



STATE OF OREGON
METHODS OF ADMINISTRATION

2011-2013

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Equal Opportunity Program. (Igual Oportunidad Program.)

Auxiliary services available upon request to persons with disabilities:
(Las personas incapacitadas pueden solicitar medios y servicios auxiliares:)

<http://www.worksourceoregon.org/index.php/equal-opportunity>



Introduction

I. Purpose and Authority

The purpose of this Methods of Administration (MOA) is to describe the actions the State is taking to assure compliance with equal opportunity and nondiscrimination requirements of Workforce Investment Act (WIA) and its implementing regulations. This MOA has been developed in accordance with the provisions of 29 Code of Federal Regulations (CFR) 37. It is supported by the Governor's Executive Order EO-96-38, regarding affirmative action and equal opportunity for Oregonians. Implementation of the WIA in Oregon was authorized by the 1999 Legislative Assembly passage of HB 2989.

The Governor is specifically mandated to develop and issue an MOA for the WIA at 29 CFR 37.54. The MOA applies to: (1) any recipient; (2) programs and activities that are part of the WorkSource Oregon (WSO), Oregon's implementation of the WIA One-Stop delivery system, and that are operated by the partners listed in section 121(b) of the WIA, to the extent that the programs and activities are being conducted as part of the WSO system; and (3) the employment practices of a recipient and/or WSO partners, as provided in 29 CFR 37.2.

The affirmative action, nondiscrimination and equal opportunity policies of each mandated partner state agency support the MOA, and are in accordance with Oregon Administrative Rules (OARs) 589-020-0110 and 471-010-0070, established by the Department of Community Colleges and Workforce Development (CCWD) and the Oregon Employment Department (OED) requiring conformity of state rules with equivalent federal laws, and with Oregon Revised Statutes (ORS 659), Enforcement of Civil Rights. WIA financially assisted sub-recipients are also subject to these regulations.

The MOA must be renewed every two years, and the State must advise the Department of Labor's Civil Rights Center (USDOL CRC) promptly of updates to the MOA, and of changes of the State Equal Opportunity Officer (State EOO). See 20 CFR 37.55(b).

The Education and Workforce Policy Advisor appointed by the Governor may adopt rules necessary to carry out the duties of the advisor, including education and workforce development-related state agencies listed at ORS 660.312.

II. Definitions and Acronyms

Definition of those terms considered essential for understanding the MOA are included for convenience. Federal Code 29 CFR 37.4 contains a complete list of applicable definitions. Several Oregon-defined terms appear as well. A list of the acronyms used in this document follows the definitions

Definitions:

Aid, benefits, services or training: WIA Title I-funded financially assisted services, financial or other aid, or benefits provided by or through a recipient or its employees, or by others through contract or other arrangements with the recipients. Includes, but is not limited to:

- (1) Core and intensive services;
- (2) Education or training;
- (3) Health, welfare, housing, social service, rehabilitation, or other supportive services;
- (4) Work opportunities; and
- (5) Cash, loans or other financial assistance to individuals.

As used in the MOA, the term includes any aid, benefits, services, or training provided in or through a facility that has been constructed, expanded, altered, leased, rented, or otherwise obtained, in whole or in part, with Federal financial assistance under Title I of WIA.

Applicant: See definition of “Registrant” below.

Beneficiary means the individual or individuals intended by Congress to receive aid, benefits, services or training from a recipient.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1)(i) The phrase physical or mental impairment means--

- (A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;
- (B) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontiguous diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental

retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. The phrase "physical or mental impairment" does not include homosexuality or bisexuality.

- (2) The phrase major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- (3) The phrase has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (4) The phrase is regarded as having an impairment means--
 - (i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by the recipient as being such a limitation;
 - (ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
 - (iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the recipient as having such an impairment.

Employment practices: A recipient's practice related to employment, including but not limited to:

- (1) Recruitment or recruitment advertising;
- (2) Selection, placement, layoff or termination of employees;
- (3) Upgrading, promotion, demotion or transfer of employees;
- (4) Training, including employment-related training;
- (5) Deciding rates of pay or other forms of compensation;
- (6) Use of facilities; or
- (7) Deciding other terms, conditions, benefits and/or privileges of employment.

Local Workforce Investment Area (LWIA) grant recipient means the entity that receives WIA-Title I financial assistance for a Local Workforce Investment Area directly from the Governor and disburses those funds for workforce investment activities.

Local Workforce Investment Board (LWIB): The LWIA workforce board appointed by the local elected officials to establish the local one-stop delivery system. The LWIB develops and signs the memorandum of understanding with the required one-stop partners pursuant to Section 121 of the WIA (state definition)

Participant means an individual who has been determined to be eligible to participate in, and who is receiving aid, benefits, services or training under a program or activity funded in whole or in part under Title I of the WIA. "Participant" includes but is not limited to, applicants receiving any service(s) under state Employment Service programs, and claimants receiving any service(s) under state Unemployment Insurance programs.

Prohibited Ground means any basis upon which it is illegal to discriminate under the nondiscrimination and equal opportunity provisions of the WIA and 29 CFR Part 37 *et seq.*

Recipient means any entity to which financial assistance under WIA Title I is extended, either directly from the Department of Labor or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIA-funded program or activity. In addition, WSO (i.e., One-Stop) partners, as defined in section 121(b) of WIA, are treated as “recipients,” and are subject to the nondiscrimination and equal opportunity requirements of this part, to the extent that they participate in the WSO delivery system. Recipient includes, but is not limited to:

- (1) State-level agencies that administer, or are financed in whole or in part with, WIA Title I funds;
- (2) State Employment Security Agencies;
- (3) State and local Workforce Investment Boards;
- (4) LWIA grant recipients;
- (5) One-Stop operators (in Oregon WSO program operators);
- (6) Service providers, including eligible training providers;
- (7) On-the-Job Training (OJT) employers.

Registrant means an individual who is interested in receiving WSO services, has entered the required information into the WORP or who has submitted an application for services, and has attested to the truth and accuracy of the information. This definition is in accordance with the definition of “applicant” in 29 CFR 37.4, “Applicant means an individual who is interested in being considered for WIA Title I financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a request by the recipient. . . .” (state definition)

Respondent means a grant applicant or recipient (including a Governor) against whom a complaint has been filed under the nondiscrimination and equal opportunity provisions of the WIA or this part.

Section 504 means Section 504 of the Rehabilitation Act of 1973, 20 USC 794, as amended, which forbids discrimination against qualified individuals with disabilities in federally financed and conducted programs and activities.

Service provider: (1) Any operator of, or provider of aid, benefits, services or training to: (a) Any WIA Title I-funded program or activity that receives financial assistance from or through any State or LWIA grant recipient; or (b) Any participant through that participant’s Individual Training Account (ITA); or (2) Any entity that is selected and/or certified as an eligible provider of training services to participants.

Small recipient: A recipient who: (a) Serves a total of fewer than 15 beneficiaries during the entire grant year, and (b) Employs fewer than 15 employees on any given day during the grant year.

State Partner Agencies: The Oregon Departments of Human Services, the Oregon Department of Community Colleges and Workforce Development (CCWD), and the Oregon Employment Department (OED), for purposes of the MOA. Other state agency partners are subject to the MOA provisions if they are active partners at a WSO center. (State definition)

State Programs: Programs financially assisted in whole or in part under Title I of the WIA in which either (1) The Governor and/or State receives and disburses the grant to, or through LWIA grant recipients; or (2) The Governor retains the grant funds and operates the programs, either directly or through a State agency. “State programs” also includes State Employment Security agencies, State Employment Service Agencies, and/or State Unemployment Compensation agencies.

WorkSource Oregon Center means a system of WIA one-stop centers designated by a local board to provide WIA Title I, Wagner-Peyser, and other workforce services through the integration of the CCWD and the OED workforce programs along with other workforce partners including State agencies. (State definition)

WIA Title I-funded program or activity:

- (1) A program or activity, operated by a recipient and funded, in whole or in part, under Title I of WIA, that provides either: (i) Any aid, benefits, services or training to individuals; or (ii) Facilities for furnishing any aid, benefits, services or training to individuals;
- (2) Aid, benefits, services or training provided in facilities that are being or were constructed with the aid of Federal financial assistance under WIA Title I; or
- (3) Aid, benefits, services or training provided with the aid of any non-WIA Title I funds, property, or other resources that are required to be expended or made available in order for the program to meet matching requirements or other conditions which must be met in order to receive WIA Title I financial assistance.

