



LOS ANGELES COUNTY

WIA Adult, Dislocated Worker and Youth Programs DIRECTIVE

Number: LACOD-WIAD11-01

Subject: Equal Opportunity and
Grievance and Complaint Procedures

Date: May 24, 2011

Effective Date: Immediately

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FOR YOUR IMMEDIATE ATTENTION

***THIS DIRECTIVE REPLACES DIRECTIVE NUMBER LACOD-WIAD09-01
AND DIRECTIVE NUMBER LACOD-WIAD08-43***

TO: ALL WIA CONTRACTORS

Purpose:

This directive replaces Directive LACOD-WIA09-01 Nondiscrimination and Equal Opportunity Procedures AMENDMENT and LACOD-WIAD08-43 Grievance and Complaint Procedures to *include the updated required postings and customer documents.*

The State Employment Development Department (EDD) issued a revised Directive WSD10-1 Nondiscrimination and Equal Opportunity Procedures with updates to the State's policy procedures for the Workforce Investment Act (WAI) Title I and Wagner-Peyser (WP) funded program and activities. It also includes a standard discrimination complaint form to be use when processing discrimination complaints and a procedure guide for use when processing reasonable accommodations request.

Los Angeles County Workforce Investment Area Contractors' Responsibilities:

- WIA contractors must establish written grievance/complaint procedures incorporating all the requirements of WSD10-1;
- WIA contractors must post LACWIA required postings prominently in reasonable public locations. If WIA contractors have their own agency grievance and complaint procedures, they must also be posted in a public location and be made available to any interested parties and members of the public;
- WIA contractors must cross-train and disseminate these updated procedures to all current and new agency staff from this point forward;
- WIA contractors must include the updated Los Angeles County Nondiscrimination and Equal Opportunity Policies and Procedures in their

agencies policy handbooks/manuals and made available to each Universal and WIA enrolled participants.

- WIA contractors, as defined in Title 29 CFR Section, Part 37.4, do not need to designate an EO Officer with the fully responsibilities as described in WSD10-1, but must designate an Contractor Grievance and Complaint Filing Officer, who will be responsible for the developing and publishing of complaint procedures and the processing of complaints as required by Section 37.76 through 37.79.

Los Angeles County Workforce Investment Area updated Nondiscrimination and Equal Opportunity Policies and Procedures:

The updated policies and procedures contain five distinct documents. Of these documents two (2) are required postings and three (3) are required participant documents. This directive outlines these documents and highlights compliance requirement that are significant to program and activities that are part of the WorkSource Center delivery system.

Postings:

Contractors must maintain and post all required postings in a public location at each Los Angeles County WIA funded facility. These documents must be made available to any interested parties and members of the public. The following notices must be posted:

1. WIA Equal Opportunity is the Law Posting, dated 02/2011, one page document of 11"x17" in size (Attachment I). This posting must include on page 2, the agency's business address, applicable phone number, and the name of the Contractor Grievance and Complaint Filing Officer.
2. WIA Grievance and Complaint Procedures Posting, dated 02/2011, one page document of 8.4" x 14" in size (Attachment II).

Postings				
	Date	Posting Size	Total Pages	Posted
WIA Equal Opportunity is the Law Posting	2/2011	11 x 17	1	Yes
WIA Grievance and Complaint Procedures Posting	2/2011	8.4 x 14	1	Yes

Participant and Participant File Documents:

Initial and continuing notice of nondiscriminatory practices and the right to file a complaint must be made available to each Universal and WIA enrolled participant. The following notices below shall be provided in appropriate formats and a record of such notices shall be documented within the participant's case file.

1. WIA Complaint and Resolution Procedures, dated 05/2011, 15 page document of 8.5"x 11" in size (Attachment III).
 - WIA contractors must provide each Universal and WIA enrolled participant with a copy of these procedures.
 - A copy of these procedures does not need to be retained in the participant's case file, it only needs to be provided to participants.
2. WIA Complaint and Resolution Policies and Procedures Participant Acceptance Form, dated 05/2011, two page document must be printed on Contractor Letterhead and printed double sized on 8.5" x 11 in size (Attachment IV).
 - This posting must include on page 2, the agency's business address, applicable phone number, and the name of the Contractor Grievance and Complaint Filing Officer.
 - WIA Contractors must provide participants with a signed copy of this Form with ALL required signatures.
 - The original signed Form with ALL required signatures must be retained in the participant's case file.
3. WIA Applicant Acknowledgement Statements, dated 05/2011, one page document on 8.5" x 11 in size (Attachment V).
 - WIA Contractors must provide participants with a signed copy of this Form with ALL required information and signatures.
 - The original signed Form with ALL required information and signatures must be retained in the participant's case file.

Where an electronic case file is maintained, staff must make a note indicating that the required notifications did occur, the date of the notifications, and the name of the staff person who provided them.

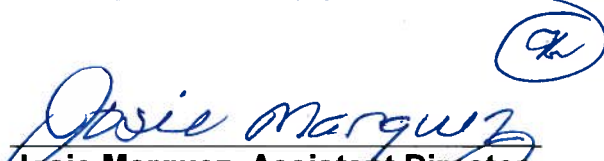
Participant and Participant File Documents						
	Date	Size	Total Pages	Provided to Universal and WIA Enrolled Participant	Made part of the Participant Case File?	Additional Notes
WIA Complaint and Resolution Procedures	5/2011	8.5 x 11	15	Yes	No	Procedures can be printed double-sided.
WIA Applicant Acknowledgement Statements	5/2011	8.5 x 11	1	Yes (Signed Copied)	Yes (Signed Original)	None

Participant and Participant File Documents (continue)						
WIA Complaint and Resolution Policies and Procedures Participant Acceptance Form	5/2011	8.5 x 11	2	Yes (Signed Copied)	Yes (Signed Original)	This form must be printed double sided and on Agency Letterhead. It must include the address, phone number and name of the Contractor Grievance and Complaint Filing Officer.

Action:

Please ensure that the policies and procedures described herein are communicated to the appropriate staff.

For questions regarding Adult/Dislocated Worker Program, please contact Irene Pelayo at (213) 351-5246 or by e-mail at ipelayo@css.lacounty.gov. For questions regarding the Youth Program, please contract Francisco Perez at (213) 739-7327 or fperez@css.lacounty.gov.


Josie Marquez, Assistant Director
Workforce Investment Branch

Attachments

- I. WIA Equal Opportunity is the Law Posting (Dated 2/2011)
- II. WIA Grievance and Complaint Procedures Posting (Dated 2/2011)
- III. WIA Complaint and Resolution Procedures (Dated 5/2011)
- IV. WIA Complaint and Resolution Policies and Procedures Participant Acceptance Form (Dated 5/2011)
- V. WIA Applicant Acknowledgement Statements (Dated 5/2011)
- VI. WSD10-1: Nondiscrimination and Equal Opportunity Procedures (Dated 7/21/2010)

Attachment I:

WIA Equal Opportunity is the Law
Posting (Dated 2/2011)



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Gloria Molina
Mark Ridley-Thomas
Zev Yaroslavsky
Don Knabe
Michael D. Antonovich

County of Los Angeles COMMUNITY AND SENIOR SERVICES

3175 West Sixth Street, Los Angeles, CA 90020
Tel: 213-738-2600 • Fax: 213-487-0379

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Cynthia D. Banks
Director

Otto Solorzano
Chief Deputy

LOS ANGELES COUNTY WORKFORCE INVESTMENT ACT EQUAL OPPORTUNITY IS THE LAW

It is against the law for this recipient of federal financial assistance to discriminate on the following basis:

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.

The Los Angeles County Local Workforce Investment Area (LWIA) has assured the U.S. Department of Labor (DOL) and the State of California Employment Development Department (EDD) that the County's Workforce Investment Act (WIA) Program will adhere to EQUAL OPPORTUNITY as mandated by the LAW.

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 one hundred eighty (180) days from the date of the alleged violation with either:

(Recipient)
**County of Los Angeles Department
of Community and Senior Services**
3175 West Sixth Street
Los Angeles, CA 90020-1708
Attn: Equal Opportunity Officer

OR
Civil Rights Center (CRC)
U.S. Department of Labor
200 Constitution Avenue, N.W.
Room N-4123
Washington, D.C. 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 ninety (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 ninety (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 the CRC. However, you must file your CRC complaint within thirty (30) days of the ninety-day (90-day) deadline (in other words, within one hundred twenty (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 the CRC. You must file your CRC complaint within thirty (30) days of the date on which you received the Notice of Final Action.



