

Element 5 – Section 504 Compliance

(WIOA Section 188; Section 504 of the Rehabilitation Act, as amended; and their implementing regulations, including but not limited to 29 C.F.R. §§ 38.7-9, and Subparts B and C of 29 C.F.R. § 32)

PART A

1. **Recipients must collect data and records to determine compliance with nondiscrimination and equal opportunity provisions of WIOA.**

The system and format in which the records and data are kept must be designed to allow the Governor and CRC to conduct statistical or other quantifiable data analyses to verify the recipient's compliance with section 188 of WIOA. Such records must include, but are not limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Each recipient must record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, participant, terminnee, applicant for employment, and employee. For applicants, registrants, participants, and terminees, each recipient must also record the limited English proficiency and preferred language of an individual.

2. **Recipients must ensure confidentiality.**

Information must be stored in a manner that ensures confidentiality, and must be used only for the purposes of: recordkeeping and reporting; determining eligibility, where appropriate, for WIOA Title I-financially assisted programs or activities; determining the extent to which the recipient is operating its WIOA Title I-financially assisted program or activity in a nondiscriminatory manner; or other use authorized by law.

3. **Recipients procedures for maintaining confidentiality of disability-related information.**

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

4. **Knowledge of disability status or medical condition and access to information in related files.**

Persons in the following categories may be informed about an individual's disability or medical condition and have access to the information in related files under the following listed circumstances:

- A. Program staff who are responsible for documenting eligibility, where disability is an eligibility criterion for a program or activity;
- B. First aid and safety personnel who need access to underlying

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- documentation related to a participant's medical condition in an emergency;
- C. Government officials engaged in enforcing these provisions, any other laws administered by the U.S.DOL, or any other Federal laws; and
- D. Supervisors, managers, and other necessary personnel may be informed regarding restrictions on the activities of individuals with disabilities and regarding reasonable accommodations for such individuals.

Recipients shall demonstrate that persons with disabilities are assured of participation in programs and activities within as integrated a setting as possible. Programs and activities shall be architecturally and programmatically accessible to individuals with disabilities, through reasonable accommodation and reasonable modification, free of discrimination on the basis of disability. Also, communication about programs and activities shall be as effective as communication with others.

Examples of discriminatory actions include:

- a) Denying a qualified individual with a disability the opportunity to participate in, or benefit from, a WIOA activity because of their disability;
- b) Failing to give a qualified person with a disability an equal opportunity to get the same results or benefits from a program or activity that people without disabilities receive;
- c) Charging a particular person with a disability, or any group of persons with disabilities, any extra fees to cover the costs of accommodating the disability or of providing the nondiscriminatory treatment required by law; or,
- d) Excluding, or otherwise discriminating against, any person or entity because that person or entity is known to associate, or have a relationship, with someone who has a known disability.

The State of Hawaii has developed policies and procedures to ensure that all recipients meet their obligations not to discriminate on the basis of disability and their responsibility to provide both structural and programmatic reasonable accommodations. Ongoing training and monitoring ensures that all recipients continue to meet their obligation not to discriminate (Samples in Exhibits A1-2).

5. Provide reasonable accommodation for individuals with disabilities.

The terms "reasonable accommodation" and "reasonable modifications" refer to actions a recipient must take at the time that a particular person with a disability seeks to apply to or participate in a program or activity, based on that person's individual needs. The actions that the recipient must take are those that will enable that particular person to receive equal benefits from the program or activity, or to compete fairly in educational and work settings.

Recipients are required to provide reasonable accommodation to employees and participants, and that all programs and activities are accessible to persons with disabilities. Regular

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compliance monitoring by the State and local level EO Officers will further ensure equal opportunity for the disabled.

6. Provide reasonable modification of policies, practices and procedures as required.

The Department of Labor and Industrial Relations (DLIR) is committed to providing reasonable accommodations to individuals with disabilities, whether the individual is a DLIR employee or customer. In addition, the ADA Coordinators of the four counties assure that persons with disabilities needs are met in the most appropriate, customer friendly, cost-efficient, and timely manner possible within their county jurisdiction.

DLIR has updated and distributed to its agencies all policies, including policy statements for persons with disabilities (Exhibits B1-B2).