Acronyms:

ACR: Annual Compliance Review

ADR: Alternative Dispute Resolution

CFR: Code of Federal Regulations

CRC: U.S. Department of Labor, Civil Rights Center

DHS: Department of Human Services

EO: Executive Order issued by the Governor.

LEP: Limited English Proficiency

Local Level EOC: The Equal Opportunity Coordinators appointed by the Local Workforce Investment Boards (LWIBs) to represent its Local Workforce Investment Workforce Areas (LWIAs).

OAR: Oregon Administrative Rules

ORS: Oregon Revised Statute

WSO: WorkSource Oregon

Regional EOC: The Equal Opportunity Coordinators appointed by The Oregon Consortium/Oregon Workforce Alliance (TOC/OWA) to represent the seven regional areas within TOC/OWA.

State EOO – The State level Equal Opportunity Officer appointed to represent the WSO system housed at the OED and jointly funded by OED and CCWD.

III. Policy

The preamble to Executive Order 96-38 states that “...The State of Oregon has long recognized the need to eliminate the effects of past and present societal discrimination based on race, religion, national origin, age, sex, marital status, and physical or mental disabilities in which it has played a passive or active role.”

Accordingly, no individual shall, on the grounds of race, color, national origin, disability, age, sex, political affiliation or belief, or religion be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under federally-assisted programs and activities for which the Governor and the Oregon Workforce Investment Board have responsibility in the implementation and execution of the WIA. In addition, the WIA establishes bases for new protections afforded to beneficiaries only, on the bases of citizenship or participation in WIA Title I-funded programs or activities.

The MOA is equally applicable to contractors, vendors, grantees, agents, recipients, and providers of services funded in whole or in part with Federal funds. The nondiscrimination and equal opportunity provision of WIA Section 188 prohibits discrimination against applicants, beneficiaries and employees on the same bases listed above. In particular, this policy encompasses in scope and application the civil rights of employees, prospective and terminated employees, applicants/registrants, members of the public and beneficiaries of programs operated to implement and execute the WIA.

The OED and the CCWD have adopted this MOA by administrative rule as specified in OAR 471-010-0070 (http://arcweb.sos.state.or.us/rules/OARS_400/OAR_471/471_010.html) and OAR 589-020-0110 (http://arcweb.sos.state.or.us/rules/OARS_500/OAR_589/589_020.html).

State recipient agencies of WIA funding which already received other federal funding have policies and procedures that, while not in the identical required format, include the required elements to comply with the WIA and PL 97-035, the Omnibus Budget Reconciliation Act of 1981.

The Governor must review the MOA and its implementation to determine if any changes are necessary, either to the document or the way in which it is implemented, every two years from the initial date of its submission to DOL. At the time of the review, the Governor must either (1) certify to the Director of the Civil Rights Center, in writing, that no changes are necessary, or (2) provide the Director with any changes that are made.

IV. Elements of the Methods of Administration

The required elements of the MOA are:

- (1) Designation of EO Officers;
- (2) EO Notice and Communication;
- (3) Review of Contracts and Agreements;
- (4) Universal Access;
- (5) Compliance with Section 504;
- (6) Data Collection & Record-keeping;
- (7) Monitoring;
- (8) Complaint Processing Procedures;
- (9) Corrective Actions/Sanctions Procedures.

Element I – Designation of State and Local Level Equal Opportunity Officers

The Governor of Oregon has designated the departments of Community Colleges and Workforce Development (CCWD) and Employment (OED) to administer the implementation of the nondiscrimination and equal opportunity provisions of the Workforce Investment Act.

Both CCWD and OED provide funding and support for the position, MOA Coordinator/State Equal Opportunity Officer for WIA Programs. Ms. Marie Jones is currently assigned to this position. Ms Jones has over 20 years of management experience for a non-profit agency that provided employment and training services for JTPA/WIA customer. Ms Jones has demonstrated the ability to work with diverse stakeholders to find regulatory solutions.

Ms Jones has knowledge of the WIA; principals and practices of compliance monitoring; federal and state laws, rules and regulations; and, the policies and procedures established for the workforce system. She undergoes training at the State of Oregon's expense to maintain competency.

The LWIBs in Oregon's seven LWIAs designate a local level Equal Opportunity Coordinator (local EOC) for their areas. One of these LWIAs, The Oregon Consortium/Oregon Workforce Alliance (TOC/OWA), contains seven workforce regions that are overseen by Regional Workforce Investment Boards (RWIBs). Each of these regions has an EOC (regional EOCs) appointed for its region by the TOC/OWA LWIB. These regional EOCs are responsible for reporting to the TOC/OWA local EOC.

1.1 Each individual designated as a State-level Equal Opportunity Officer and each individual designated as a local level Equal Opportunity Officer, by name, position title, business address (including e-mail address if applicable) and telephone number (including TDD/TTY number). (See 29 CFR 37.23)

State Level Equal Opportunity Officer (State EOO):

Marie Jones, MOA Coordinator/State Equal Opportunity Officer
for WIA
Oregon Employment Department
875 Union St. NE Salem 97311 - Central Administrative Office
503-947-1692
TTY: 1-503-947-1391
Oregon Relay 711- [Internet Relay Employment Web site](#)
marie.a.jones@state.or.us

Community Colleges and Workforce Development
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Oregon Employment Department
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Department of Human Resources
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The Oregon Consortium/Oregon Workforce Alliance (TOC/OWA)

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Fax 541-928-3096

Jackie@tocowa.org

(TOC/OWA subcontracts WIA with providers in Regions 1, 6, 7, 9, 10,11,12,13 and 14)

Region 1

Heather Aho

Management & Training Corporation

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Astoria, OR 97103

503-325-9511

503-325-9520 fax

heather.aho@mtctrains.com

Region 2

Janice Frater (Compliance Mgr.)

WorkSystems, Inc. (WSI)

111 SW 5th Ave, Suite 1150,

Portland, OR 97204.

503-478-7346

Fax 503-478 -7446

Oregon Relay 711

jfrater@worksystems.org

Region 3

Theresa Fitzgerald

Job Growers Inc.

Address: 626 High St. NE, # 305 Salem, OR 97301

Mailing Address: PO Box 2008 Salem, OR 97308-2008

503-581-1002

503.581.4999 fax

tfitzgerald@jobgrowers.com

Region 4

Clay Martin, Workforce and Education Director

Community Services Consortium

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Corvallis, OR 97333

541-752-1010

Fax – 541-752-2348

cmartin@communityservices.us

Region 5

Lonnie Bivins

Lane Workforce Partnership

300 Country Club Road, Ste. 120

Eugene, OR 97401

541-682-7228

lonnie.bivins@laneworkforce.org

Region 6

Joy Yori, Workforce Dev. Mgr

Roseburg Chamber of Commerce

PO Box 1026

Roseburg, OR 97470

541-672-2648 x. 31

Fax 541-673-7868

workforcemgr@roseburgareachamber.org

Region 7

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Program Coordinator
South Coast Business Employment Corp.
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Coos Bay, Oregon 97465
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mmartin@scbec.org

Region 8

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The Job Council
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541-244-3241
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Region 9

Marty Miller
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Region 10

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Region 11

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And

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Region 12

Joe Eddy
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Fax 541-278-2068
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Region 13

Teri K. Berry, Bus/Acct Rep.
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Teri.k.berry@state.or.us

And
Karen Ludwig, Administrative Manager
Training & Employment Consortium
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541-963-8458 Fax
ludwk@tecteam.org

Region 14

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Employment Department
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Ontario, OR 97914
V/TDD 541-889-5394
Fax 541-889-8437
Nancy J. Alvarado@state.or.us

And

Karen Ludwig, Administrative Manager
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541-963-8458 Fax
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Region 15

Bridget Daisy
Workforce Investment Council of
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503-657-1727
Fax: 503-657-6770
Bridget.dazey@wicco.org

1.2 The level within the organization (described in such terms as the individual's authority and position relative to the top of the hierarchy) occupied by the EO Officer(s). (See 29 CFR 37.24)

The State EOO reports directly to the OED Deputy Director, William Fink, who reports directly to the Oregon Employment Department (OED) Director, Laurie Warner. Ms Jones meets on a regular basis with management to inform them on the status of equal opportunity issues. She has full access to the Deputy Director and also meets with him on a regular basis.