Attachment II:
WIA Grievance and Complaint
Procedures Posting (Dated 2/2011)



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Los Angeles County Workforce Investment Act (WIA) Grievances and Complaint Procedures

Any participant or other interested party adversely affected by a decision or action by the Local Workforce Investment Act (LWIA), including decisions by WorkSource and service providers, has the right to file a grievance or complaint with the Contractor (WorkSource Center Lead Agency) or with the County of Los Angeles Department of Community and Senior Services.

Contractor (WorkSource Center Lead Agency) Grievances and Complaints

For grievance or complaint filing instructions at Contractor (WorkSource Center Lead Agency) level, please see the receptionist of the WorkSource Center in question or contact the Contractor Grievance and Complaint Filing Officer as follows:

Contractor Grievance and Complaint Filing Officer

Attn:

Los Angeles County Workforce Investment Act (WIA) Grievances and Complaints

The Los Angeles County Workforce Investment Act (WIA) grievance and complaints must be filed within one (1) year of the alleged violation. Participants have the right to receive technical assistance to ensure that complaints are properly filed. Such technical assistance includes providing instructions on how to file a grievance or complaint, providing relevant copies of documents such as the *County of Los Angeles Workforce Investment Act Complaint and Resolution Policies and Procedures*, and providing clarifications and interpretations of relevant provisions.

All WIA grievance or complaint must be in writing, signed and dated by the grievant/complainant and shall contain the following:

1. Your full name, telephone number, and mailing address;
2. The Contractor's (WorkSource Center Lead Agency) full name, address and telephone number;
3. The facts and dates describing the alleged violation; and
4. How you want the complaint to be resolved.

The complaint must be filed with: **County of Los Angeles
Department of Community and Senior Services
3175 West Sixth Street
Los Angeles, CA 90020
Attn: Equal Opportunity Officer**

Upon receipt of any such complaint or grievance, County of Los Angeles will process the matter consistent with the *County of Los Angeles Workforce Investment Act Complaint and Resolution Policies and Procedures* and will provide for an informal resolution or an administrative hearing. Any grievance or complaint that alleges a labor standards violation may be submitted to binding arbitration between the parties, if a collective bargaining agreement covering the parties to the grievance or complaint so provides. An informal resolution will commence within ten (10) working days of the date of the complaint. An administrative hearing on any grievance or complaint shall be scheduled within thirty (30) days of filing the complaint or grievance. The complainant and the respondent will be notified in writing of the hearing ten (10) days prior to the date of the hearing.

Not later than sixty (60) days after the filing of the grievance or complaint, the Hearing Officer shall mail a written decision to both parties.

Any grievance or complaint may be appealed to the State of California, Employment Development Department (or other designated State Department). If no decision is reached within sixty (60) days or if either party is dissatisfied with the County of Los Angeles Hearing Officer's determination, the complainant may request a State hearing by submitting a written notice of appeal to:

**Chief, Compliance Review Division, MIC 22-M
Employment Development Department
P.O. Box 826880
Sacramento, CA 94280-0001**



Attachment III:
**WIA Complaint and Resolution
Procedures (Dated 5/2011)**



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WORKFORCE INVESTMENT ACT (WIA)

WIA COMPLAINT AND RESOLUTION POLICIES AND PROCEDURES

Revised: May 2011



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WORKFORCE INVESTMENT ACT (WIA) COMPLAINT AND RESOLUTION POLICIES AND PROCEDURES

§ 100. DEFINITIONS.

For purposes of this document, the following definitions govern its interpretation. In the event of any omission or conflict in the definition or interpretation of any term defined within, it is agreed that such term or interpretation shall be made in a manner consistent with said terms as defined or explained in the Workforce Investment Act (WIA).

§ 101. “Complainant” shall mean the person or a party who is filing the grievance.

§102. “Respondent” shall mean the person or parties against whom the complaint is made.

§ 103. “Other Interested Party” shall mean a person or organization potentially affected by the outcome.

§ 104. “Recipient” is defined under Title 29 CFR Part 37 as any entity to which financial assistance under WIA Title I is extended, either directly from DOL or through the governor or another recipient. In addition, One-Stop partners are treated as “recipients” and are subject to the discrimination and equal opportunity requirements of Title 29 CFR Part 37, to the extent that they participate in the One-Stop delivery system.

§ 105. “Grievance or Complaint” shall mean an allegation of violation of one or more of the established WIA regulations, discrimination under the Equal Employment Opportunities Acts, the Civil Rights Acts, and Section 504 of the Rehabilitation Act of 1973.

§ 106. “Equal Opportunity Officer” shall mean the designated official assigned by the LWIA to be responsible for coordinating the obligations under these regulations.

§ 107. “Complaint File” Shall mean a file that is maintained in a central location within each office which includes a hard copy of each complaint filed along with pertinent documentation.

§ 108. “Days” Shall mean consecutive calendar days, including weekends and holidays.

§ 109. “Participant Case File” Shall mean either a hard copy or and electronic file.

§200. GENERAL PROVISIONS.

The County of Los Angeles has established the following policies and procedures pursuant to WIA Subpart F, Section 667.600-667.650. Also included are the procedures for filing complaints alleging discrimination under the Equal Employment Opportunities Acts, the Civil Rights Acts, and Section 504 of the Rehabilitation Act of 1973.

§ 201. Complainant(s). Complaints may be brought by any individual or organization including, but not limited to, WIA participant, staff of the County or service providers, applicants for participation, or any other interested persons affected by the local Workforce Investment System, including One-Stop partners and service providers.

§ 202. Type of Complaints. (a) Only a complaint which alleges a violation of the WIA Act, regulations, grant or other agreements under the Act, may be filed under the procedures developed by the County in accordance with Section 667.600 of the Act.

- (b) Information and complaints involving criminal fraud, waste, abuse or other criminal activity shall be processed under the procedures outlined under **Section 500.**
- (c) Complaints alleging discrimination on the basis of race, color, national origin, age, sex, including sexual harassment, citizenship, retaliation, or political affiliation or belief shall be processed in accordance with the procedures outlined under **Section 600.**
- (d) Complaints alleging discrimination on the basis of disability shall be processed under the procedures outlined in **Section 700.**

- (e) In any case where the alleged violation of the Act is also an alleged violation of another law, regulation, or agreement, nothing shall preclude an individual or an organization from filing a complaint under WIA in accordance with the procedures described herein.

§ 203. Statute of Limitation. With the exception of complaints alleging fraud or criminal activity, the filing of a non-criminal complaint must be made within **one year** of the alleged occurrence.

§ 204. Procedure for Filing Complaint. Every complaint filed under Section 667.600 must be in writing before the official complaint resolution process will commence. The complaint must be signed, dated, and contain the following information:

- (a) The full name, mailing address and telephone number (if any) of the complainant.
- (b) The name, address, and telephone number of the employing agency, if complainant is a participant.
- (c) The full name, address and telephone number of the respondent.
- (d) A clear and concise statement of the facts, including pertinent dates, constituting the alleged violations.
- (e) Where known, the provisions under the WIA Act, the regulations or subgrant agreement believed to have been violated.
- (f) A statement regarding what has been done to resolve the complaint at the employing agency or local level.
- (g) The remedy complainant is seeking.

§ 205. Person and Place of Contact. The complaint must be filed with:

**County of Los Angeles
Dept. of Community and Senior Services
3175 West Sixth Street
Los Angeles, CA 90020
Attn: Equal Opportunity Officer**

§ 206. Modification/Amendment.

- (a) All time frames referred to in these procedures may be modified upon mutual written consent of the parties involved or by changes in applicable State or Federal rules and regulations.

(b) Prior to the hearing, the complainant may amend his or her complaint to correct technical deficiencies but is not to add issues. The amendment must be submitted in writing to the Affirmative Action Coordinator.

§ 207. Time of Filing. A complaint will be considered to have been filed when the WIA Affirmative Action Coordinator receives a written statement which provides all of the information required in Section 204. Assistance will be available to complainants to ensure that complaints are properly filed, and to ensure the availability, coordination, and promptness of all the steps in the procedure. Complainant will be notified in writing throughout the process as to the next procedural step.

§ 208. Withdrawal of Complaint. A complaint once filed may be withdrawn only by written notice to the WIA Affirmative Action Coordinator and to re-file the same complaint at a later date will require the consent of the CSS Director or his designee. If the complainant fails to cooperate or is unavailable, the complaint may be dismissed upon reasonable notice to the last known address of the complainant.

§ 209. Confidentiality. The identity of any person who has furnished information relating to, or who is otherwise assisting in an investigation of a possible violation of the WIA Act shall be kept confidential to the extent possible, consistent with a fair determination of the issues.

§ 300. COMPLAINT RESOLUTION PROCEDURES.

A complaint shall be accepted only if the complainant alleges a violation of the Regulations, grant or other agreements under the WIA Act.

