



Workforce Innovation and Opportunity Act

Nondiscrimination and Equal Opportunity Policy

No individual in the United States may, on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in any WIOA Title I-financially assisted program or activity, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any WIOA Title I-financially assisted program or activity.



A proud partner of the [AmericanJobCenter](#) network

I. PURPOSE:

This NEWDB policy outlines the process and procedures regarding nondiscrimination and equal opportunity procedures for the NEWDB area. Further, this policy will inform grant recipients of the sanctions that may be imposed for violation of the nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA), and to outline the procedures to achieve voluntary compliance via corrective action/remedy.

II. BACKGROUND:

29 CFR Part 38.54 (c)(2)(vii) requires the Governor (or designee) of each state to establish procedures for obtaining prompt corrective action or, as necessary, applying sanctions when noncompliance is found regarding the nondiscrimination and equal opportunity provisions of WIOA.

- **AUTHORITY:**

The Oklahoma Office of Workforce Development (OOWD), as the Governor's chosen WIOA administrative entity, provides this issuance as guidance to communicate Oklahoma's processes and procedures regarding nondiscrimination and equal opportunity procedures. This policy applies to the NEWDB and is effective immediately.

- **MESSAGE:**

When the Oklahoma Office of Workforce Development (OOWD), the administrative agency for WIOA, finds that a violation has occurred, the following steps will be taken to accomplish corrective action.

III. REFERENCES:

- WIOA Section 188, which prohibits discrimination 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, or political affiliation or belief, and with regard to beneficiaries only, on the basis of either citizenship status or participation in any WIOA Title I-financially assisted program or activity;
- Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, as amended, which prohibits discrimination on the bases of race, color and national origin;
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq.*, as amended, which prohibits discrimination against qualified individuals with disabilities;
- The Age Discrimination Act of 1975, 42 U.S.C. § 6101 *et seq.*, as amended, which prohibits discrimination on the basis of age; and
- Title IX of the Education Amendments of 1972, 29 U.S.C. § 1681 *et seq.*, as amended, which prohibits discrimination on the basis of sex in educational programs.
- OWDI 05-2019

BABEL NOTICE: (29CFR 38.9(g)(3)): This document contains vital service information. If English is not your preferred language, please contact:

Northeast Workforce Development Board
Linda Wilson, EO Officer
1503 N Lynn Riggs Blvd, Ste. D
Claremore, OK 74017
Office: 918.907.0902 Cell: 406.459.6113
Email: linda.wilson@northeastworkforceboard.com

or, State Equal Opportunity Officer
Oklahoma Office of Workforce Development
Ferris Barger
900 N Portland Avenue, BT 300
Oklahoma City, OK 73107
Office: 405.945.9184
Email: ferris.barger@okstate.edu
or eoofficer@osu.okc.edu

To enable telephone conversation between people with speech or hearing loss and people without speech or hearing loss please call Oklahoma Relay at 711 (<http://www.oklahomarelay.com/711.html>) or TDD/TTY: 800-722-0353.

DEFINITIONS:

Complaint: An allegation of a violation of the nondiscrimination and equal opportunity provisions.

Recipient: Any entity to which financial assistance under the WIOA 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 WIOA Title I funded program or activity. In addition, One-Stop partners, as defined in Section 121(b) of WIOA, are treated as "recipients" and are subject to the nondiscrimination and equal opportunity requirements of 29 CFR Part 38, to the extent that they participate in the One-Stop delivery system (29 CFR Section 38.4(z)).

Assurances

Contracts, cooperative agreements, job training plans, and policies and procedures must contain the nondiscrimination assurance specified in 29 CFR Section 38.25 and 38.26. The nondiscrimination assurance must state the grant applicant will "comply fully with the nondiscrimination and equal opportunity provisions of the WIOA" (29 CFR Part 38 Preamble) and acknowledge the government's right to seek judicial enforcement of the nondiscrimination assurance. Also, in accordance with 29 CFR Section 38.25, each application for federal financial assistance under WIOA Title I must include the nondiscrimination assurance. Application for assistance is defined as the process by which required documentation is provided to the Governor, recipient, or the DOL prior to, and as a condition of, receiving federal financial assistance under WIOA Title I (including both new and continuing assistance).