Each state level participating agency has also named a state agency Equal Opportunity Officer (state agency EOO) responsible for ensuring compliance with the MOA. State agency EOOs attend trainings and complete reports required by the MOA.

1.3 The duties of the EO Officer(s), and the manner in which those duties are carried out. (At a minimum, the duties assigned to the EO Officer must include those listed in 29 CFR 37.25.) Describe the EO duties, responsibilities and activities associated with the implementation of 29 CFR part 37, and all other duties, responsibilities and activities.

The State EOO's position is directed solely at the implementation of the MOA. The EOO's designated duties (as per job description) associated with the implementation of 29 CFR Part 37 includes:

- Administration and maintenance of Oregon's MOA on behalf of the Governor's Office. Includes analyzing and interpreting pertinent laws and regulations relative to civil rights/EO issues, attending required training and conferences, acting as liaison between the U.S. Department of Labor Civil Rights Center (CRC) and the State of Oregon, maintaining certification of the MOA with CRC.
- Provide training and on-going technical support to state agency EOOs, local and regional EOCs and others. Includes developing/maintaining a training curriculum to meet federal requirements, scheduling and coordinating training logistics, and presentation and delivery of training materials. Maintain the training records of state agency EOOs and local EOCs and provide community training materials and information originated by the CRC to state agency EOOs and local and regional EOCs.
- Monitor WIA recipients for compliance with the MOA provisions. Includes working with local and regional EOCs to prepare and respond to up-coming on-site reviews of local WSO Centers, conducting in-depth desk audits prior to the reviews, scheduling and conducting on-site reviews with the state agency EOO team, preparing a report of results and following up on any deficiencies.

Monitoring also includes coordination of the annual self-assessment reports and analyzing demographic and program data.

- Administer and clearly communicate the complaint process. Respond to queries from local EOCs. Address individual complaints if they cannot be resolved first at the local level. Investigate complaints following federal requirements. Work with CRC to resolve complaints filed directly with them.
- Collect and report on available data. Collect, compile, evaluate and disseminate demographic data for local use and self-monitoring. Analyze program data to detect areas of potential discrimination and for compliance with federal requirements. Respond to CRC requests for information and documents.

The local and regional EOCs will have the following responsibilities:

- Receiving and processing complaints based on prohibited grounds of discrimination per procedures described by the MOA.
- Providing information/training about nondiscrimination and equal opportunity laws and the complaint process to WSO staff, beneficiaries and interested members of the public upon request.
- Developing and providing compliance reports for review by the state EOO, who submits compliance reports to the CRC.
- Ensuring compliance with the MOA by recipients and sub-recipients.
- Monitoring and reporting required data elements to the State EOO.
- Conducting internal self-evaluations of performance in compliance with the MOA and under the guidance of the State EOO.

1.4 The manner in which the recipient makes the identity of the State EEO Officer(s) known to applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment, as well as interested members of the public. (See 29 CFR 37.26.)

The name and contact information of the State EEO has been provided to all the LWIBs and local and regional EOCs in writing.

The State EEO provides the “Equal Opportunity is the Law” notice poster to all local and regional WSO Centers and all other providers of WIA services. This notice is posted wherever WIA services are provided and it contains the name and contact information for the local or regional EOC, as applicable and the EEO.

The automated registration system for WSO programs also contains the name and contact information for the State EOO and provides on going awareness of the identify of the State EO

The OED and CCWD web site contains contact information and a toll free contact number for customers.

1.5 The level of staff and other resources available to State and local level EO Officer(s) to ensure that WIA Title I—financially assisted programs and activities operate in a nondiscriminatory way. (See 29 CFR 37.26 (c).)

Resources in support of Ms Jones are as follows:

- OED Limited English Proficiency (LEP) program coordinator (1FTE) is dedicated to the coordination and implementation of services for customers needing assistance through the use of auxiliary aids and language support. (LEP) program coordinator provides services and training to field offices.
- CCWD EOO administers the agencies affirmative action plan and ensures agency implementation of the MOA.
- OED EOO administers the agencies affirmative action plan and responds to employee EO concerns.
- Administrative support from executive support staff shared with the executive office.

Resources in support of EOCs

- WIA recipients budget staff time and resources to implement the MOA.
- OED has a designated disability representative in each location.
- LEP coordinator provides training on reasonable accommodations and language assistance.

1.6 The State’s plan for ensuring that State- and local-level EO Officers and their staffs are sufficiently trained to maintain competency. (See 29 CFR 37.26 (d).)

The State EOO attends the annual CRC training for MOA Officers. The State EOO also attends webinars provided by DOL and other appropriate trainings to ensure continued professional development. It is anticipated the State EOO will receive approximately 25-30 hours of training annually regarding equal opportunity and non-discrimination polices, training, compliance and monitoring.

The State EOO oversees the training and technical support to each designated local EOC. Each local EO and regional EOC is required to attend state sponsored trainings on the MOA and complaint and grievance procedures. Trainings may be offered in person, through webinars or e-learning and are made available regularly and as needed.

The local and regional EOCs are then responsible for taking this training and providing it to local area WSO service delivery staff to ensure that they have the

necessary information on non-discrimination, equal opportunity laws, and complaint and grievance procedures. This responsibility is outlined in the EOCs responsibilities as sited in the MOA.

OAR 589-020-0110 and 471-010-0005 required CCWD and OED to “ensure that the agency’s EO Officer and other appropriate staff attend scheduled trainings about the MOA and associated duties”.

1.7 The identity by name, title and organization, of the individual to whom each State and local level EO Officer reports on equal opportunity matters.

Local level EO Officers are appointed by the LWIBs and depending on the region may work for a state agency or a local non profit. While EOCs report directly to their supervisor or manager they are also responsible to report to the LWIB on issues that affect compliance with the MOA. EOCs report EO complaints to the agency EOO and the state EOO.

1.8 A description of the professional and support staffing levels and resources provided to each State- and local-level EO Officer to assist him or her in ensuring compliance with WIA section 188 and part 37.

The local or regional workforce boards must designate at least one EOC for the WSO system in the local area or region. The EOC’s job descriptions ensure that a conflict of interest will not take place. The EOC shall be allowed sufficient time and resource to perform his or her duties and responsibilities. EOCs receive professional support from OED and CCWD management and State EOOs to ensure successful completion of their job duties.

1.9 The type and level of training each State and local level EO Officer has received and will receive to ensure that he or she is capable of fulfilling his or her responsibilities as an EO Officer.

The State EOO attends the annual CRC training for MOA Officers. The State EOO also attends webinars provided by DOL and other appropriate trainings to ensure continued professional development. It is anticipated the State EOO will receive approximately 25-30 hours of training annually regarding equal opportunity and non-discrimination polices, training, compliance and monitoring.

The State EOO oversees the training and technical support to each designated local EOC. Each local EO and regional EOC is required to attend state sponsored trainings on the MOA and complaint and grievance procedures. Trainings may be offered in person, through webinars or e-learning and are made available regularly and as needed.

The local and regional EOCs are then responsible for taking this training and providing it to local area WSO service delivery staff to ensure that they have the necessary information on non-discrimination, equal opportunity laws, and complaint and grievance procedures.

1.10 The means by which the State makes public the names, position titles and telephone numbers (including TDD/TTY numbers) of each State- and local-level EO Officer.

WSO centers display poster that communicate the complaint process and the contact information for both the local EOC and the state EOO. Posters are displayed in a prominent location within access for the public and staff.

Contact information for state and local level EOCs is also made public through the OED and CCWD web sites. Brochures are available to customers at each center and on line that provide contact information.

1.11 A description of any duties, other than WIA equal opportunity responsibilities, assigned to each State- and local-level EO Officer.

The state EOO is a full time position that is dedicated fully to the administration of the states MOA. Because of the size and rural nature of most of Oregon, most EOCs are assigned other responsibilities. These duties may be different for each ECO but are reviewed to ensure that a conflict of interest does not exist.