§ 301. Informal Resolution. After the complaint is accepted, the Hearing Officer will contact the complainant and respondent in an attempt to resolve the complaint informally. Attempts at informal resolution will commence within ten (10) working days of the date the complaint is filed.

§ 302. Administrative Hearing. If an informal resolution cannot be reached, an administrative hearing will be scheduled before a Hearing Officer. Such a hearing will be scheduled within 30 days of filing the complaint.

§ 400. HEARING PROCEDURE.

The hearing will be conducted by a Hearing Officer appointed by the Department of Community and Senior Services. The hearing will be conducted in an informal manner and will be recorded.

§ 401. Prior Hearing Notice.

- (a) A written notice will be mailed by certified mail-return receipt requested, to the complainant and the respondent, to be received by both parties not later than ten (10) days prior to the hearing.
- (b) The notice will contain the date of issuance, names of the parties involved, date, time, and place of the hearing, the manner in which it will be conducted, the issues to be decided, the rights of the parties involved, the name, address, and telephone number of the contact person issuing the notice.

§ 402. Other Interested Parties. Other interested parties may be given notice. The notice will outline the other interested parties participation in the hearing.

§ 403. Withdrawal. Any requests made to withdraw a complaint must be made in writing and received prior to the scheduled hearing.

§ 404. Rescheduling. A request to reschedule a hearing must be made in writing and must be for good cause.

- (a) The Director of the Workforce Investment Area or her designee will make the final decision on such requests subject to acceptance by all parties of an extension of the 30 day requirement on scheduling a hearing and the 60 day requirement to make a final decision.

§ 405. Legal Representation. Any party may be represented by an attorney or other representative at their own expense. The County cannot appoint an attorney to represent either party nor can the County provide legal advice to either party.

§ 406. Witnesses and Evidence. Any party may bring witnesses and documentary evidence.

- (a) Either party may have records or documents relevant to the issues produced by their custodian when such records or documents are kept by either party in the ordinary course of business.
- (b) The complainant may request that employees and /or participants of the respondent who have knowledge of the pertinent facts be available to testify at the hearing.
- (c) Requests for records, documents and/or persons serving as witnesses must be in writing and submitted to the Hearing Officer at least 10 working days prior to the date of the hearing.

- (d) The request must specify which records, documents, and individuals are being sought and a concise statement of why such information and individuals are presumed to be relevant to the issue(s).
- (e) The Hearing Officer will have the discretion to determine issues of relevancy at the time of the hearing.
- (f) Failure on the part of either party to supply information and/or make persons available that have been requested may result in sanctions being imposed by the Hearing Officer and/or County.
- (g) Any party may question any witness or parties, in accordance with due process and the Hearing Officer's discretion.

§ 407. Notice of Hearing Officer's Findings. Not later than 60 days after the filing of the grievance or complaint, all parties involved will be notified in writing of the recommendation(s) of the Hearing Officer, unless extended with the written consent of both parties.

- (a) The written notification will be mailed first class to all parties and will include:
 - (1) The names of the parties involved;
 - (2) A statement of the alleged violations and related issues;
 - (3) A statement of the facts;
 - (4) The decision on the issue and the reasons for the decision;
 - (5) A statement of the remedies to be applied and/or the corrective measure required, if any;
 - (6) A statement that the procedures delineated have been completed; and
 - (7) Notice of any party's right to request a review of the County's final determination by the State Review Panel within 10 days of the receipt of the decision.
 - (8) Request for review must be sent to:

**Chief, Compliance Review Division, MIC 22-M
Employment Development Department
P.O. Box 826880
Sacramento, CA 94280-0001**

§ 408. Request for State Panel Review. All requests for review must include the following information:

- (a) The full name, mailing address and telephone number of the party requesting the review.
- (b) The name, address and telephone number of the other party.
- (c) A copy of the written decision rendered by the County of Los Angeles.
- (d) A brief statement of why the request for review is being made and/or the section of the County's decision to be reviewed. If known, the statement should also include the provision(s) under WIA, the regulations or subgrant agreement believed to have been violated.
- (e) A statement of the relief or remedy being sought.

§ 500. ALLEGATIONS OF FRAUD, WASTE, ABUSE OR OTHER CRIMINAL ACTIVITY

Information and complaints involving criminal fraud, waste, abuse, or other criminal activity must be reported immediately to the following department:

**Office of Inspector General
United States Department of Labor
200 Constitution Avenue, NW, Room S-5506
Washington, D.C. 20210**

§ 600. DISCRIMINATION BASED ON EQUAL EMPLOYMENT OPPORTUNITIES ACT.

§ 601. General Provisions. This section deals with *Resolutions of complaints alleging discrimination on the basis of race, color, national origin, sex (including sexual harassment, sexual orientation), religion, disability, political affiliation or belief, retaliation and citizenship, where applicable.*

§ 602. Background. The WIA Section 188 contains the nondiscrimination and equal opportunity provisions which prohibit discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I-financially assisted program or activity.

§ 603. Policies. The Los Angeles County Local Workforce Investment area (LWIA) has assured the U.S. Department of Labor (DOL) and the State of California Employment Development Department (EDD) that no registrant in the

County's WIA Program will be discriminated against because of race, creed, color, national origin, age, sex (including sexual harassment), sexual orientation, disability, citizenship, or political affiliation or belief. This implies that:

- a) No benefits may be denied a WIA participant because of race, creed, color, national origin, sex, sexual orientation, age, disability, citizenship, or political affiliation or belief while being registered, interviewed, counseled, tested, or while working in a work activity or attending class as part of the program;
- b) Each WIA participant must be provided the same opportunities to use all facilities available in the program as all other participants;
- c) A discrimination complaint may be filed within 180 days of the alleged discrimination, either with the County of Los Angeles, LWIA grant recipient (service provider), or with the Department of Labor, Civil Rights Center (CRC).

§ 604. Procedures for Filing Discrimination Complaints. Any person who believes that he/she or any specific class of individuals has been, or is being subjected to discrimination prohibited by the nondiscrimination and equal opportunity provisions of the WIA regulations may file a written complaint or a representative may file on his or her behalf. All complaints must be in writing and must contain the following information:

- (a) Be signed by the complainant or his/her representative;
- (b) Contain the complainant's name, address or other means of contacting him/her;
- (c) Identify the Respondent; and
- (d) Describe the Complainant's allegation in sufficient detail to allow the County EEO staff to determine whether: (1) LWIA or CRC has jurisdiction over the complaint; (2) the complaint was filed timely (i.e. within 180 days of the occurrence); and (3) the complaint has apparent merit (i.e. whether the allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of the WIA).

§ 605. Person and Place of Contact: Complaints filed with the Los Angeles County Workforce Investment Board (WIB) should be directly mailed to:

**Los Angeles County Department of
Community and Senior Services
3175 West Sixth Street
Los Angeles, CA 90020-1708
Attn: Equal Opportunity Officer**

Complaints filed with the County of Los Angeles Workforce Investment Board (WIB) will be processed through the Department of Community and Senior Services (CSS). CSS will investigate and prepare a written report that will be sent to the complainant and the respondent to attempt to resolve the complaint informally within thirty (30) days of filing of the complaint.

CSS will also provide copies to each of the following State Offices:

- Equal Employment Opportunity Office
- Local Policy Guidance – Workforce Investment Division (WID)

§ 606. Alternative Dispute Resolution (ADR). The choice to use Alternative Dispute Resolution (ADR) procedures rests with the complainant.

(a) A party to the agreement reached under ADR may file a complaint with CRC in the event the agreement is breached. In such circumstances, the following rules apply:

- (1) The non-breaching party may file a complaint with CRC within 30 days of the date on which the non-breaching party learns of the alleged breach;
- (2) The CRC will evaluate the circumstances to determine whether the agreement has been breached. If the CRC determines that the agreement has been breached, the complainant may file a complaint with the CRC based upon his/her original allegation(s) and the CRC will waive the deadline for filing such a complaint.

(b) If the parties do not reach an agreement under ADR, the complainant may file directly with CRC pursuant to Title 29 CFR Sections 37.71 to 37.74.

§ 607. Administrative Hearing. If an informal resolution cannot be reached, the complainant may request an administrative hearing. The request for administrative hearing shall be within (5) days of the informal resolution meeting.

(a) The administrative hearing shall be scheduled before the EEO Officer. The administrative hearing shall be scheduled within 30 days of filing the request for hearing. A Notice of Final Action shall be issued by the County within 90 days of filing the complaint. The Notice of Final Action shall include notification of the right to file a complaint with the Department of Labor, Civil Rights Center (CRC).

(b) If the complainant wishes to file a complaint with CRC, he/she must wait until the County issues a decision or until 90 days have passed since the filing of the original complaint with the County.