Non-Discrimination Statement

The NEWDB maintains this policy to provide equal opportunity in all services and activities. Discrimination is strictly prohibited on the grounds of race, ethnicity, orientation, religion, sex, gender, national origin, age, disability, political affiliation or belief, and for beneficiaries' only, citizenship or participation in a WIOA Title I financially assisted program or activity.

Designation of Local EO Officers

The designated EO Officer for the NEWDB who is responsible for coordinating obligation under these regulations is:

Linda Wilson, EEO Officer
1503 Lynn Riggs Blvd., Suite D
Claremore, Oklahoma 74017
Email: linda.wilson@northeastworkforceboard.com

IV. LOCAL POLICY

A. NEWDB EO Officer Responsibilities

The NEWDB Equal Opportunity (EO) Officer will notify the State-Level EO Officer of violation(s) discovered, corrective action(s) implemented, and timeframe(s) for completion. The NEWDB EO Officer must also notify the State-Level EO Officer if they are contacted directly by USDOL Civil Rights Center regarding an alleged violation. Any corrective actions, when necessary, will be reported to USDOL Civil Rights Center.

The NEWDB EO Officer's responsibilities include the following:

- Serving as the liaison with the State EO Officer and OOWD.
- Investigating and monitoring the NEWDB and its sub recipients' WIOA Title I funded activities and programs.
- Reviewing the NEWDB and its sub recipients' written policies.
- Developing, publishing, and enforcing the NEWDB discrimination complaint procedures.
- Conducting outreach and education about equal opportunity and nondiscrimination requirements consistent with 29 CFR Section 38.40, and how an individual may file a complaint consistent with 29 CFR Section 38.69.
- Participating in continuing training and education, and ensuring 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 NEWDB ensures sufficient resources to the EO Officer to ensure compliance with the nondiscrimination and equal opportunity provisions of the WIOA and 29 CFR Part 38.

The NEWDB EO Officer's contact information such as name, position title, business address, including email address, and telephone number (voice and Telecommunications Device for the Deaf, 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.

The NEWDB EO Officer's identity and contact information appears on all internal and external communications related to equal opportunity issues.

The NEWDB EO Officer shall attend periodic training and utilizes resources for nondiscrimination and equal opportunity is available on the U.S. Department of Labor and Civil Rights Center websites and through the state EO Officer.

B. Notice and Communication of EO Policy and Procedures

The NEWDB provides initial and continuing notice of nondiscrimination on any prohibited basis, including display and distributions of the notice/poster relating to “Equal Opportunity is the Law” along with language highlighting the right to file a complaint under “What to Do if You Believe You Have Experienced Discrimination.” This notice/poster in the NEWDB area meets the following criteria:

- Posted prominently, in reasonable numbers and places, in available and conspicuous physical locations and on the recipient’s website pages.
- Disseminated in internal memoranda and other written or electronic communications with staff.
- Included in employee and participant handbooks or manuals regardless of form, including electronic and paper form if both are available.
- Provided to each participant and employee; the notice must be made part of each employee’s and participant’s file. It must be a part of both paper and electronic files, if both are maintained (29 CFR Section 38.36(a)).

The NEWDB requires that this notice must be provided in appropriate formats to registrants, applicants, eligible applicants/registrants, and applicants for employment and employees and participants with visual impairments. Where notice has been given in an alternate format to registrants, applicants, eligible applicants/registrants, participants, applicants for employment and employees with a visual impairment, a record such notice has been given must be made part of the employee’s or participant’s file. The notice must be provided in appropriate languages other than English (29 CFR Section 38.36(b)).

As it concerns communication, the NEWDB indicates that the WIOA Title I-financially assisted program or activity in question is an “equal opportunity employer/program,” and that “auxiliary aids and services are available upon request to individuals with disabilities.” The NEWDB requires that this tag line must be included on recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper to staff, clients, or the public at large, to describe programs financially assisted under WIOA Title I or the requirements for participation by recipients and participants.

The NEWDB requires, where such materials indicate that the recipient may be reached by voice telephone, the materials must also provide the TTY number or equally effective communications system, such as a videophone, captioned telephone, or a relay service.