DOCUMENTATION – ELEMENT 1

- 1.1 Documents that communicate the EO Officer's Name and other required information:
 - A. Letter to DOL
 - B. Notice to Regions
 - C. Sample Web Page
 - D. Brochure
- 1.2 Communication that instructs the State's Recipients as to the actions they are to take to comply with 29 CFR 37.23 through 28 with regard to EO Officers
 - A. OAR 589-020-0110
 - B. OAR 471-010-0005
- 1.3 Copy of the State EOO position description
- 1.4 Sample of local-level EOO position descriptions
 - A. Training and Employment Consortium
 - B. OED
 - C. Management Training Corporation
- 1.5 Copy of the Organization Chart
- 1.6 Identity of staff who perform duties that support WIA EO activities
 - A. LEP Coordinator job description
- 1.7 EO Budget
Refer to 1.3. The EO budget is included in the Executive budget and is not a stand alone document.
- 1.8 Summary of EO related training
 - A. EOO training transcript
 - B. Agenda for EOC training
 - C. Curriculum for EOC training
 - D. Curriculum for field office training

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Element 2 - Notice and Communication of Non-discrimination and equal Opportunity

Purpose:

In this element the State addresses how it and its recipients are complying with and will continue to comply with the Equal Opportunity requirements. States are required to ensure the establishment of a notice and communication system that makes all registrants, applicants for service or employment, employees and members of the public aware of: (1) the recipient's obligations to operate its programs and activities in a nondiscriminatory manner: and (2) the extent of the rights of members of these groups to file complaints of discrimination.

2.1 The methods and frequency of dissemination of the notice, including initial dissemination:

OAR 589-020-0110 and 471-010-0010 require that WIA Title I funded recipients establish and document that they have procedures to notify registrants, applicants, eligible applicants/registrants, applicants for employment, new and existing employees and interested members of the public that they provide equal opportunity and do not discriminate on prohibited grounds. At a minimum, the notice must be: posted prominently, in reasonable numbers and places; disseminated in internal memoranda and other written or electronic communications, included in handbooks or manuals, and made available to each customer.

At each location where recipients provide WSO services language found at 29 CFR 37.30, notice of the identity of the State EOO and the regional/local EOC must be posted publicly. The Notice shall contain the following information: The name, position/title, address, phone and TTY number for both the State EOO and the local/regional EOC.

In accordance with 20 CFR 37.31(a), the following language shall be made available to all applicants for services at the time of their initial application and will be part of the applicants' files, either electronically or in a physical file.

“EQUAL OPPORTUNITY IS THE LAW”
(The following language is required)

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases: 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 to, 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 program or activity.

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 180 days from the date of the alleged violation with either: the recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose); or The Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, 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 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 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 CRC. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 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 CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

2.2 The means by which the notice is made available to individuals with disabilities (See 29 CFR 37.31(b).)

The WSO system is committed to ensuring that communication with all individuals will be given in the most effective and inclusive manner. Alternate Format Policy COM 3(1) requires that all program information shall be available in alternative formats upon request from individuals with disabilities, or in languages other than English, within the bounds established for reasonable accommodation. Customers will be made aware that services are free of charge. Auxiliary aids must be offered to individuals who request auxiliary aids, have indicated or staff has observed are visually or hearing impaired, or who might have difficulty reading. Auxiliary aids or services may include: qualified interpreters, note takers, transcription services,

written materials, telephone hand set amplifiers, telephones compatible with hearing aids, closed captioned decoders, open and closed caption decoders, large print materials, or other effective means of making visually delivered materials available to individuals with hearing or visual impairments.

2.3 The means by which the State ensures that recipients post the notice (See 29 CFR 37.33.)

OARs 589-020-0110 and 471-010-0005 required OED and CCWD to post the required notices.

The Equal Opportunity notice requirements are included in each LWIA's local unified plan.

The State EOO completes on site monitoring on a regular basis to assure that the recipients have the required posters in place. LWIBs complete self evaluation of compliance with the MOA yearly. The review includes review of the required postings.

2.4 The means by which a copy of the notice is placed in the participant's file (see 29 CFR 37.31(a)(4)), or where the files are maintained electronically, how the requirements of 37.31(a)(4) is and will continue to be met.

In Oregon, either a paper or an electronic file is maintained on a participant. Where a hard copy is maintained, a copy of an acknowledgment of receipt of the Equal Opportunity notification shall be signed by the participant and included in each participant's file.

Oregon has moved to an integrated service delivery model for the Wagner-Peyser Act and the WIA Title IB Adult and Dislocated Worker Programs, and established an information data system called the WorkSource Oregon Management Information System (WOMIS) customer registration process. Customers certify that they have read and understand the Equal Opportunity Statement as part of their registration into the WOMIS by providing an electronic attestation that he/she has been advised of the Equal Opportunity standards and the complaint process. A written copy of the Equal Opportunity process can be printed or requested at any time in the registration process. The EO notice is included in the UI Claimant Information Handbook issued in response to every claim filed online or by phone.

2.5 The means by which the State ensures that recruitment brochures and other materials routinely made available to the public include the statements “equal opportunity employer/program” and “auxiliary aids and services are available upon request of individuals with disabilities.” (See 29 CFR 37.34(a).)

As part of the annual monitoring process, CCWD completes a desk and site review for WIA Title IB recipients. That review includes assessment of notices and publications to ensure that customers are informed of the EO law and the right to file a grievance. Mandatory documents that must be provided in alternate languages are also assessed.

Each WSO location must complete an Annual Compliance Review that requires a self- evaluation and review of materials made available to the public.

The State EOO completes desk and field reviews that evaluate compliance with public notification of EO and grievance policies. Sites are reviewed for placement and location of poster, and to ensure that documents made available to the public are available in alternate formats and languages.

2.6 Where a telephone number is included on recruitment brochures and other materials, the means by which the State ensures that the materials indicate a TDD/TTY number or provide for an equally effective means of communication with individuals with hearing impairments. (See 29 CFR 37.34(a).)

CCWD yearly monitoring requires a review of brochures and communications to ensure the inclusion of the TDD/TTY contact information. EOCs complete yearly reviews that evaluate documents and review of inclusion of the TDD/TTY or Oregon relay is part of the desk review completed by the EOO.

2.7 The means by which program related information is published or broadcast in the news media (e.g., publication of Requests for Proposal) and the means by which the State ensures that publications/broadcasts state that the program is an equal opportunity employer/program and that auxiliary aids and services are available upon request to individuals with disabilities (See 29 CFR 37.34(b).)

The State requires that all WIA Title I fund recipients and WSO service providers adhere to the provisions of the MOA through OARs 589-020-0110 and 471-010-0070. OED Document Creation Policy COM 4-2 (1) requires that all document (paper or publication) designed to be distributed externally will be distributed through the communication department. Communication is reviewed to ensure that equal opportunity tag lines are inserted.

CCWD completes yearly monitoring of its sub recipients and includes in its monitoring a review of brochures and media communications for the required EO tag lines. These procedures are also reviewed during the State EOO desk and field review of local WSO centers and locations.

Recipients are monitored to ensure that notices of non-discrimination and equal opportunity are disseminated by all media (brochures, press releases, news stories, etc.) in the manner prescribed in 29 CFR 37.34 (a) and (b). Recruitment and other public materials shall contain, “equal opportunity employer/program” and “auxiliary aids and services are available upon request to individuals with disabilities”, along with TTY/TDD or relay number. EO posters in English and Spanish are placed prominently in customer and employee areas. Posters contain contact information for the grievance procedures.

2.8 The manner in which and extent to which information in languages other than English is provided, and the manner in which the State ensures that persons of limited English-speaking ability have access to its programs and activities on a basis equal to that of those who are proficient in English (See 29 CFR 37.35.)

The OED has a policy, Language Assistance Policy, COM 2, that clarifies the standards for making WSO services accessible and delivering services to customers with LEP, consistent with federal and state law and well-established LEP principles. This policy is used by all Employment Department staff and is available to all WSO Centers.

In addition, the WSO system follows the federal Department of Justice’s Vital Documents Questions and Answer guidelines. The State EOO will work with local EOCs and workforce boards to develop a plan of improvement if a workforce region is not meeting the standards for equal access.

The State EOO will determine the need for language assistance by utilizing the Four-Factor Analysis.