- (c) If after the 90 days above, the complainant is still dissatisfied with the resolution of the complaint, the complainant or his/her representative may file directly with the CRC within 30 days of the date that the complainant received the Notice of Final Action from the County.

In the event that the complainant has not received the Notice of Final Action within 90 days of filing, the complainant may file the complaint with the CRC. In other words, the complaint must be filed with the CRC within 120 days of the date of which the complaint was filed with the County

§ 608. Notice of Lack of Jurisdiction. The County shall notify the complainant in writing immediately upon determining that it does not have jurisdiction over the complaint that alleges a violation of the nondiscrimination and equal opportunity provisions of WIA. The Notice of Lack of Jurisdiction shall include the basis for such determination, as well as, a statement of the complainant's right to file a written complaint with CRC within thirty (30) days of receipt of the Notice.

- (a) The County, complainant, or a legal representative may contact CRC for information regarding the complaint filed.

§ 609. Procedure for Filing Discrimination Complaints with the Civil Rights Center (CRC). A complaint filed with the CRC must be done **within 180 days** of the alleged discrimination. The CRC, for good cause shown, may extend the filing time. In order to receive an extension, the Complainant must be notified by CSS that a waiver letter is to be filed with CRC. The waiver letter should include the reason the 180-day time period elapsed. The time period for filing is for the administrative convenience of the CRC and does not create a defense for the Respondent.

- (a) Complaints filed with Civil Rights Center (CRC) should be mailed to:

**Civil Rights Center (CRC)
U.S. Department of Labor
200 Constitution Avenue N.W., Room N-4123
Washington, D.C. 20210**

- (b) Complaints filed should be in writing. The complaint must be signed, dated, and contain the following information:
- (1) Be signed by the complainant or his/her representative;
 - (2) Contain the complainant's name, address, or other means of making contact;
 - (3) Identify the respondent; and
 - (4) Describe the complainant's allegation in sufficient detail to allow CRC or CSS (County), as applicable, to determine whether: (a) CRC or CSS (County) has jurisdiction over the complaint (b) the complaint was filed

timely; and (c) the complaint has apparent merit, i.e. Whether the allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIA.

- (c) Each complainant and respondent has the right to be represented by an attorney or other individual of his/her choice.

§ 610. Actions by the Civil Rights Center. When a complaint filed contains insufficient information, CRC will seek the needed information from the complainant. If the complainant is unavailable after reasonable efforts have been made to reach him/her, or the information is not provided within the time specified, the complaint file may be closed without prejudice upon written notice sent to the complainant's last known address.

- (a) The CRC (WIA Section 183 (c)) may issue a subpoena to the complainant to appear and give testimony and/or produce documentary evidence, before a designated representative, relating to the complaint under investigation. This procedure can be done at any place and time in the United States.
- (b) Where the CRC lacks jurisdiction over the complaint, CRC shall notify the complainant and give the reason(s) for this determination.
- (c) If the complainant alleges more than one kind of complaint, "joint complaint" e.g. individual employment discrimination, age discrimination, equal pay discrimination, etc., CRC shall refer such joint complaint to the **Equal Employment Opportunity Commission** for investigation and conciliation pursuant to Title 29 CFR, Parts 1690 or 1691.

§ 611. Allegations of Discrimination by One-Stop. Under the One-Stop delivery system where an allegation of discrimination is made against an entity that operates a program or activity financially assisted by a federal grant-making agency other than DOL, but participates as a partner in a One-Stop delivery system, the following procedures apply:

- (a) If the complainant alleges discrimination on a basis that is prohibited both by Section 188 of WIA and by a civil rights law enforced by the grant-making agency, CRC and the grant-making agency have dual jurisdiction over the complaint. The CRC will refer the complaint to the grant-making agency for processing and the grant-making agency's regulation will govern the processing of the complaint.
- (b) If the complaint alleges discrimination on the basis that is prohibited by Section 188 of WIA, but not by any civil rights laws enforced by the federal grant-making agency, CRC has sole jurisdiction over the complaint and will retain and process the complaint per Title 29 Part 37.

§ 612. Initial and Final Determination by Civil Rights Center. After making a cause of finding, CRC shall issue an Initial Determination. This notice will inform the complainant and the County in writing of the following:

- (a) The specific findings of the investigation.
- (b) The corrective action to be applied and time for completion.
- (c) The **Final Determination** represents DOL's final agency action on the complaint.

§ 613. Prohibition Against Using Federal Funds for Monetary Compensation. Monetary corrective action may not be paid from federal funds.

§ 700. DISCRIMINATION BASED ON SECTION 504 OF THE REHABILITATION ACT.

Complaints alleging discrimination on the basis of disability are to be filed directly with the Equal Employment Opportunity Office (EEOO) of the California Employment Development Department and mailed to the following address:

**Chief, Equal Employment Opportunity Officer
California Employment Development Department
P. O. Box 942880, MIC 49
Sacramento, CA 94280-0001**

§ 701. Statute of Limitation. Complaints must be made in writing within 180 days of the alleged violation(s)

Attachment IV:

WIA Complaint and Resolution Policies
and Procedures Participant Acceptance
Form (Dated 5/2011)

“WIA CONTRACTOR LETTERHEAD”

WIA COMPLAINT AND RESOLUTION POLICIES AND PROCEDURES PARTICIPANT ACCEPTANCE FORM

EQUAL OPPORTUNITY IS THE LAW

It is against the law for this recipient of federal financial assistance to discriminate on the following basis:

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.

The Los Angeles County Local Workforce Investment Area (LWIA) has assured the U.S. Department of Labor (DOL) and the State of California Employment Development Department (EDD) that the County's Workforce Investment Act (WIA) Program will adhere to EQUAL OPPORTUNITY as mandated by the LAW.

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 one hundred eighty (180) days from the date of the alleged violation with either:

(Recipient)
**County of Los Angeles Department
of Community and Senior Services**
3175 West Sixth Street
Los Angeles, CA 90020-1708
Attn: Equal Opportunity Officer

OR **Civil Rights Center (CRC)**
U.S. Department of Labor
200 Constitution Avenue, N.W.
Room N-4123
Washington, D.C. 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 ninety (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 ninety (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 the CRC. However, you must file your CRC complaint within thirty (30) days of the ninety-day (90-day) deadline (in other words, within one hundred twenty (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 the CRC. You must file your CRC complaint within thirty (30) days of the date on which you received the Notice of Final Action.



Los Angeles County Workforce Investment Act (WIA) Grievances and Complaints

Any participant or other interested party adversely affected by a decision or action by the Local Workforce Investment Act (LWIA), including decisions by WorkSource and service providers, has the right to file a grievance or complaint with the Contractor (WorkSource Center Lead Agency) or with the County of Los Angeles Department of Community and Senior Services.

Contractor (WorkSource Center Lead Agency) Grievances and Complaints

For grievance or complaint filing instructions at Contractor (WorkSource Center Lead Agency) level, please see the receptionist of the WorkSource Center in question or contact the Contractor Grievance and Complaint Filing Officer as follows:

Contractor Grievance and Complaint Filing Officer

Att: _____

Los Angeles County Workforce Investment Act (WIA) Grievances and Complaints

The Los Angeles County Workforce Investment Act (WIA) grievance and complaints must be filed within one (1) year of the alleged violation. Participants have the right to receive technical assistance to ensure that complaints are properly filed. Such technical assistance includes providing instructions on how to file a grievance or complaint, providing relevant copies of documents such as the *County of Los Angeles Workforce Investment Act Complaint and Resolution Policies and Procedures*, and providing clarifications and interpretations of relevant provisions.

All WIA grievance or complaint must be in writing, signed and dated by the grievant/complainant and shall contain the following:

- 1. Your full name, telephone number, and mailing address;
- 2. The Contractor’s (WorkSource Center Lead Agency) full name, address and telephone number;
- 3. The facts and dates describing the alleged violation; and
- 4. How you want the complaint to be resolved.

**The complaint must be filed with: County of Los Angeles Department of Community and Senior Services
3175 West Sixth Street, Los Angeles, CA 90020
Attn: Equal Opportunity Officer**

Upon receipt of any such complaint or grievance, the County of Los Angeles will process the matter consistent with the *County of Los Angeles Workforce Investment Act Complaint and Resolution Policies and Procedures* and will provide for an informal resolution or an administrative hearing. Any grievance or complaint that alleges a labor standards violation may be submitted to binding arbitration between the parties, if a collective bargaining agreement covering the parties to the grievance or complaint so provides. An informal resolution will commence within ten (10) working days of the date of the complaint. An administrative hearing on any grievance or complaint shall be scheduled within thirty (30) days of filing the complaint or grievance. The complainant and the respondent will be notified in writing of the hearing ten (10) days prior to the date of the hearing.