All publish or broadcast program information in the news media must ensure that such publications and broadcasts state that the WIOA Title I-financially assisted programs or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIOA Title I-financially assisted program or activity is prohibited by Federal law) and indicate that auxiliary aids and services are available upon requests to individuals with disabilities. All sub-recipients shall be required to adhere to the same such standards.

The NEWDB and sub-recipients must not communicate any information that suggests, by text or illustration, that the recipient treats beneficiaries, registrants, applicants, participants, employees or applicants for employment differently on any prohibited basis, except as such treatment is otherwise permitted under federal law or regulation.

During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title I-financially assisted programs or activity, whether this be in person or over the internet or using other technology, the NEWDB requires that the discussion must include notice of rights and responsibilities under the nondiscrimination and equal opportunity provisions of WIOA Section 188 and 29 CFR Part 38, including the right to file a complaint of discrimination with the recipient or the Director of the Civil Rights Center (CRC). This information must be communicated in appropriate languages as required in 29 CFR Section 38.9 and in formats accessible for individuals with disabilities as required in 29 CFR Part 38 and specified in Section 38.15.

C. Data and Information Collection and Maintenance

The NEWDB shall collect and maintain nondiscrimination data. The system and format in which the records and data are kept must be designed to allow the Governor and the CRC to conduct statistical or other quantifiable data analyses to verify the recipient's compliance with Section 188 of the WIOA and 29 CFR Part 38.

Per 29 CFR § 38.42, the NEWDB must promptly notify the CRC Director, State EO Officer, and Executive Director of OOWD when any administrative enforcement actions or lawsuits are filed against it alleging discrimination 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, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in a WIOA Title I-financially assisted program or activity. This notification must include the information required by 29 CFR 38.42(a). Sub-recipients must promptly notify the NEWDB, the EO Officer and/or NEWDB Executive Director of any of the above actions.

D. NEWDA Complaint Log

The NEWDB must promptly notify the state or CRC when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including LEP), age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in a WIOA Title I-financially assisted program or activity. Sub-recipients must promptly notify the NEWDB, the EO Officer and/or NEWDB Executive Director of any of the above actions.

The NEWDB, through the EO Officer maintains a log of complaints filed that allege discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age,

disability, political affiliation or belief, citizenship, and/or participation in a WIOA Title I financially assisted program or activity. The log shall include the following:

- Name and address of complainant;
- Basis of the complaint;
- Description of the complaint;
- Date complaint was filed;
- Disposition and date of disposition of the complaint; and
- Other relevant information.

Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential.

Complaint Logs and any other relevant information must be maintained by sub recipient for at least three years, per 29 CFR § 38.43. The NEWDB EO Officer shall submit complaint reports on a quarterly basis to the State EO Officer.

E. Affirmative Outreach

The guidelines found in 29 CFR Section 38.40 requires the NEWDB and sub-recipients to take appropriate steps to ensure equal access is provided to WIOA Title I-financially assisted programs and activities. These steps involve reasonable efforts to include members of the various groups protected by 29 CFR Part 38 including but not limited to persons of different sexes, various racial and ethnic/national origin groups, various religions, limited English proficiency (LEP) individuals, individuals with disabilities, and individuals in different age groups. Such efforts may include, but are not limited to, the following:

- Disseminating the information regarding programs and/or activities in social media such as and to workforce system partners.
- Partnering with schools and community service groups to inform them of programs and services.
- Partnering with appropriate community service groups about ways in which the NEWDB may improve its outreach and service to various populations.

F. Discrimination Prohibited Based on Disability

In providing any aid, benefit, service, or training under a WIOA Title I-financially assisted program or activity, whether directly or through contractual, licensing, or other arrangements, on the basis of disability, a the NEWDB prohibits any of the following:

- Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, service, or training, including meaningful opportunities to seek employment and work in competitive integrated settings.
- Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefits, services, or training that is not equal to that afforded others.
- Provide a qualified individual with a disability with any aid, benefit, service, or training that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.

