 – Americans with Disabilities Act (ADA) Procedures to File a Complaint (Exhibit E)
- DLIR Directive No. 2011-3 - Policy Statement For Persons With Disabilities" (Exhibit F)
- DLIR Directive 2011-04 – Equal Opportunity Employment, Discrimination, Harassment, and Retaliation Policies (Exhibit G)
- State of Hawaii Department of Human Resources Development Discrimination/Harassment-Free Workplace Policy (Exhibit H)

Recipients have been instructed, in State of Hawaii WIA Bulletin No. 5-03, of their responsibilities regarding Equal Opportunity notifications and the local area complaint procedures (Exhibit I). Confirmation that One-Stop partners are in compliance with these requirements will also be verified during annual self- evaluations and on-site reviews.

Training of LWIA EO Officers on notification policies shall be conducted at least once every year utilizing various modes of training and communication. Training will cover in depth information on specific topics under the MOA such as the establishment and dissemination of brochures and other materials containing tag lines.

## **5. . Communication with Persons with Limited English Proficiency (LEP)**

### **Hawaii Revised Statutes, Chapter 321C, Language Access Law**

Most individuals living in Hawaii read, write, speak, and understand English. There are many individuals, however, who are limited English proficient. Language for limited English proficient persons can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by state-funded programs and activities.

The purpose of this part is to affirmatively address, on account of national origin, the language access needs of limited English proficient persons. In providing the delivery of language access services, it has been the intent of the legislature that those services, be guided by Executive Order 13166 and succeeding provisions of the federal law, regulation, or guidance.

Act 290, Session Laws of Hawaii, 2006 (Chapter 321C, Hawaii Revised Statutes) requires every state agency, or any organization receiving state funding that provides services to the public on behalf of the state to take reasonable steps to ensure meaningful access to programs, activities, or services by limited English proficient persons.

The Department of Labor and Industrial Relations has developed the Limited English Proficiency Plan (See Exhibit J) so its divisions, offices and related WIA Title I-funded recipient programs may use as guidance to fulfill the requirements of providing meaningful access to LEP persons.

All program information shall be available in alternative formats upon request from individuals with disabilities, or in languages other than English, within the bounds established for reasonable accommodation. If providing reasonable modification or accommodation would result in undue hardship or fundamentally alter the program or activity, the recipient must notify the State EOO and beneficiary in writing of the reasons for refusing to provide accommodation/modification.

In April of 2014, the DLIR and the U.S.DOL CRC entered into a Conciliation Agreement to improve the department's provision of services to Limited English Proficiency (LEP) persons (Exhibit K). In that Agreement, DLIR committed to implementing and monitoring various aspects of the provision of access to information for LEP persons. The Agreement requires progress reports (Exhibit L) on actions taken to comply with the

Agreement. The Agreement will terminate on January 31, 2016, unless U.S.DOL CRC notifies the DLIR in writing prior to the termination date that the DLIR has not satisfied the terms of the Agreement. Although the Agreement sunsets January 31, 2016, the DLIR will continue to ensure compliance with the WIOA by maintaining training records, submitting biennial reports, and other statistical data concerning language access.

Equal Opportunity Employer/Program

Auxiliary aids and services are available upon request to individuals with disabilities.

TDD/TTY (808) 586-8844

## **PART B**

### Supporting Documentation

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| Exhibit A | Certification of Acknowledgement for Non-Discrimination and Equal Opportunity Notice  |
| Exhibit B | "Equal Opportunity is the Law" Poster   |
| Exhibit C | Other Means of Notification Samples<br>C-1 DLIR Press Release Sample<br>C2 DLIR Director's Memo Template<br>C3 Snapshot of Notice Appearing on all DLIR Web pages |
| Exhibit D | DLIR Directive 2011-01 – Policy Statement on Reasonable Accommodations for Persons with Disabilities  |
| Exhibit E | DLIR Directive 2011-02 – Americans with Disabilities Act (ADA) Procedures to File a Complaint   |
| Exhibit F | DLIR Directive 2011-03 – Policy Statement for Persons with Disabilities   |
| Exhibit G | DLIR Directive 2011-04 – Equal Opportunity Employment, Discrimination, Harassment, and Retaliation Policies   |
| Exhibit H | State of Hawaii Department of Human Resources Development Discrimination/Harassment-Free Workplace Policy   |
| Exhibit I | State of Hawaii WIA Bulletin No. 5-03   |
| Exhibit J | Department of Labor Language Access Plan  |
| Exhibit K | Conciliation Agreement Between the DLIR and the Civil Rights Center, U.S.DOL  |
| Exhibit L | Language Access Reports to the Civil Rights Center  |