Not later than sixty (60) days after the filing of the grievance or complaint, the Hearing Officer shall mail a written decision to both parties.

Any grievance or complaint may be appealed to the State of California, Employment Development Department (or other designated State Department). If no decision is reached within sixty (60) days or if either party is dissatisfied with the County of Los Angeles Hearing Officer’s determination, the complainant may request a State hearing by submitting a written notice of appeal to:

**Chief, Compliance Review Division, MIC 22-M
Employment Development Department
P.O. Box 826880, Sacramento, CA 94280-0001**

I hereby acknowledge receipt of a signed copy of the Local Workforce Investment Act Complaint and Resolutions Policies and Procedures Participant Acceptance Form and a copy of the *County of Los Angeles Workforce Investment Act Complaint and Resolution Policies and Procedures*. My signature below certifies that I have read and understand the procedures and will comply with the policies in the Workforce Investment Act (WIA) funded Program.

Participant’s Name (Print)

Participant’s Signature

Date

Parent/Guardian Name (If under 18)

Parent/Guardian Signature

Date

Staff’s Name (Print)

Staff’s Signature

Date

Attachment V:
WIA Applicant Acknowledgement
Statements (Dated 5/2011)



LOS ANGELES COUNTY WORKFORCE INVESTMENT ACT APPLICANT ACKNOWLEDGEMENT STATEMENTS



By my signature (Applicant), I state that all information I have given on the Workforce Investment Act Application Form is, to the best of my knowledge, true and complete.

USE OF SOCIAL SECURITY ACCOUNT NUMBER

I understand that the number will be used by the County of Los Angeles Workforce Investment Act (WIA) Agencies staff and its agents, the U.S. Department of Labor and its guarantees or contractors for payroll and management information tracking purposes, as well as to assist in determining and confirming my eligibility for Workforce Investment Act Employment/Training/ Services.

APPLICATION INFORMATION CONFIDENTIAL & SUBJECT TO REVIEW

I am aware that the information being collected on this form will be stored in a computer system and that all information is confidential. I allow the use and release of the information I have provided to those agencies serving me and I am aware that the information is subject to review and verification and that I may have to provide documents to support this application or sign form(s) which will allow other agencies to provide this information to the County of Los Angeles.

PROTECTION AGAINST FRAUD

I further understand that either falsification of the information provided by me on the Workforce Investment Act Application form or a finding during the Verification and Certification Process of my ineligibility for WIA funded Employment/Training/Services shall be grounds for my termination from any program in which I may participate, and that I may be subject to actions for the collection of any monies received by me or prosecution under the law.

APPLICANT RIGHT TO REVIEW FILE

I further understand that, upon my written request, all information provided by me or collected by the County of Los Angeles or its agents or contractors through the next five years pertaining to my application or eligibility for, or participation in, WIA funded programs sponsored by the County of Los Angeles will be made available to me for review.

NEPOTISM PROVISION

I have been informed that I cannot be hired in, or accept, a public service employment position, funded by WIA, if a member of my immediate family is engaged in an administrative capacity for a County of Los Angeles WIA funded program.

CIVIL RIGHTS AND COMPLAINTS SUMMARY FORM

1. I hereby acknowledge receipt of a civil rights and complaints summary form

Participant's Name (Print)

Participant's Signature

Date

2. Do you have any immediate relatives employed by the County of Los Angeles, a WIA contractor or other governmental agency?

If your response is "YES", complete Box #1. If "NO", complete Box #2.

BOX #1:

GOVERNMENTAL/WIA CONTRACT EMPLOYEE EMERGENCY CONTACT INFORMATION

Name: _____

Relationship: _____

Employer: _____

Street: _____

City: _____ Zip: _____

Phone: _____

BOX #2:

EMERGENCY CONTACT INFORMATION

Name: _____

Employer: _____

Street: _____

City: _____ Zip: _____

Phone: _____

Attachment VI:

WSD 10-01: Nondiscrimination and
Equal Opportunity Procedures (Dated
7/21/2010)

DIRECTIVE

WORKFORCE SERVICES

Number: WSD10-1

Date: July 21, 2010

69:123:ab:13551

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: NONDISCRIMINATION AND EQUAL OPPORTUNITY PROCEDURES

EXECUTIVE SUMMARY:

Purpose:

This directive updates the State's policy on the nondiscrimination and equal opportunity procedures for the Workforce Investment Act (WIA) Title I and Wagner-Peyser (WP) funded programs or activities. It also includes a standard discrimination complaint form that is now available for use by the workforce development community when processing discrimination complaints and a procedure guide for use when processing reasonable accommodation requests.

Scope:

This directive applies to entities that provide services through WIA Title I or WP funded programs and activities.

Effective Date:

This directive is effective on date of issuance.

REFERENCES:

- WIA Sections 121(b), 188, and 183(c)
- Americans with Disabilities Act of 1990, Title II, Subpart A
- Age Discrimination Act of 1975, as amended
- Section 504 of the Rehabilitation Act of 1973
- Title IX of the Education Amendments of 1972
- Titles VI and VII of the Civil Rights Act of 1964, as amended
- Title 20 Code of Federal Regulations (CFR) Sections 667.275 and 658.400
- Title 29 CFR Parts 31, 32, 34, 37, and 1690-1691

EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Special requests for services, aids, and/or special formats need to be made by calling (916) 654-8055 (Voice). TTY users, please call the California Relay Service at 711.

- Title 41 CFR Subpart 101-19.6
- Title 45 CFR Section 90.43(c)(3)
- Fair Employment and Housing Act (Government Code, Title 2, Division 3, Part 2.8), Chapters 1-6
- Dymally-Alatorre Bilingual Services Act, Government Code Section 7290-7299.8
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency
- WIA Directive WIAD04-20, Subject: Limited English Proficiency (May 12, 2005)

STATE-IMPOSED REQUIREMENTS:

This directive contains some State-imposed requirements. These requirements are indicated by ***bold, italic*** type.

FILING INSTRUCTIONS:

This directive supersedes Workforce Services Directive WSD07-6, dated January 16, 2008, replaces Workforce Services Draft Directive WSDD-17, dated August 26, 2008, and finalizes Workforce Services Draft Directive WSDD-42, issued for comment on June 3, 2010. There were three comments received during the draft comment period; the comments received did not result in any changes to this directive. A summary of the comments is provided as Attachment 5. Retain this directive until further notice.

BACKGROUND:

This directive reiterates the guidance contained in WSD07-6 which states that the WIA Section 188 nondiscrimination and equal opportunity provisions prohibit discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I financially assisted program or activity. Title 29 CFR Part 37 implements the nondiscrimination and equal opportunity provisions specified in Section 188 of WIA.

POLICY AND PROCEDURES:

Definitions:

Complaint, for this directive only, means an allegation of a violation of the nondiscrimination and equal opportunity provisions.

Recipient, taken from Title 29 CFR Part 37, means any entity to which financial assistance under WIA Title I is extended, either directly from the Department of Labor (DOL) or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIA Title I funded program or activity. In addition, One-Stop partners, as defined in Section 121(b) of the WIA, are treated as "recipients" and are subject to the nondiscrimination and

equal opportunity requirements of Title 29 CFR Part 37, to the extent that they participate in the One-Stop delivery system.

Small recipient means a recipient who (1) serves a total of fewer than 15 beneficiaries during the entire grant year and (2) employs fewer than 15 employees on any given day during the grant year.

General Provisions:

Title 29 CFR Section 37.54(a) requires that each Governor must establish and adhere to a Methods of Administration (MOA) for state programs. The MOA is a state-level document that reflects the Governor's commitment to nondiscrimination and equal opportunity provisions of WIA.

The MOA contains nine distinct elements. This directive outlines these elements and highlights compliance requirements that are significant to programs and activities that are part of the One-Stop delivery system and that are operated by One-Stop partners.

1. Designation of an Equal Opportunity (EO) Officer

Each Local Workforce Investment Area (LWIA) must designate an EO Officer who is responsible for coordinating its obligation under these regulations. ***The State requires that the LWIAs notify the EEO Office whenever the designation of the local EO Officer changes.***

The EO Officer's responsibilities include:

- Serving as liaison with the Civil Rights Center (CRC).
- Investigating and monitoring the organization's and its subrecipients' WIA Title I funded activities and programs.
- Reviewing the organizations and its subrecipients' written policies.
- Developing, publishing, and enforcing the organization's discrimination complaint procedures.
- Reporting to the appropriate authority regarding discrimination matters.
- Participating in continuing training and education, and ensuring that assigned staff receive the necessary training and support to maintain competency.
- Informing participants, employees and program beneficiaries of their equal opportunity rights and responsibilities, and how the discrimination complaint process works.