- Provide different, segregated, or separate aid, benefit, service, or training to individuals with disabilities, or to any class of individuals with disabilities, unless such action is necessary to provide qualified individuals with disabilities with any aid, benefit, service, or training that is as effective as those provided to others, and consistent with the requirements of the Rehabilitation Act as amended by the WIOA, including those provisions that prioritize opportunities in competitive integrated employment.
- Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards.
- Otherwise limit a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service, or training.

G. Accessibility Requirements

No qualified individual with a disability may be excluded from participation in, or be denied the benefits of a service, program, or activity or be subjected to discrimination by any services offered by the NEWDB or sub-recipients, because facilities are inaccessible or unusable by individuals with disabilities.

The NEWDB requires that all WIOA Title I-financially assisted programs and activities must be programmatically accessible. This includes providing reasonable accommodations for individuals with disabilities, making reasonable modifications to policies, practices, and procedures, administering programs in the most integrated setting appropriate, communicating with persons with disabilities as effectively as with others, and providing appropriate auxiliary aids or services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

H. Reasonable Accommodation and Reasonable Modifications for Individuals with Disabilities

With regard to any aid, benefit, service, training, and employment, the NEWDB and sub-recipients must provide reasonable accommodations to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship. For more information on what would constitute undue hardship as it relates to a reasonable accommodation of individuals with disabilities, please see the definition of “undue burden or undue hardship” in 29 CFR Section 38.4(rrr)(1).

With regard to any aid, benefit, service, training, and employment, the NEWDB shall 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 service, program, or activity, which would constitute a fundamental alteration. For more information, see the definition of “fundamental alteration” found in 29 CFR Section 38.4(z).

In those circumstances where the NEWDB believes that the proposed accommodation would cause undue hardship, or the proposed modification would fundamentally alter the

program, the NEWDB accepts the burden of proving that compliance with this section would result in such hardship and alteration. The NEWDB 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 NEWDB reasons for reaching that conclusion. The NEWDB must provide a copy to the State EO Officer of the statement of reasons to the individual(s) who requested the accommodation or modification.

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 hardship or such alteration but would nevertheless ensure that individuals with disabilities receive the aid, benefits, services, training or employment provided by the recipient. In addition, the NEWDB and sub-recipient shall take appropriate steps to ensure that communications with individuals with disabilities, such as beneficiaries, registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employees, members of the public, and their companions are as effective as communications with others.

V. CORRECTIVE ACTION PROCESS:

Recipients at the state and local workforce development board level will apply corrective actions if voluntary efforts in seeking compliance fail, in particular when monitoring finds violations of the equal opportunity, nondiscrimination, or 29 CFR Part 38. Corrective actions are designed to completely address each violation and may result from an Equal Opportunity and Nondiscrimination monitoring review, a discrimination complaint, or both.

Timeframes shall be established in the corrective action review report and will set the minimum time necessary in order to completely address the violation. Follow-up monitoring will occur as necessary to ensure that commitments to take corrective and remedial actions have been fulfilled. Local areas are required to establish policies and procedures for obtaining prompt corrective action.

The NEWDB Equal Opportunity (EO) Officer will notify the State-Level EO Officer of violation(s) discovered, corrective action(s) implemented, and timeframe(s) for completion. The NEWDB EO Officer must also notify the State-Level EO Officer if they are contacted directly by USDOL Civil Rights Center regarding an alleged violation. Any corrective actions, when necessary, will be reported to USDOL Civil Rights Center.

Corrective action shall be implemented in the following circumstances:

- An assessment of the circumstances surrounding a discrimination complaint investigation reveals barriers to equal opportunity or equal access.
- The NEWDB EO Officer or the State-Level EO Officer's monitoring review identifies a violation, a failure to follow through on written assurances, a barrier to accessibility, or significant differences in participation in programs or services without investigation, mitigation, or justification.

- An EEOC or independent investigation found violations related to complaints filed by individuals with a recipient.

Corrective actions should be completed by the date(s) provided in the review report. If a recipient does not undertake the corrective actions specified, a conciliation agreement (or an alternate dispute resolution per 29 CFR Part 38.85) should be initiated and completed, pursuant to 29 CFR Part 38.93.