1. The number or proportion of LEP individuals eligible to participate or likely to be directly or significantly affected by the program or activity;
2. The frequency of contact a participant or beneficiary is required to have with the program or activity;
3. The nature and importance of the program or activity to the participant or beneficiary;
4. The resources available to the recipient in carrying out the program or activity.

2.9 The manner in which and extent to which orientations for registrants, applicants, eligible applicants/registrants, employees, applicants for employment, and members of the public include a discussion of the rights of such persons under WIA section 188 and 29 CFR part 37. (See 29 CFR 37.36.)

Oregon has transition to an integrated service delivery model that requires on-line registration. The system allows customer to receive services without attending orientations. Customers do however receive notice of their rights and contact information for the EOO each time they log into the system.

MOA requirements are included in each LWIAs Local Unified Plan. The manner in which and extent to which the EO notice and rights are included in LWIA orientations is reviewed in the annual MOA compliance review.

2.10 The steps taken to ensure that communications with individuals with disabilities are as effective as communications with others (See 29 CFR 37.25(d)).

OED Alternative Format Policy COM 3 (1) , provides guidance on how the agency will provide effective communication to customers and members of the public whose disabilities affect their ability to receive or express information.

The CCWD monitoring tool requires that recipients respond to the following question, “How are staffs able to effectively communicate with persons with disabilities? Is program information available in alternative formats?”

2.11 The process the State has used and will continue using to develop and communicate policy and conduct training regarding nondiscrimination and equal opportunity. (See 29 CFR 37.25(d), and 37.54(d)(2)(iii), and 37.54(d)(2)(vi).)

A professional development course for workforce professionals is offered for staffs of the WorkSource system in Oregon. WSO Center staff will be able to participate in the nationally recognized certification program entitled, “Career Development Facilitators.” This comprehensive training includes a 6 hour training on Diversity and serving customers who need accommodations.

The Local EOCs and the State EOO will work together to provide training and support for staff of the WSO Centers. The OED Limited English Proficiency Coordinator will also provide LEP and cultural competency training. OED staffs are trained annually on telephone interpretation service and training on the language assistance policy. Trainings may happen in person, through webinars, e-learning or publication.

DOCUMENTATION – ELEMENT 2

- 2.1 Communication that instructs the State’s recipients on how to comply with the requirements on how they are to comply with the requirements of 37.29-37.36 regarding notice and communications.
 - A. OAR 589-020-0110 (exhibit 1.2 A)
 - B. OAR 471-010-0005 (exhibit 1.2 B)
- 2.2 Copy of the posted notice
 - A. English
 - B. Spanish
- 2.3 Copy of any checklist of the contents of participant and employee files
 - A. New Employee checklist
 - B. Sample regional review
- 2.4 Copy of any orientation agendas that include equal opportunity and nondiscrimination.
 - A. Required training for all OED staff
 - B. Required training for all WSO staff – Career Development Facilitator Training
- 2.5 Copy of material distributed that addresses the rights of the individuals.
 - A. WORP registration screen
 - B. Brochure (exhibit 1.1 D)
 - C. Sample Youth EO certification of EO notification
- 2.6 Copy of the policy issuance or instruction that relates to WIA section 188 or 29 CFR 37.
 - A. OAR 589-020-0110 (exhibit 1.2A)
 - B. OAR 471-010-0005 (exhibit 1.2B)
- 2.7 Recruitment brochure and other material distributed to the public showing EO tag lines.
 - A. WSO brochure – English
 - B. WSO brochure – Spanish
 - C. MTC brochure
 - D. COIC web page
 - E. COIC brochure
 - F. Flyer Region 11

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Element 3 – Assurances

Purpose:

The State ensures that nondiscrimination and equal opportunity provisions of WIA are incorporated in all grants, agreements or other similar applications for Federal financial assistance under WIA. Each application for WIA funds includes the specified assurance committing the potential sub-recipient to comply fully with the nondiscrimination and equal opportunity provisions of the Act. The assurance is deemed incorporated, whether or not it is physically incorporated in the resulting contract or other arrangement

3.1 Each grant applicant, and each training provider seeking eligibility, includes in its application for financial assistance under Title I of WIA the required EO assurances. (See 29 CFR 37.20(a)(1).)

The following assurance is included in the State Unified Workforce Plan submitted to the Department of Labor and is also included in all job training plans (in Oregon, Local Unified Plans) and all other applications for financial assistance under Title I of the WIA:

(The grantee, contractor, etc.) will comply with all federal, state and local laws, regulations, executive orders, ordinances, administrative rules and directives relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U. S. C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U. S. C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U. S. C. §§6101-6107), which prohibits discrimination on the basis of age; (e) The Americans with Disabilities Act of 1990 (42 U.S.C §§12131 et seq.), which protects qualified persons with disabilities from discrimination in employment opportunities and imposes requirements for construction, remodeling, maintenance and operation of structures and facilities; (f) Implementation of the Nondiscrimination and equal Opportunity Provisions of the Workforce Investment Act of 1998 (29 CFR Part 37); (g) ORS Chapter 659, as amended; (h) any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and, (i) the requirements of any other nondiscrimination laws, regulations, executive orders or ordinances which may apply to Applicant or the award or programs.

The above is codified in OARs 589-020-0110 (CCWD) and 471-010-0070 (OED) as follows:

Section (1) CCWD and OED “. . . will comply with the equal opportunity and nondiscrimination provisions of Section 188 of the federal Workforce Investment Act of 1998 (P.L. 105- 220) and 29 CFR part 37 with respect to all programs and activities conducted as part of the Oregon One-Stop delivery system. This includes staff and employment practices of the staff responsible for implementing and administering the Act’s program and activities.”

Annual monitoring and reviews by CCWD ensures that WIA IB recipients are in compliance by demonstrating or providing the following:

- Prominent display of current EO notices and State EOO’s name and contact information.
- Program information available in languages other than English.
- Staffs are able to effectively communicate with persons with disabilities. Program information is available in alternative formats.
- Provision of a copy of the most recent Request for Proposal and contract boilerplate language that includes the non-discrimination provision.

3.2 The required assurance is incorporated into each grant, cooperative agreement, contract, or other arrangement whereby Federal financial assistance under WIA is made available (See 29 CFR 37.20(a)(2).) NOTE: 29 CFR 37.20(a)(2) provides that the assurance may be incorporated by reference into these documents.

The State MOA requires that the assurance provided in 3.1 is incorporated into each grant, cooperative agreement, contract, or other arrangement whereby Federal financial assistance under WIA is made available.

All providers making application to be certified as an eligible training provider for WSO customers must include documentation of their ability to serve special populations and that they have policies demonstrating compliance with the ADA. Providers must also demonstrate examples of facility accommodations.

The state Title IB providers are monitored annually by CCWD. Monitors ensure that sub recipients satisfy the requirements for “compliance with the provisions of the applicable contract, the WIA, final regulations and other applicable federal and state laws” and that any sub agreements, contracts, etc., also include the required language.

3.3 Each grant applicant, and each training provider seeking eligibility, is able to provide programmatic and architectural accessibility for individuals with disabilities (See subpart C of 29 CFR Part 32.)

As noted in 3.1 above, sub recipient assurances require compliance with the following:

The Americans with Disabilities Act of 1990 (42 U.S.C §§12131 et seq.), which protects qualified persons with disabilities from discrimination in employment opportunities and imposes requirements for construction, remodeling, maintenance and operation of structures and facilities.

The education/training organizations applying for Eligible Training Provider (ETP) certification must provide evidence of the following:

- The facilities where education and training occur, including work experience activities, are accessible to persons with disabilities.
- The organization has policies in place to make reasonable facility accommodations for individuals enrolled in training and education programs.
- The organization has policies in place to make reasonable instruction-related accommodations for individuals enrolled in training and education programs.
- Facilities where education and training occur, including work experience activities are accessible to persons with disabilities.

Local-level EOCs are required to monitor facilities for compliance at least every two years. The State EOO completes a site visit to area WSO locations on a rotating basis to ensure compliance with ADA accessibility. The State EOO's oversight Monitoring Review Guide includes specific monitoring review guidelines to ensure that all plans and contracts contain the required assurance language.

3.4 Job Training plans, contracts, assurances, and other similar agreements entered into by recipients are both nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity. (See 29 CFR 37.54(d)(2)(iv).)