The LWIAs must submit a copy of the local-level EO Officer's position description and organizational chart showing the relationship of each local-level EO Officer to their LWIA Executive Director. The LWIAs will assign sufficient staff and resources to the EO Officer to ensure compliance with the

nondiscrimination and equal opportunity provisions of WIA and Title 29 CFR Section 37.23.

Please mail required documents to the following address:

***Equal Employment Opportunity Office
Employment Development Department
800 Capitol Mall, MIC 49
P.O. Box 826880
Sacramento, CA 94280-0001***

The EO Officer's name, position title, business address (including e-mail address if applicable) and telephone number (voice and Telecommunications Device for the Deaf [TDD], which is also known as teletypewriter [TTY]), must be publicized at the local level through a variety of means including posters, handouts, and listings in local directories. Ensure that the EO Officer's identity and contact information appears on all internal and external communications about the recipient's nondiscrimination and equal opportunity programs.

Attending periodic training is recommended for the EO Officer and assigned staff to keep abreast of equal opportunity issues. Training on nondiscrimination and equal opportunity is available through the State EO Officer and the Capacity Building Unit of the Workforce Services Division.

Small recipients and service providers, as defined in Title 29 CFR Section, Part 37.4, do not need to designate an EO Officer with the full responsibilities as described above, but must designate an individual who will be responsible for the developing and publishing of complaint procedures and the processing of complaints as required by Section 37.76 through 37.79.

Additionally, the WIA Title I Governor's 15 and 25 percent subgrantees (except LWIAs) are not required to designate an EO Officer, but must designate an individual who will be responsible for adopting and publishing the Employment Development Department (EDD) complaint procedures. Therefore, in lieu of a local complaint procedure, the WIA Title I Governor's 15 and 25 percent subgrantees must adopt the EDD's nondiscrimination and equal opportunity complaint procedures. The complaint procedures must include the option to file a charge of discrimination directly with the CRC. For more information, contact the State EO Officer at the address listed below:

***Equal Employment Opportunity Office
Employment Development Department
800 Capitol Mall, MIC 49
P. O. Box 826880
Sacramento, CA 94280-0001***

2. Notice and Communication

Initial and continuing notice of nondiscriminatory practices (Attachment 1 and 2) and the right to file a complaint must be:

- Posted in prominent locations;
- Disseminated in internal memoranda and other written or electronic communications;
- Included in handbooks and manuals, brochures, broadcasts, and other communications;
- Made available to each participant; and
- Included in each participant's case file. Where a hard copy case file is maintained, a copy of an acknowledgement of receipt shall be signed by the participant and included in each participant's case file. Where an electronic case file is maintained, staff must make a note indicating that this notification did occur, the date of the notification, and the name of the staff person who provided it.

The notice shall be provided in appropriate formats to individuals with visual impairments. When a notice has been given in an alternate format, a record of such notice shall be documented within the participant's case file.

For information and services accessed electronically, each recipient shall establish a procedure, which assures that the notice requirements of Title 29 CFR Part 37 are met.

Distributed publications, broadcasts, electronic media, and other communications including the homepage of the LWIAs website which promote WIA programs or activities, shall include the following taglines: "This WIA Title I financially assisted program or activity is an equal opportunity employer/program." "Auxiliary aids and services are available upon request to individuals with disabilities."

Where hard copy or electronic materials indicate that the recipients may be reached by telephone, the telephone number of any TDD/TTY or relay service used by the recipient must be indicated. If the recipient does not have a TDD/TTY, the California Relay Service (CRS) (1-800-735-2922) is an alternative. The CRS relays messages to deaf persons via the telephone. A caller can contact the relay service by voice or TDD, and an operator will contact the party to be called using voice or TDD/TTY. A TDD/TTY or relay service should be available where services provided by telephone are a major function of the program or activity.

This applies similarly to those recipients required by law or regulation to publish or broadcast program information in public media. Where appropriate, information and services should be additionally provided in languages other than English.

On August 11, 2000, President Clinton issued Executive Order 13166, entitled "*Improving Access to Services for Persons with Limited English Proficiency.*" This Executive Order mandates that individuals with limited English proficiency (LEP) have equal access to federally funded programs and activities. As required by Executive Order 13166, the DOL/CRC published revised policy guidance in the Federal Register (May 29, 2003) regarding the prohibition against national origin discrimination as it affects LEP individuals. This revised policy offers guidance from the DOL with respect to the responsibilities of recipients of federal financial assistance in serving LEP individuals, pursuant to the requirements of Title VI of the Civil Rights Act and Section 188 of WIA. Recipients of federal financial assistance must take reasonable steps to ensure that individuals having LEP receive the language assistance necessary to afford them meaningful access to programs, services, and information provided by the recipients.

The Dymally-Alatorre Bilingual Services Act (DABSA) requires that, when State and local agencies serve a "substantial number of non-English-speaking people," they must employ a "sufficient number of qualified bilingual staff in public contact positions" and translate documents explaining available services in their clients' language. The DABSA establishes specific legal mandates for State agencies, but allows local agencies discretion in establishing the level and extent of bilingual services they provide.

3. Assurances, Job Training Plans, Contracts, Policies and Procedures

A system must be implemented to ensure that all contracts, cooperative agreement, job training plans, and policies and procedures contain the nondiscrimination assurance as specified. The nondiscrimination assurance must state that the grant applicant will "comply fully with the nondiscrimination and equal opportunity provisions of WIA" and acknowledge the government's right to seek judicial enforcement of the nondiscrimination assurance.

Title 29 CFR Section 37.20 requires that each application for federal financial assistance under Title I of WIA must include the nondiscrimination assurance. Application for assistance is defined as the process by which required documentation is provided to the Governor, recipient, or DOL prior to and as a condition of receiving federal financial assistance under Title I of WIA (including both new and continuing assistance).

4. Universal Access

As required in Title 29 CFR Section 37.42, recipients must take appropriate steps to ensure universal access to WIA Title I financially assisted programs and activities by:

- Implementing an outreach and recruitment plan to solicit participation of all potentially WIA Title I-eligible applicants in the entire locale;
- Creating an outreach and recruitment plan that will reach specific target populations through media, schools, and community services groups;

- Considering a pool of individuals for participation that includes members of both sexes, various racial and ethnic age groups, and individuals with disabilities;
- Establishing a hiring and eligibility process that is accessible to qualified applicants with disabilities; and
- Utilizing facilities designed to provide reasonable access to individuals with disabilities in the following areas: training, job structure, work schedule, work procedure, and work equipment and auxiliary aids accommodations.

5. Obligation Not To Discriminate On The Basis Of Disability

Compliance with Section 504 of the Rehabilitation Act of 1973, as amended, and Title 29 CFR Part 37:

The recipients must ensure the accessibility to their training programs, activities and support services for all individuals, and must administer their training programs, activities and services in the most integrated setting appropriate to the needs of qualified individuals with disabilities. This includes employment tests or other selection criteria used by recipients that do not screen out individuals with disabilities, and training programs accessible to individuals with visual, hearing, or speech impairments. The recipients must provide means for individuals with disabilities to receive information about availability of facilities accessible to them. Additionally, recipients must provide auxiliary aids, services and reasonable accommodations to qualified individuals with disabilities to enable them to perform duties of the job (e.g., special aids, modified work sites, or restructuring of jobs).

The recipients must also provide:

- Designated parking for the disabled that is accessible to the building entrance, free of any barriers (e.g., steps, steep slopes, low spots in ground or pavement, buckled or uneven concrete walkways, loose gravel);
- Signage at a primary entrance to each of their inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities;
- The international symbol for accessibility at each primary entrance of an accessible facility;
- Building entrance doors that can be opened with one hand;
- Accessible information at public counter or reception areas;
- Facility elevators that are accessible from the primary entrance meeting the above criteria;
- Elevator control panel and entrance buttons with raised numbers and Braille symbols at an accessible height;
- At least one accessible public telephone per floor;

- Accessible meeting rooms with Braille symbols at an accessible height;
- Facility restrooms that have at least one toilet stall with an accessible doorway. The stall should have grab bars and the toilet seat should be accessible for the disabled individual after the door is closed (access to the grab bars should not be obstructed by such things as toilet paper dispensers, seat cover dispensers, etc.); and
- Alternative methods to ensure that training, job structure, work schedule, work procedure, and work equipment are available to individuals with disabilities when the facilities are not physically accessible to individuals with disabilities.

Title 29 CFR Section 37.8—With regard to aid, benefits, services, training, and employment, a recipient must:

- Provide reasonable accommodation to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause the recipient undue hardship on business operations; and
- Make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the WIA Title I financially assisted service, program, or activity.