7. Service Animals

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

8. Provide architectural and programmatic accessibility for individuals with disabilities.

The State of Hawaii has adopted the Americans with Disability Act Accessibility Guidelines (ADAAG) for use by State agencies in providing access to persons with disabilities. A "Disability Access to Programs and Services Manual," which is distributed to all departments and agencies of the state, provides specific guidelines and procedures on accessibility to programs and services (Exhibit C).

Recipient agencies shall conduct programmatic and architectural accessibility compliance site reviews for their own and sub-recipient sites at least once every two years. Training of recipient and sub-recipient staff shall be provided on an on-going basis (Exhibit D). All recipients are expected to provide reasonable accommodation of policies, practices, and procedures to comply with Section 504 as described at 29 C.F.R. § 38.9, and to establish and maintain a schedule for regular evaluation of job qualifications to ensure qualifications are not discriminatory on the basis of disability.

9. Provide for and adhere to a schedule to evaluate job qualifications to ensure that the qualifications do not discriminate on the basis of disability.

Local EO Officers of each county shall review job announcements (employee recruitments), job descriptions, position description questionnaires, and other job recruitment materials to ensure that they are non-discriminatory against persons with disabilities.

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10. Ensure the confidentiality of medical information provided by registrants, applicants, eligible applicants/registrants, participants, employees and applicants for employment.

The State policy provides for the confidentiality of information collected and maintained regarding the disabilities of individuals. WIOA recipients must keep disability—related records, and records containing medical information about particular individuals, confidential. Recipients must keep this information separate from other information about a particular individual, whether the information is maintained on paper or electronically.

Medical information obtained in the course of a post-offer medical examination or inquiry may be provided to and used by appropriate decision-makers involved in the hiring process in order to make employment decisions consistent with the ADA. The following are allowed access to confidential information on a need-to-know basis:

- Supervisors, managers, and trainers may be informed about an employee's or trainee's disability, but only to the extent necessary in order to explain limitations on the employee's or trainee's activities, or to provide him or her with reasonable accommodations;
- First-aid and safety personnel may be informed about an employee's, applicant's, or trainee's medical condition, where appropriate, if the condition might require emergency treatment; and,
- Government officials investigating compliance with disability non-discrimination laws must be given such information upon request.

11. Administer their WIOA Title I financially assisted programs and activities so that each individual with a disability participates in the most integrated setting appropriate to that individual.

All recipients shall ensure that individuals with disabilities participate in the most integrated setting appropriate to each individual. Program facilities will be equipped to accommodate individuals with physical disabilities, as well as hearing and vision impaired, to provide universal access to all customers.

12. Communicate effectively with individuals with disabilities.

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Recipients must take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with persons without disabilities. Recipients must:

- Provide appropriate auxiliary aids or services where necessary to give people with disabilities an equal opportunity to participate in or benefit from a particular program or activity,
- Utilize telecommunications devices for individuals with hearing impairments (TDD/TTY), or equally effective communications systems, such as telephone relay services,
- Ensure that interested individuals, including individuals with visual or hearing impairments, can obtain information as to the existence and location of accessible services, activities, and facilities, and,
- Have signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities.

Each One-Stop Career center shall have at least one workstation specifically designed for customers with disabilities. These workstations will be equipped with software and hardware tools, and other equipment that will ensure effective communication and participation in all services, training, and benefits.

Equal Opportunity Employer/Program
Auxiliary aids and services are available upon request to individuals with disabilities.

TDD/TTY: Dial 711 then ask for (808) 586-8866

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PART B

Supporting Documentation

Exhibit A1	Sample of Ongoing Disability Training—Disability Employment Initiative
Exhibit A2	Sample of Ongoing Disability Training—Hawaii’s Disability Core State Leadership Team Training
Exhibit B1	DHRD Reasonable Accommodations for Employees and Applicants with Disabilities
Exhibit B2	State of Hawaii Discrimination/Harassment Free Workplace Policy
Exhibit C	Programs and Services Manual for Persons with Disabilities, Disability and Communication Access Board, State of Hawaii
Exhibit D	ADA Curriculum for State and County Agencies, Disability and Communication Access Board, State of Hawaii