See Element 3.1 for the language regarding nondiscrimination and equal opportunity that is included in all LWIA local unified plans (job training plans) and other contracts and agreements entered into by recipients.

Oregon has taken steps to ensure that the WIA IB program and fiscal monitors have items in their current monitoring guides which require them to check job training plans, contracts, assurances and other similar agreements entered into by

the grantee and its recipients to ensure compliance with the requirements of WIA section 188 and 29 CFR 37.

3.5 State and local-level policy issuances or issuances from other recipients are not discriminatory either in intent or effect. (See 29 CFR 37.54(d)(2)(iii).)

All WIA state and local level issuances are guided by the requirements in the MOA. Local level monitoring reviews address the need to examine notices and communications to assure that they meet the nondiscrimination requirements. State level issuances are also included in an EO review by the State EOO.

Job openings placed by employers into the system are screened to ensure against discriminatory language.

3.6 Policies on WIA Title I nondiscrimination and/or equal opportunity issues are developed and implemented in a timely manner.

The State of Oregon through CCWD and OED have made a concentrated effort to ensure all needed nondiscrimination and/or equal opportunity policies are published as quickly as possible. The State EEO and Local EOCs have made a commitment to ensure Oregon is in full compliance with all parts of WIA Section 188 and the requirements of 29 CFR 37. Equal Opportunity training is offered on an ongoing basis to ensure staff has full awareness of the requirements for the One-Stop system to provide services without discrimination.

DOCUMENTATION – ELEMENT 3

- 3.1 Directive that instructs individuals at the State and/or local level who are responsible for reviewing assurances, job training plans, contracts, and policies and procedures as to the requirements of, and their duties under, 29 CFR 37.20, 37.54 (d) (1) (i), and (iv)
 - A. OAR 589-020-0110 (exhibit 1.2A)
 - B. OAR 471-010-0005 (exhibit 1.2B)
- 3.2 Copies of assurance pages of plans, contracts, and other agreements.
 - A. CCWD Intergovernmental Grant Agreement
- 3.3 Copies of memos or directives to contract managers advising them to include the required assurance in the appropriate documents.
 - A. CCWD Intergovernmental Grant Agreement
- 3.4 Copies of checklists or other guidelines used by contract specialist, attorneys, or others who review contracts and agreements that indicate that nondiscrimination and equal opportunity are considered in the evaluation of such documents.
 - A. CCWD Eligible Training Provider Certification Application
- 3.5 Procedures developed to review the ability of grant applicants and training providers seeking eligibility, to comply with the nondiscrimination and equal opportunity provisions of WIA and 29 CFR part 37.
 - A. CCWD Eligible Training Provider Certification Application
- 3.6 A copy of each WIA EO issuance
 - A. OAR 589-020-0110 (exhibit 1.2A)
 - B. OAR 471-010-0005 (exhibit 1.2B)

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Element 4 – Universal Access

Purpose:

To demonstrate how the State and its recipients partners comply with, and will continue to comply with, the requirements of 29 CFR 37.42 relating to the provision of universal access to programs and services.

4.1 The State has communicated the obligation of recipients (including, e.g., LWIAs, one-stop operators and service providers) to make efforts (including outreach to broaden the composition of the pool of those considered for participation or employment in their programs and activities in an effort to include members of both sexes, of the various racial and ethnic groups and of various age groups, as well as individuals with disabilities.

The State EOO, through coordination with local EOCs and WSO service providers will ensure that recipients take reasonable steps to include members of varying demographic groups in their programs or activities. The State EOO will provide an ongoing assessment of target populations receiving WSO services in comparison to census data. This assessment will be evaluated by all workforce regions and an analysis of compliance will be completed. The review for universal access will examine plans for targeting and outreach to identify target populations. Recipients are expected to engage in specific outreach efforts targeted to members of various demographic groups by using a variety of media outlets and methods to assure they provide universal access to services and to employment opportunities. LWIAs will be monitored on universal access as part of the annual self assessment. The assessments are evaluated by all regions and analysis of compliance with be completed by the State EOO during a desk review. Areas not meeting compliance will be asked to develop a corrective action plan. Population changes including language and special needs are viewed on a continual basis.

The focus of WIA is program delivery controlled and designed by local areas. Each LWIA is required to address universal access by including in its local unified plan the following narrative:

- Describe the general population characteristics of your area: age, race, ethnicity, per capita income, employment by industry/occupation, etc. Include specific population groups and targeted population groups. Describe how you will serve these populations.
- Describe how customers access core, intensive and training services in your local one-stop system, including non-and limited-English speakers, people with disabilities, TANF clients and others with barriers to employment, by site.

- Describe your local system’s integrated service strategies to meet the needs of specific population groups or customers. These can be populations targeted through your local strategic planning process, local priority customers, or any specific populations receiving an integrated set of services. Populations to be included are:
 - a) People with disabilities
 - b) People with low basic skills
 - c) Non-English speakers
 - d) Migrant and seasonal farm workers
 - e) TANF clients

A recipient’s ability to receive WIA funding will be determined in part by its ability to provide outreach and services to customers in a non discriminatory manner.

Executive Order 08-18, issued by The Governor gives a clear message to all state agencies that the State of Oregon is dedicated to the “elimination of the effects of past and present discrimination, intended or unintended”. The governor furthers his mission of making the state of Oregon the “Employer of Choice” through the Governor’s Affirmative Action Office.

The mission of the Affirmative Action Office is to:

1. Reaffirm the State’s policy on nondiscrimination and affirmative action.
2. Identify state agency goals and review their action plans to gauge the employment and retention of employees by race, religion, national origin, age, sex, marital status and disability.
3. Provide program specifics for promoting and encouraging equal employment opportunities, and communicates and demonstrates the Governor’s commitment to equal employment opportunity and affirmative action principles.

4.2 Recipients have made and will continue to make efforts to broaden the composition of those considered for participation or employment in their programs and activities, as described above.

The state of Oregon operated one of the premier Disability Navigator Programs (DNP) in the nation for several years. Through funding from DOL and allocated by CCWD, every workforce region’s WSO center had access to services provided by the Disability Navigator. The DNP focused on developing new and ongoing partnerships to achieve seamless, comprehensive, and integrated access to services, creating systemic change, and expanding the workforce development system’s capacity to serve customers with disabilities as well as meeting the needs of employers. The DNP staffs worked to achieve these goals and to ensure that their

efforts would be sustainable after this special funding source was no longer available although the funding for the DNP ended in 2010, this program left an important and lasting legacy that will continue to benefit the disabled customers of the WSO system long into the future.

The OED has a full time LEP Coordinator who implements and monitors the agency's Language Assistance Policy. The agency utilizes the four-factor analysis as noted in Federal Register, VOL 66, No. 11, to determine required populations for language assistance. Using the thresholds for language assistance, the OED conducts outreach activities in those OED offices that fail to meet the Essential Language and Significant LEP population thresholds. All OED offices that fail to meet an essential language threshold will submit to their assistant director, regional manager, or administrator an annual outreach plan for identified LEP populations.

Current Oregon practices designed to broaden the composition of those considered for participation and employment at the WSO Centers include but are not limited to the following:

- Designated bilingual positions postings
- Recruitment of applicants with bilingual skills and experience
- Identification and testing of staff with bilingual skills
- Information exchange and collaboration with community organizations regarding translators, interpreters and resources for Limited English Proficiency
- Publication of selected materials in languages other than English.
- Use of telephone interpreters and contract interpreters as needed to provide language assistance to customers on a case-by-case basis.
- Disability awareness and cultural sensitivity training for staffs
- Accessibility to auxiliary aids and assistive devices acquired through the DNP and staff who have been trained by the Disability Program Navigators in all WIA regions
- Participation in local and statewide job related events. Among these are job fairs, school career days, media features stories, seminars and networking groups.

The State plan requires that LWIAs have plans for universal access. The plans must be examined for targeting and outreach to identified target populations, and contain samples of publicity materials used to expand the diversity of participants in the WSO programs and activities. Recipients are expected to engage in specific outreach efforts targeted to members of various demographic groups by using a variety of media outlets and methods, to assure they provide universal access to services and to employment opportunities.

