



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Workforce Innovation and Opportunity Act Nondiscrimination Plan
Element Four – Data and Information Collection and Maintenance
(29 C.F.R. §§ 38.41 to 38.45)

POLICY

As the State agency with the primary responsibility for carrying out the provisions of the WIOA, the DLIR is committed to ensuring that all recipients are aware of their obligations for data and information collection management.

Recipients must collect data and maintain records in the procedures proscribed by the Director to show that they have complied with the nondiscrimination and equal opportunity provisions of WIOA and this part. The system and format in which the records and data are kept must be designed to allow the DLIR and CRC to conduct statistical or other quantifiable data analyses to verify the recipient's compliance with Section 188 of the WIOA and this part.

1. Collection and Maintenance of Equal Opportunity Data and Other Information

The DLIR has developed a standardized record data collection by means of a Virtual One-Stop (VOS) data and information collection system, HireNet Hawaii (*Exhibit A*). HireNet Hawaii complies with the requirements of 29 C.F.R. §§ 38.41 through 38.45, related to data and information collection and maintenance.

Recipients use HireNet Hawaii to collect data and maintain records that can be used to determine whether the recipient has complied or is complying with the nondiscrimination and equal opportunity provisions of the WIOA and this part. The CRC and EO Officers can use the records and data from HireNet Hawaii to conduct statistical or other quantifiable data analyses to verify recipients' compliance with Section 188 of WIOA and this part.

Recipients are required to collect data and maintain records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Recipients must also record the following for every applicant, registrant, participant, terminee, applicant for employment, and employee:

- Race/ethnicity, using designations approved by the Office of Management and Budget (OMB) (*Exhibit B*);
- Sex;
- Age;
- Disability status, if known; and
- Limited English proficiency (LEP) and preferred language.

Recipients must collect any medical or disability-related information 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).

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 documentation related to a participant's medical condition in an emergency.
- (c) Government officials engaged in enforcing this part, any other laws administered by the Department, or any other Federal laws.

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 must also maintain and submit to the CRC upon request a complaint log filed with the recipient that allege discrimination on the following grounds (*Exhibit C*):

- Race Race/ethnicity, using designations approved by the OMB;
- Color;
- Religion;
- Sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity);
- National Origin;
- Age;
- Disability;
- Political affiliation or belief;
- Citizenship; and/or
- Participation in a WIOA Title-I financially assisted program or activity.

The complaint recorded in the complaint log shall include the following information:

1. Name and address of complainant;
2. Ground or basis of complaint;
3. Description of the complaint;
4. Date the complaint was filed;
5. Disposition of complaint and date of issuance; and
6. Any other pertinent information.

Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential. Where designation of individuals by race or ethnicity is required, the guidelines of the OMB must be used.

A copy of the complaint log shall be maintained by the Local-Level EO Officer and forwarded to the State-Level EO Officer annually so that the State-Level EO Officer can maintain a record of all complaints along with all elements required.

Complaint logs, and actions taken regarding the complaints, must be maintained for three (3) years from the date of the resolution of the complaint. Complaints shall be processed in the manner prescribed in Element 8 of this document (*Exhibit A*).

2. Information to be provided to the CRC by grant applicants and recipients

Each grant applicant and recipient is required to promptly notify the CRC Director and State-Level EO Officer when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the grounds of race, color, religion, sex (including pregnancy, childbirth or related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, and for applicants, participants, and beneficiaries only, on the basis of citizenship or participation in a WIOA Title I-financially assisted program or activity. This notification must include:

1. The names of the parties to the action or lawsuit;
2. The forum in which each case was filed; and
3. The relevant case numbers.

Each recipient, as a part of a compliance review conducted under 29 C.F.R. § 38.63 or monitoring activity carried out under 29 C.F.R. § 38.65 must provide the following information:

- (b) The name of any other Federal agency that conducted a civil rights compliance review or complaint investigation, and that found the grant application or recipient to be in noncompliance, during the two years before the grant application was filled or CRC began its examination; and
- (c) Information about any administrative enforcement actions or lawsuits that alleged discrimination on any protected basis, and that were filed against the grant applicant or recipient during the two years before the application or renewal application, compliance review, or monitoring activity. This information must include:
 1. The names of the parties;
 2. The forum in which each case was filed; and
 3. The relevant case numbers.

The CRC Director and State-Level EO Officer have discretionary authority to request any information and data necessary from recipients for the purposes of investigating complaints and conducting compliance reviews, and particularized information or periodic reports for the purposes of determining compliance with the nondiscrimination and equal opportunity provisions of WIOA.

3. Required Maintenance of Records by Recipients

Each recipient must maintain the following records, whether they exist in electronic form (including email) or hard copy, for a period of not less than three years from the close of the applicable program year:

- (a) The records of applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment; and
- (b) Such other records as are required under this part or by the CRC Director.

Hard-copy and electronic records related to discrimination complaints or compliance reviews must be maintained for a period of not less than three years from the date of final action related to resolution of the complaint or compliance review.

4. CRC Access to Information and Information Sources

Grant applicants and recipients must permit access by the CRC Director or the State-Level EO Officer during its hours of operations to its premises, employees, and participants for the purposes of conducting complaint investigations, compliance reviews, or monitoring activities associated with the State's development and implementation of the Nondiscrimination Plan, and for inspecting and copying such books, records, accounts, and other materials needed to ascertain compliance and ensure enforcement of the nondiscrimination and equal opportunity provisions of WIOA. Asserting privacy or confidentiality are not bases for withholding information from the CRC.

Whenever any information that the CRC Director or the State-Level EO Officer asks a grant applicant or recipient to provide that is in the exclusive possession of another agency, institution, or person, and that agency, institution, or person fails or refuses to furnish the information upon request, the grant applicant or recipient must certify to the CRC that it has made efforts to obtain the information, and that the agency, institution, or person has failed or refused to provide it. The certification must list the name and address of the agency, institution, or person that has possession of that information and the specific efforts the grant applicant or recipient made to obtain it.

5. Confidentiality Responsibilities of Grant Applicants, Recipients, and the Department

Grant applicants, recipients, and the DLIR must keep confidential to the extent possible, consistent with a fair determination of the issues, the identity of any individual who furnishes information relating to, or assists in, an investigation or a compliance review, including the identity of any individual who files a complaint. An individual whose identity is disclosed must be protected from retaliation.

Access to the electronic data maintained in the HireNet Hawaii system shall be limited to such persons who have legitimate need. Information contained in the HireNet Hawaii system shall be used only for the purposes intended and in compliance with the requirements of 29 C.F.R. §§ 38.41 through 38.45.

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

EXHIBITS

- Exhibit A HireNet Hawaii Web Page
- Exhibit B Sample Data Tables of Program Participants
- Exhibit C State of Hawaii WIOA Equal Opportunity Complaint Procedures and Forms