1. *Initial Determination:* The NEWDB EO Officer and/or the State EO Officer will issue an Initial Determination containing the following:
 - a. Specific findings and relevant documentation underlying the finding of noncompliance;
 - b. The corrective or remedial action that the NEWDB and/or the State EO Officer is proposing
 - c. The time by which the respondent must complete the corrective or remedial action; and
 - d. A statement offering the opportunity to engage in voluntary compliance negotiations.
2. *Written Assurance or Conciliation Agreement:* A written assurance may be issued when the respondent has, within 30 calendar days after receipt of the Initial Determination identifying the noncompliance, taken all corrective actions to remedy the noncompliance. If a respondent disagrees with the findings or proposed corrective or remedial action in the Initial Determination, the respondent must respond to the Initial Determination in writing within 30 calendar days explaining in detail its disagreement and/or the items over which it desires to negotiate. The NEWDB and/or State EO Officer will carefully review the response and contact the respondent to begin negotiation regarding a Conciliation Agreement that resolves the matter on mutually agreeable terms. The total time allotted to secure voluntary compliance must not exceed 90 calendar days.
3. *Final Determination:* In the event voluntary compliance cannot be secured through steps (1) and (2) above, or if the respondent breaches the agreed-upon Conciliation Agreement, the NEWDB and/or State EO Officer will issue a Final Determination notice to the NEWDB Executive Director and/or to the Executive Director of OOWD. This request for a final determination will specify the following:
 - a. A statement of the efforts made to achieve voluntary compliance and a statement that those efforts have been unsuccessful;
 - b. A statement of those matters upon which the respondent and State EO Officer continue to disagree;
 - c. The apparent violation(s), relevant EO and Nondiscrimination provision(s) of state policy and 29 CFR Part38, and conflicts with the State's Nondiscrimination Plan (NDP).
 - d. A list of any modifications to the Initial Determination;
 - e. A description of the corrective or remedial actions that the respondent must take to come into compliance; and

f. Notice that if the respondent fails to come into compliance within 10 calendar days of the date on which it receives the Final Determination, the OOWD may take actions outlined in the Sanctions Process.

The NEWDB Executive Director and/or the OOWD Executive Director may secure voluntary compliance with the recipient through a written assurance and/or conciliation agreement. The OOWD considers sanctions only if the recipient does not agree to take voluntary corrective action.

VI. SANCTIONS:

Sanctions may be necessary when a recipient refuses to implement voluntary corrective action, submit requested data or documentation, or refuses to provide access to premises or records during an EO and Nondiscrimination compliance review. Sanctions will be considered a last resort. Sanctions that may be imposed include, but are not limited to, the following:

- Termination of future funding;
- Disallowance of selected costs;
- Restriction from bidding on competitive or discretionary funds; and
- Reduction in funding.

If sanctions are necessary, the precise nature of the sanction will be determined by the deliberateness, seriousness, and frequency of the violation. In situations where sanctions are to be applied, the recipient will be notified and will be provided an opportunity to respond prior to sanctions being applied. The notice will indicate the violation, the corrective action to be taken, and the impending sanction(s). The recipient will have 30 calendar days to respond to the notice of impending sanction(s). The response from the recipient will be evaluated by the NEWDB EO Officer and/or the State EO Officer, the NEWDB Executive Director and/or the OOWD Executive Director, representatives from the U.S. Department of Labor, and other individuals charged with oversight of WIOA. The NEWDB and/or OOWD will have 90 calendar days to provide a final determination of any sanction(s).

Complaint Processing Procedures

Please see the NEWDB Complaint Processing Procedures

VII. EQUAL OPPORTUNITY AND NONDISCRIMINATION STATEMENT: All Recipients, and Sub recipients/Sub grantees must comply with WIOA's Equal Opportunity and Nondiscrimination provisions which prohibit discrimination 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, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title-I financially assisted program or activity.

VIII. POLICY ADDITIONS AND CLARIFICATIONS:

The NEWDB Executive Director is authorized to issue additional instructions, guidance, approvals, forms, etc. to further implement the requirements of this policy.

Approved by:

Heather Smoot

Heather Smoot
Northeast Workforce Development Board Chair

8-14-19

Date