In those circumstances where a recipient believes that the proposed accommodation would cause undue hardship or the proposed modification would fundamentally alter the program, the recipient has the burden of proving that compliance with this section would result in such hardship and alteration. The recipient must make the decision that the accommodation would cause such hardship or result in such alteration only after considering all factors listed in the definitions of "undue hardship" and "fundamental alteration." The decision must be accompanied by a written statement of the recipient's reasons for reaching that conclusion. The recipient must provide a copy of the statement of reasons to the individual(s) who requested the accommodation.

If a requested accommodation would result in undue hardship or a modification would result in a fundamental alteration, the recipient must take any other action that would not result in such burden or such alteration but would nevertheless ensure that individuals with disabilities receive the aid, benefits, services, training or employment provided by the recipient.

Title 29 CFR Section 37.4 defines "undue hardship" with regard to reasonable accommodation of individuals with disabilities, as significant difficulty or expense incurred by a recipient when considered in light of certain factors. These factors include, but are not limited to, the nature and net cost of the accommodations needed, overall financial resources of recipient, type of operation(s) of recipient, the number of persons aided, benefited, served, trained, or employed, the impact on the

ability of other participants to receive aids, benefits, services, or training, or of other employees to perform their duties and the impact on the facility's ability to carry out its business or mission.

The term "fundamental alteration" means (1) a change in the essential nature of a program or activity as defined in Title 29 CFR Part 37.4, including but not limited to an aid, service, benefit, or training or (2) a cost that a recipient can demonstrate would result in an undue burden. The definition of "fundamental alteration" incorporates the concept of "undue financial and administrative burdens" in Title 29 CFR Part 37.

In addition, recipients must take appropriate steps to ensure that communications with beneficiaries, eligible registrants and applicants, participants, and members of the public who are individuals with disabilities are as effective as communications with others.

A Reasonable Accommodation Policy and Procedure Guide is available for use when processing reasonable accommodation requests (Attachment 4). This document contains two sections. The first section (pages 1 through 8), provides general guidance and definitions for use when processing reasonable accommodation requests. The second section (pages 9 through 14), provides step-by-step instructions on how to process these requests.

6. Data and Information Collection and Maintenance

In compliance with 29 CFR Sections 37.37 through 37.41 and Section 188 of WIA, any entity to which financial assistance under WIA Title I is extended, either directly from the DOL or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIA Title I funded program or activity must:

- Collect data on race/ethnicity, sex, age, and, where known, disability status, of each applicant, registrant, eligible applicant/registrator, participant, terminnee, applicant for employment, and employee;
- Maintain records of data in a system designed to allow the State and CRC to conduct statistical or other quantifiable analyses to verify compliance;
- Safeguard the confidentiality of the required information; confidential information should only be used for recordkeeping and reporting purposes; determining eligibility, where appropriate, for WIA Title I financially assisted program or activity; determining if the recipient is operating its WIA program in a nondiscriminatory manner, or other use authorized by law;
- Maintain a log of complaints filed alleging discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship (citizen or authorization to work in the U.S.) or participation in a WIA Title I financially assisted program and activity. The log must include: (1) name and address of the complainant; (2) grounds of the complaint; (3) description of the complaint; (4) date complaint

was filed; (5) disposition and date of disposition of complaint; and (6) any other pertinent information.

The EEO Office requires a copy of the LWIA complaint log annually (each calendar year). Please mail it to the following address or return by e-mail:

***Equal Employment Opportunity Office
Employment Development Department
800 Capitol Mall, MIC 49
P. O. Box 826880
Sacramento, CA 94280-0001***

- Promptly notify the CRC of any administrative enforcement actions or lawsuits filed against a LWIA alleging discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I financially assisted program and activity. Provide a brief description of the findings in any civil rights compliance review where the applicant or recipient was found in noncompliance and keeps a log containing certain information regarding complaints filed with it according to procedures set by the CRC;
- Retain records, including records of complaints, for a period of not less than three years from the close of the applicable program year or date of resolution of complaint; and
- Adopt procedures for responding to complaints of discrimination.

7. Monitor for Compliance

In accordance with Title 29 CFR Sections 37.54(d)(2)(ii) and 37.54(d)(2)(iii), the EEO Office of the EDD monitors LWIAs for nondiscrimination and equal opportunity compliance as required by WIA provisions and related regulations.

The EEO Office requires that each LWIA complete and submit the Electronic Monitoring Checklist (EMC) biennial self-assessment checklists. The EEO Office will review the self-assessments, along with additional equal opportunity-related data, to coordinate and determine if an on-site review is necessary during a given program year. Through self-evaluations, LWIAs can validate their efforts in meeting regulatory requirements and identify the compliance status of their programs, activities, and areas in which they need technical assistance.

8. Complaint Processing Procedures

In compliance with nondiscrimination and equal opportunity provisions of the WIA and Title 29 CFR Section 37.76, the EO Officer must:

- Develop and publish procedures (including alternative dispute resolution) for resolving allegations within the LWIA for noncompliance with applicable nondiscrimination and equal opportunity provisions;
- Develop and publish procedures for resolving allegations against service providers for noncompliance with applicable nondiscrimination and equal opportunity provisions. The service providers must then follow those procedures (NOTE: Although the LWIA does not have the same contractual jurisdiction with vendors as with service providers, ***the LWIA shall document the facts of an alleged complaint. The facts should be used to advise the participant of any recourse available and to determine if the LWIA should continue to utilize the services of the vendor.***); and
- Establish a system to record discrimination complaints.

The LWIA's complaint processing procedures must specify the following:

- a. Any person who believes that he or she or any specific class of individuals has been or is being subjected to discrimination prohibited by the nondiscrimination and equal opportunity provisions of WIA may file a written complaint by using the Discrimination Complaint Form – Workforce Development Community (Attachment 3), or a representative may file the complaint on his or her behalf.
- b. The complaint may be filed either with the recipient's EO Officer (or the person designated for this purpose), or directly with the CRC, U.S. Department of Labor, 200 Constitution Avenue N.W., Room N-4123, Washington, D.C. 20210.
- c. A complaint filed pursuant to Title 29 CFR 37 must be filed within 180 days of the alleged discrimination. The CRC, if shown good cause, may extend the filing time. In order to receive an extension, the complainant must be notified that a waiver letter is to be filed with the CRC. The waiver letter should include the reason the 180-day time period elapsed. This time period for filing is for the administrative convenience of the CRC and does not create a defense for the respondent.
- d. Complaints must be filed in writing by completing the *Discrimination Complaint Form – Workforce Development Community* or your own locally developed form. Regardless of the form used, all complaints must capture the following information and shall:
 - Contain the complainant's name, address, or other means of contacting him or her;
 - Identify the respondent;
 - Describe the complainant's allegation(s) in sufficient detail to allow the CRC or LWIA EO Officer, as applicable, to determine whether (1) the CRC or the LWIA has jurisdiction over the complaint; (2) the complaint

was filed timely; and (3) the complaint has apparent merit, i.e., whether the allegation(s), if true, would violate any of the nondiscrimination and equal opportunity provisions of WIA; and

- Be signed by the complainant or his or her authorized representative.
- e. Both complainant and respondent have the right to be represented by an attorney or other individual of his or her choice.
- f. Alternative Dispute Resolution (ADR):
- (1) The complainant must be offered ADR immediately upon receipt of the complaint. The choice whether to use ADR rests with the complainant; the preferred form of ADR is mediation.

What is Mediation?

Mediation is a voluntary process during which a neutral third party assists both parties (complainant and respondent), communicate their concerns and comes to an agreement about how to resolve a dispute.

The mediator does not make decisions, rule as to who is right or wrong, nor take sides or advocate for one side or the other. The role of the mediator is to help with communication so the parties can reach an understanding about how to best resolve their differences.

As the law allows, mediation proceedings and the information shared are confidential and no information divulged during this mediation may be used in court or any legal or administrative proceedings.

If the parties do not reach an agreement under ADR, the complainant may file directly with the CRC as described in Title 29 CFR Sections 37.71 through 37.74.

- (2) A party to any agreement reached under ADR may file a complaint with the CRC in the event the agreement is breached. In such circumstances, the following rules will apply:
- The non-breaching party may file a complaint with the CRC within 30 days of the date on which the non-breaching party learns of the alleged breach;
 - The CRC must evaluate the circumstances to determine whether the agreement has been breached. If the CRC determines that the agreement has been breached, the complainant may file a complaint with the CRC based upon his or her original allegation(s), and the CRC will waive the time deadline for filing such a complaint.

Complaints filed with the LWIA:

- a. The EO Officer shall issue a written acknowledgement of receipt by the LWIA of a complaint alleging discrimination by a WIA Title I recipient and shall include a notice of the complainant's right to representation in the complaint process.