Under Oregon's service integration model, recipients are encouraged to develop plans and strategies that target the use of WIA formula funds on the services that most efficiently and effectively assist workers impacted by the current economy to

obtain employment with priority of service given to recipients of public assistance and other low income individuals as described in WIA Section 134 (d) (4) (E).

Partner agencies in the Oregon WSO system include but are not limited to the following: Title V Senior Community service Employment (SCSEP), Migrant and Seasonal Farm Workers, Oregon Vocational Rehabilitation Services, 17 Community Colleges, and locally operated agencies and partners.

OED has an active agency diversity council that recently completed a cultural competency survey for staff and customers.

4.3 The State monitors and evaluates the success of recipient efforts to broaden the composition of those considered for participation and employment in their programs and activities as described above.

Executive Order 96-38 requires each state agency to report on the status and results of their affirmative action policies and programs. Agencies must develop affirmative action plan every two years. Affirmative action goals are evaluated for success by the governor's office.

DOCUMENTATION – ELEMENT 4

- 4.1 Copies of targeting, outreach and recruitment plans
 - A. OED Affirmative Action Plan found at
http://xpedio3.emp.state.or.us/stellent/groups/sdesdocs/documents/general/affirmact_20071affirmactionpla.pdf
 - B. Sample regional outreach plan
- 4.2 Criteria for determining priority of service
 - A. State of Oregon Two-Year Plan Modification
 - B. OAR 151-020-0030
 - C. TOC/OWA Policy WIA 26-R10/09
- 4.3 Copies of plans for One-Stop delivery systems to expand the pool of those considered for participation or employment in their programs and by race/ethnicity, sex, disability status, age and language needs.
 - A. State of Oregon Two-Year Plan Modification
- 4.4 Samples of brochures, posters, public-service announcements, computer screens displaying related information, and other publicity materials
 - A. TEC Assistive Technologies
 - B. Workshop schedule

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Element 5 – Compliance with Section 504

Purpose:

The State will address how it and its recipients comply with and will continue to comply with the disability related requirements of WIA and its implementing regulations.

5.1 Describe how the state ensures that recipients meet their obligations not to discriminate on the basis of disability (29 CFR 32.12(a), 32.26, and part 37.7)

The State of Oregon is committed to making all services, facilities and information accessible for individuals with disabilities. ORS Chapter 659A.103 guarantees for Oregonians that, “persons with disabilities will have the opportunity for the fullest possible participation in the social and economic life of the state, to engage in remunerative employment, to use and enjoy places of public accommodations, resort or amusement, to participate in and receive the benefits of the services, programs and activities of state government and to secure housing accommodations of their choice, without discrimination.”

Oregon’s Executive Order No EO-96-38 requires that each state agency director and administrators of major divisions or institutions report to the Governor the status of their affirmative action policies and programs. Guidelines for these affirmative action plans include submission of an agency’s ADA and Reasonable Accommodation Policy.

OARs 589.020-0110 and 471-010-0070 requires CCWD and OED to provide Title IB services in accordance with the MOA. Recipients shall demonstrate that persons with disabilities are assured of participation in programs and activities in as integrated a setting as possible. Programs and activities shall be architecturally and programmatically accessible to individuals with disabilities, through reasonable accommodation and reasonable modifications, free of discrimination on the basis of disability. In addition, communication about programs and activities shall be as effective as communication with others.

CCWD’s local unified plan and contracting process requires that recipients describe their local systems’ integration service strategies to meet the needs of specific population groups or customers, specifically people with disabilities.

5.2 Provide reasonable accommodation for individuals with disabilities (See 29 CFR 32.13 and 29 CFR 37.8)

The MOA requires recipients to provide reasonable accommodation to employees and participants and that all programs and activities are accessible to persons with disabilities.

Compliance checklists and monitoring by the State EOO, state partner agency EOOs and regional/local EOCs contain elements addressing this requirement and are available on demand.

5.3 Provide reasonable modification of policies, practices and procedures as required (See 29 CFR 37.8)

ORS 182.109 requires each state agency to monitor policies and practices to ensure services to persons with disabilities.

In carrying out the policies stated in ORS 410.710, state agencies shall:

- (1) Review their rules and policies and may revise them as necessary to reflect a positive approach to persons with disabilities.
- (2) Encourage and promote education of state employees, state officials and the public in general about the worth and capacity of persons with disabilities.
- (3) In all state correspondence and publications, avoid the use of stereotypes and negative labels such as “victim,” “afflicted,” “crippled” and “handicapped” except as such terms are required by statute or federal law and regulation.
- (4) Use the preferred and more positive term “person with a disability” instead of “disabled person,” “handicapped” or other negative words except as such terms are required by statute or federal law and regulation.
- (5) In implementing subsections (1) to (4) of this section, develop and seek input regarding terminology and portrayal of persons with disabilities from persons who have disabilities and their advocates.
- (6) Foster corrective measures and avoid stereotypes and negative labeling in texts used by schools, newspapers, magazines, radio and television by encouraging review and analysis of these media by publishers, company owners or appropriate agencies.
- (7) Use the term “person with a disability” to the extent consistent with state and federal law in rules adopted on or after January 1, 2006. [1989 c.224 §2; 2005 c.411 §2; 2007 c.70 §48]

5.4 Provide architectural accessibility for individuals with disabilities. (See 29 CFR 32.28)

State recipient agencies and LWIAs will conduct programmatic and architectural accessibility compliance site reviews for their own and sub-recipient sites (at least every two years) and training for recipient and sub-recipient staff, on an on-going basis. The Americans with Disabilities Act Checklist for Readily Achievable Barrier Removal is utilized as a field evaluation. WSO centers are required to do a self assessment as part of the Annual Compliance Review.

5.5 Provide programmatic accessibility for persons with disabilities (See 29 CFR 32.28)

Through the DOL Disability Navigator Grant, CCWD provided funding to LWIAs for one of the premier Disability Navigator Programs (DNP) in the nation. Every workforce region WSO center had access to services provided by the disability navigator for the six years that funding was available.

The DNP focused on developing new and ongoing partnerships to achieve seamless, comprehensive, and integrated access to services, creating systemic change, and expanding the workforce development system's capacity to serve customers with disabilities as well as meeting the needs of employers.

The Navigators assisted WSO staff to develop methods to help people who experience multiple barriers to employment to "navigate" through the enormous challenges of seeking work. Complex rules surrounding entitlement programs, along with fear of losing cash assistance and health benefits, can often discourage people with disabilities from seeking employment. Navigators worked in partnership with WSO Centers to better inform SSA beneficiaries and others who experience multiple barriers to employment about the work support programs available at the centers as well as services that reach beyond the ability of the centers.

Although the DNP funding has ended, the WSO system continues to benefit from the legacy of experience and assistance provided by the Navigators. These benefits include:

- Provision of information for WSO staffs regarding service delivery for customers who experience a disability or people who have encountered multiple barriers to employment. Navigators provided specialized assistance and guidance to available resources to help the WSO Center staff better meet the needs of jobseekers with disabilities and others experiencing barriers to employment. An example of this might be training and advising staff on how to meet the needs of a customer who is deaf or providing guidance on jobsite accommodations. Navigators also provided information on resources for services that went beyond the ability of the Center.
- Provision of information that WSO staff can use to assist job seekers to get information about available programs and services that might impact their search for employment and to assist the jobseeker in breaking down barriers to employment through access to resources such as Career and Resource Mapping Workshops, resource coordination and assistance in negotiating Integrated Resource Teams.
- Provision of information on assistive technology and accommodation that WSO Staff can use to assist employers who will be employing individuals with disabilities. WSO staff also learned how to give employers information about

an underutilized labor pool, tax savings information, and conduct outreach to agencies/organizations that serve people with disabilities.

Each WSO center has a disability representative funded by OED. Staff are trained in disability etiquette and how to ensure customer receive requested accommodations.

5.6 Provide for and adhere to a schedule to evaluate job qualification to ensure that the qualification do not discriminate on the basis of disability. (See 29 CFR 32.14)

Both OED and CCWD refer to job qualifications as minimum qualifications that are written with each class specification. Individual jobs each have a written and signed position description that describes the duties and responsibilities assigned to that position.

