



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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WIOA NDP Bulletin No. 1-19

DATE: July 2, 2019

TO: Department of Labor and Industrial Relations (DLIR) and Workforce
Innovation and Opportunity Act (WIOA) Title I Recipients

SUBJECT: WIOA Nondiscrimination Plan and Recipient Obligations

PURPOSE

This bulletin provides a Nondiscrimination Plan, pursuant to WIOA Section 188 and 29 C.F.R. § 38. The Plan replaces the Methods of Administration promulgated under the auspices of the Workforce Investment Act and includes updated posters, complaint processing forms, and other substantive changes.

POLICY

29 C.F.R. § 38.54 requires each Governor to establish and implement a Nondiscrimination Plan for State programs.

29 C.F.R. §§ 38.25 to 38.27, in part, requires that grant applicant assures that it has the ability to comply with the nondiscrimination and equal opportunity provisions of Section 188 of the WIOA, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975, and Title IX of the Education Amendments of 1972.

29 C.F.R. §§ 38.28 to 38.33, in part, requires the designation of Equal Opportunity Officers (EO Officer) by the State of Hawaii and counties. The EO Officers are responsible for monitoring and investigating recipients' activities, processing discrimination complaints, and undergoing training at the recipient's expense to maintain competency.

29 C.F.R. §§ 38.34 to 38.40, in part, requires the State, Counties, and other recipients, except small recipients, to provide initial and continuing notice that they do not discriminate on any prohibited ground to registrants, applicants, eligible applicants/registrants,

participants, applicants for employment, employees, unions, subrecipients that receive WIOA Title I-financial assistance, and members of the public.

29 C.F.R. § 38.51 requires annual monitoring of recipients for the compliance with WIOA Section 188 to determine whether each recipient is conducting its WIOA Title I-financially assisted program or activity in a nondiscriminatory way. Annual monitoring review must include the following: (1) statistical or other quantifiable analysis of records and data kept by the recipient, including analyses by race/ethnicity, sex, limited English proficiency, preferred language, age, and disability status; (2) an investigation of any significant differences in participation in the programs, activities, or employment provided by the recipient to determine whether these differences appear to be caused by discrimination; and (3) an assessment to determine whether the recipient has fulfilled its administrative obligations under Section 188 of WIOA and any duties assigned under the Nondiscrimination Plan.

29 C.F.R. § 38.36 requires recipients to post the Equal Opportunity Notice (sometimes referred to as the Equal Opportunity is the Law poster) prominently in reasonable numbers and places in conspicuous physical locations as well as provide the Notice to employees and participants and kept as part of their files.

29 C.F.R. § 38.38 requires that all recipients indicate that WIOA Title I-financially assisted programs or activities are an “equal opportunity employer/program” and that “auxiliary aids and services are available upon request to individuals with disabilities” in materials that are ordinarily distributed or communicated in written or oral form. In addition, such materials must indicate that the recipient may be reached by voice telephone and must provide a telephone number used by the recipient.

29 C.F.R. §§ 38.69 to 38.85 allows any person or specific class of individuals who have been or being discriminated against on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, citizenship status, or participation in any WIOA Title I-financially assisted program or activity to file a written complaint within 180 days of the alleged discrimination or retaliation.

EQUAL OPPORTUNITY OFFICERS

Governor David Ige designated DLIR Director Scott T. Murakami as the designee for the implementation of the nondiscrimination and equal opportunity provisions of the WIOA. Director Murakami has appointed Christen Lee as the State-Level EO Officer. The State-Level EO Officer is responsible for conducting the annual monitoring of recipients.

NOTICE AND COMMUNICATION

All recipients must prominently display the "Equal Opportunity is the Law" poster, which is included as an exhibit in the Nondiscrimination Plan. The poster is also available for download at labor.hawaii.gov/equal-opportunity-program.

TDD/TTY

All DLIR offices and WIOA Partners must have the required WIOA tagline on all materials that are ordinarily distributed or communicated in written or form, electronically and/or on paper, to staff, clients, or the public at large. This includes websites and webpages.

DLIR uses the 711 for Telecommunications Relay Service (TRS). The TRS permits persons with a hearing or speech disability to use the telephone system via a text telephone (TTY) or other device to call persons with or without such disabilities. To use the TRS, one can simply dial "711" to be automatically connected to a TRS operator. The TRS is free of charge.

The telephone number used in the WIOA tagline must be a telephone number from the office or program. For example, when the DLIR Director's Office issues a press release, the tagline would include a telephone number from the DLIR Director's Office. The WIOA tagline should not include a telephone number for another office or program, including the DLIR Director's Office.

The WIOA tagline is as follows:

Equal Opportunity Employer/Program
Auxiliary aids and services are available upon request to individuals with disabilities.
TDD/TTY Dial 711 then ask for (808) Phone Number of office or program issuing the material

COMPLAINT PROCESSING PROCEDURES

All recipients must comply with the State of Hawaii WIOA Equal Opportunity Complaint Procedures and Forms, which is attached as an exhibit in the Nondiscrimination Plan. Complaints may be filed with the Local-Level EO Officer of the county that the alleged discrimination or retaliation occurred in, State-Level EO Officer, or the United States Department of Labor Civil Rights Center.

REFERENCES

The Nondiscrimination Plan, including all exhibits, may be found on the DLIR website at: labor.hawaii.gov/wioa-eo

Additional information about the TRS may be found at:
www.fcc.gov/consumers/guides/711-telecommunications-relay-service


CHRISTEN Y. LEE
State-Level EO Officer

Enclosure: Nondiscrimination Plan

CC: City and County of Honolulu Mayor Kirk Caldwell
County of Maui Mayor Michael P. Victorino
County of Hawaii Mayor Harry Kim
County of Kauai Mayor Derek S.K. Kawakami
DLIR Program Administrators and Agency Heads
WIOA Title I Recipients