The EEO Office requires the EO Officer to forward one copy of the alleged complaint to the following address:

***Equal Employment Opportunity Office
Employment Development Department
800 Capitol Mall, MIC 49
P. O. Box 826880
Sacramento, CA 94280-0001***

- b. If the complainant elects not to participate in the ADR process, the EO Officer shall investigate the circumstances underlying the complaint.
- c. At any point in the investigation of the complaint, the complainant, respondent, or the EO Officer may request that the parties attempt conciliation. The EO Officer shall facilitate such conciliation efforts.

What is Conciliation?

Conciliation is a process whereby the parties to a dispute agree to utilize the services of a conciliator, who then meets with the parties separately in an attempt to resolve their differences. Conciliation differs from mediation in that the main goal is to conciliate, most of the time by seeking concessions.

If the conciliator is successful in negotiating an understanding between the parties, said understanding is almost always committed to writing (usually with the assistance of legal counsel) and signed by the parties, at which time it becomes a legally binding contract and falls under contract law.

- d. The LWIA shall be allowed 90 days to issue a Notice of Final Action from the date on which the complaint was filed. If, during the 90-day period, the LWIA issues a decision that is not acceptable to the complainant, the complainant or his or her representative may file a complaint with the CRC within 30 days after the date on which the complainant receives the Notice.
- e. If the 90 days expire and the complainant does not receive a Notice of Final Action from the LWIA, or the LWIA failed to issue a Notice of Final Action, the complainant or his/her representative may file a complaint with the CRC within 30 days of the expiration of the 90-day period. In other words, the complaint must be filed with the CRC within 120 days of the date on which the complaint was filed with the LWIA.

- f. The CRC may extend the 30-day time limit if the complainant is not notified, as provided in Title 29 CFR Section 37.81, or for other good cause shown.
- g. The LWIA shall notify the complainant in writing immediately upon determining that it does not have jurisdiction over a complaint that alleges a violation of the nondiscrimination and equal opportunity provisions of WIA. The Notice of Lack of Jurisdiction must also include the basis for such determination, as well as a statement of the complainant's right to file a written complaint with the CRC within 30 days of receipt of the Notice.
- h. During the resolution process, the EO Officer shall assure that all parties involved are given due process. These due process elements include:
 - A notice to all parties of the specific charges;
 - A notice to all parties of the responses to the allegations;
 - The right of both parties to representation;
 - The right of each party to present evidence, and to question others who present evidence; and
 - A decision made strictly on the evidence on the record.

Actions by the CRC:

- a. The CRC determines acceptance of a complaint filed pursuant to Title 29 CFR Section 34.82. When the CRC accepts a complaint for investigation, it shall:
 - Notify the LWIA and the complainant of the acceptance of the complaint for investigation; and
 - Advise the LWIA and complainant on the issues over which the CRC has accepted jurisdiction.
- b. The LWIA, the complainant, or a representative may contact the CRC for information regarding the complaint filed.
- c. When a complaint contains insufficient information, the CRC will seek the needed information from the complainant. If the complainant is unavailable after reasonable efforts have been made to reach him or her, or the information is not provided within the time specified, the complaint file may be closed without prejudice upon written notice sent to the complainant's last known address.
- d. The CRC, per WIA Section 183(c), may issue a subpoena to the complainant to appear and give testimony and/or produce documentary evidence, before a designated representative, relating to the complaint

being investigated. Issuing a subpoena can be done any place in the United States, at any designated time and place.

- e. Where the CRC lacks jurisdiction over a complaint, the CRC shall:
 - Notify the complainant, explaining why the complaint is not covered by the nondiscrimination and equal opportunity provisions of WIA or Title 29 CFR Part 37; and
 - Refer the complainant to the appropriate federal, State, or local authority, when possible.
- f. The CRC will notify the complainant when a claim is not to be investigated and explain the basis for that determination.
- g. The CRC will refer complaints governed by the Age Discrimination Act of 1975 to mediation as specified in Title 45 CFR Section 90.43(c)(3).
- h. If the complainant alleges more than one kind of complaint, "joint complaint," e.g., individual employment discrimination, age discrimination, equal pay discrimination, etc., the CRC shall refer such joint complaint to the Equal Employment Opportunity Commission for investigation and conciliation under the procedures described in Title 29 CFR, Parts 1690 or 1691, as appropriate. The CRC will advise the complainant and the LWIA of the referral.
- i. Under the One-Stop delivery system where the complainant alleges discrimination by an entity that operates a program or activity financially assisted by a federal grant making agency other than DOL, but participates as a partner in a One-Stop delivery system, the following procedures apply:
 - If the complainant alleges discrimination on a basis that is prohibited both by Section 188 of WIA and by a civil rights law enforced by the federal grant making agency, the CRC and the grant making agency have dual jurisdiction over the complaint. The CRC will refer the complaint to the grant making agency for processing. The grant making agency's regulations will govern the processing of the complaint.
 - If the complainant alleges discrimination on the basis that is prohibited by Section 188 of WIA, but not by any civil rights laws enforced by the federal grant making agency, the CRC has sole jurisdiction over the complaint and will retain and process the complaint pursuant to Title 29 CFR Part 37. The CRC will advise the complainant and the LWIA of the referral.
- j. The CRC may offer the parties of a complaint the option of mediating the complaint. In such circumstances, the following rules apply:

- The mediation is voluntary; the parties must consent before the mediation process will proceed.
 - The mediation will be conducted under the guidance issued by the CRC.
 - If the parties are unable to reach resolution of the complaint through the mediation, the CRC will investigate and process the complaint under Title 29 CFR Sections 37.82 through 37.88.
- k. After making such a cause finding, the CRC shall issue an Initial Determination. The Initial Determination shall notify the complainant and the LWIA, in writing, of:
- The specific findings of the investigation;
 - The proposed corrective or remedial action and the time by which the corrective or remedial action must be completed;
 - Whether it will be necessary for the LWIA to enter into a written agreement; and
 - The opportunity to participate in voluntary compliance negotiations.
- l. Where a no cause determination is made, the CRC must issue a Final Determination to the complainant and the LWIA. The Final Determination represents the DOL's final agency action on the complaint.

9. Corrective Actions/Sanctions

A Letter of Findings, Notice to Show Cause, or Initial Determination issued pursuant to Title 29 CFR Sections 37.62 or 37.63, 37.66 and 37.67, or 37.91, respectively, must include the steps and the specific time period it will take the LWIA to achieve voluntary compliance. See Section 37.94 for corrective action steps.

Monetary corrective action may **not** be paid from federal funds.

If the LWIA receives a finding of noncompliance, the following sections of Title 29 CFR Part 37 may be referred to for detailed information:

- Final Determinations, Sections 37.90 through 37.101
- Breaches of Conciliation Agreements, Sections 37.102 through 37.105
- Subpart E-Federal Procedures for Effecting Compliance, Sections 37.110 through 37.115

Intimidation and Retaliation Prohibited:

No recipient may discharge, intimidate, retaliate, threaten, coerce, or discriminate against any individual because the individual has filed a complaint alleging a violation of WIA; opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of the WIA; furnished information to, or assisted or

participated in any manner in an investigation, review, hearing, or any other activity related to administration of, exercise of authority under, or exercise of privilege secured by the nondiscrimination and equal opportunity of WIA or Title 29 CFR Part 37. The sanctions and penalties contained in these procedures may be imposed against any recipient who engages in any such retaliation or intimidation, or fails to take necessary steps to prevent such activity.

Discrimination Complaint Form – Workforce Development Community

It is important for the EDD to receive documentation with sufficient information for the EDD EEO Office to analyze, compile, and report in a manner that is consistent with the DOL requirements. It is helpful when information gathering efforts include adequate questions that will elicit responses from the complainant, making the need to request additional information less likely.

Since there has been no standard form available to address discrimination complaints, the “*Discrimination Complaint Form – Workforce Development Community*” (Attachment 3), was developed to assist clients and service providers. This form is available for use by the workforce development community in an effort to provide more consistent information when processing discrimination complaints from clients of WIA and WP funded programs and activities. The workforce development community is encouraged, but not required, to use this standard form.

ACTION:

Bring this directive to the attention of affected staff.

INQUIRIES:

If you have any questions, please contact your [Regional Advisor](#) at (916) 654-7799.

/S/ MICHAEL EVASHENK, Chief
Workforce Services Division

Attachments are available on the Internet:

1. [Equal Opportunity is the Law](#) (PDF)
2. [What to do if you Believe you Have Experienced Discrimination](#) (PDF)
3. [Discrimination Complaint Form](#) (DOC)
4. [Reasonable Accommodation Policy and Procedure Guide](#) (PDF)
5. [Summary of Comments](#) (PDF)