Position descriptions are reviewed at least annually for accuracy as part of the performance evaluation process. Minimum qualifications (MQs) for the class specification that each position is allocated to, are reviewed by Department of Administrative Services only when and if those MQs are found to be creating a barrier to developing good applicant pools and are not meeting the recruitment needs of state agencies. The Governor's Affirmative Action Office reviews Recruitment Data for State agencies to monitor recruitment trends for state class specifications. If anomalies in statewide recruitment data are seen, the MQs of the class specification are reviewed to the cause and to ensure the MQs do not discriminate against any protected class.

OED staff screens all employer job order to ensure that a listing does not pose a job requirement that could have disparate impact on protected class. While reviewing the job listing staff determine if there is a potentially discriminatory requirement by asking the following questions:

- Is every job requirement essential to performing the job.
- If a requirement does not appear to be job related, is there a legal exception (e.g. government regulation, statues, etc.) that can justify it?

5.7 Limit pre-employment/employment medical inquires to those permitted by and in accordance with WIA section 188, section 504, the Americans with Disabilities Act of 1990, and their implementing regulations. (See 29 CFR 32.15)

Pre-employment/employment medical inquires are limited to those permitted by and in accordance with WIA Section 188 and Section 504. All questions regarding the nature and severity of any disability are generally prohibited. Any response is voluntary and does not change the scope of services available for the customer.

5.8 Ensure the confidentiality of medical information provided by registrants, applicants, eligible applicants/registrants, participants, employees, and applicants for employment. (See 29 CFR 32.15)

All WSO staffs are required to complete security and confidentiality training and to sign a confidentiality agreement form. There are seven training modules that must be completed by all WSO staff that use the state data collection system. The modules include the following: An Introduction to Information Security, Dealing with Documents, Securing your computer, parts 1 and 2, The Oregon Consumer Identity Theft protection Act and You, Using E-mail and When You're out of the Office.

Yearly reviews by CCWD determine how program staff ensures that WIA participant records are confidential as provided in State law and administrative rules (ORS 660.300-660.339; OAR 151-020-0060-151-020-0090.) Recipients are required to utilize a sign release of information guaranteeing customer consent for the sharing of information. Any customer information maintained in a hard file must be kept in a secured setting.

5.9 Administer their WIA Title I-financially assisted programs and activities so that each individual with a disability participates in the most integrated setting appropriate to that individual. (See 29 CFR 37.7 (d).)

Resource rooms are equipped to accommodate individuals with physical disabilities as well as hearing and vision impaired to provide universal access to all customers entering the WSO Centers. Customers needing accommodations are offered access to a variety of auxiliary aids. The State EOO and local EOCs provide ongoing training on practical tips for accommodations and etiquette when serving persons with disabilities.

5.10 Are able to communicate with persons with disabilities as effectively as with others. (See 29 CFR 37.9.)

OED Communications Policy (COM3 (1)) applies to all Employment Department employees, services, programs and activities. The policy ensures compliance with Section 504 with regard to effective communication to customers and members of the public whose disabilities affect their ability to receive or express information.

As part of the yearly review by CCWD, recipients are reviewed for their ability to show how staffs are, "able to effectively communicate with persons with disabilities."

DOCUMENTATION – ELEMENT 5

- 5.1 Procedures by which person with disabilities are assured of participation in programs and activities in as integrated setting as possible.
 - A. WIA Disability Self-Evaluation Tool (exhibit 7.2B) done as part of EO Monitoring
- 5.2 Procedures by which the availability of reasonable accommodation and reasonable modification are made known to persons with disabilities, and the procedures for making and resolving such requests.
 - A. Web Page
 - B. OED Policy COM 3 (1)
 - C. OED Policy OHR 12-2 (2)
- 5.3 Procedures by which the State ensures that communication with persons with disabilities is as effective as communication with others.
 - A. OED Policy COM3 (1)
- 5.4 Procedures by which the State ensures that the program and activities operated by its WIA Title I recipients are architecturally and programmatically accessible to individuals with disabilities.
 - A. CCWD Monitoring Guide
 - B. ADA checklist
 - C. Annual Compliance Review
 - D. Job Listing Intake Guide
- 5.5 Any evaluation conducted to determine the programmatic or architectural accessibility of a WIA Title I-financially assisted program or activity and the status of any corrective actions taken by the recipient involved.
 - A. Klamath Falls WSO
- 5.6 Publications and agendas for any training conducted by recipient staff that is intended to raise awareness of disability issues.
 - A. EOC training agenda (exhibit 1.8 B)
 - B. EOC training power point (1.8C)
 - C. Field training power point
 - D. Sample training options for EOC

Element 6 – Data Information Collection and Maintenance

Purpose:

The State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.37 through 37.41 related to data and information collection and maintenance. The State ensures that a data and information collection and maintenance system for its WIA Title 1B financially assisted State programs is established and maintained.

6.1 Description of the system the State has in place to collect and maintain records on applicants/registrants, eligible applicants, registrants, participants, terminees, employees and applicants for employment.

The state of Oregon has moved to an integrated service delivery for the WIA Adult and Dislocated Worker Programs and the Wagner-Peyser Act Programs. The realigning of the workforce system was designed to bring about a shared customer data base that will meet federal requirements and provide a shared management system for WIA Title IB Adult and Dislocated Worker and Wagner-Peyser Act applicants, registrants, eligible applicants/registrants, participants and terminees. Customers are required to register through the common intake process (the WorkSource Oregon Management Information System (WOMIS)) registration program which serves as a portal to registration in WIA Title IB Adult and Dislocated Worker and the Wagner-Peyser Act programs. Collection of this data leads to a series of integrated workforce reports that include options for daily, weekly, monthly and yearly reports.

The WOMIS registration system collects all required demographic information for applicants, registrants, eligible applicants/registrants, participants and terminees of the WIA Adult and Dislocated Worker and the Wagner Peyser programs. The WOMIS program information system and OED's iMatchSkills program collects information on services provided to participants as well as outcomes, placement, retention, wages, and information on all participants and terminees. All information is collected in accordance with the requirements of DOL's Workforce Investment Act Standardized Record Data (WIASRD) for WIA Title I, Wagner-Peyser Act, Trade Act, Veterans programs, and Migrant and Seasonal Farmworkers programs. All recipients are required to collect this information and transmit it to the State in accordance with the data collection programs and requirements established by the integrated data team of CCWD and OED.

The WOMIS is designed in such a way to allow cross referencing of data to individual records.

LWIAs continue to use their standard management information systems (MIS) to collect and report all the required data (as noted above) for the WIA Title IB Youth

Program. This data is reported to the State on a monthly basis and is transmitted to DOL in accordance with its required timelines. The Youth Program MIS systems also provide data that allows cross referencing to individual records.

Oregon administrative Rule 471-015-000 established the Performance Reporting Information System (PRISM). PRISM was established exclusively for the purpose of collecting, analyzing and sharing statistical and demographic data for the development and reporting of the workforce system performance measures. The system is administered by the Director of the OED in consultation with the Governor's Education and Workforce Policy Advisor. Three agencies represent six programs currently participate in PRISM. The three agencies include CCWD, Department of Human Services, and OED. The data reported to the system include placement, retention and wage reports containing employment outcome information for each workforce region and participating agency. Demographic information including gender, disability, age, ethnicity, and education is collected.

All data on employees of State agencies and applicants for employment are collected in accordance with Oregon's Department of Administrative Services requirements and maintained by CCWD, OED, and other state agencies that are part of the WSO workforce system. Data on employees of WSO Centers and applicants for employment are kept in accordance with personnel policies maintained at the local level.

6.2 Description of how the State records the race/ethnicity, sex, age and disability status of each applicant, registrant, eligible applicant/registrant, participant, terminatee, employee, and applicant for employment (See 29 CFR 37.37(b)(2).)

See response in 6.1.

Each local workforce region and OED program is responsible for the validity of its data which is expected to be completed timely and without error.

OARs 589-020-0110 and 471-010-0005 require that WIA 1B recipients "Collect data on participants as required by 29 CFR 37.37 to 37.41 and the Methods of Administration and provide aggregate data to the State EOO and the DOL as required."

Reports generated by the integrated data collection system allow for staff and management access to online reports. Collection of this data leads to a series of integrated workforce reports that includes options for daily, weekly, monthly and yearly reports. These reports capture the activities of customers participating in core and intensive services.

Prism publishes reports quarterly for three employment measures. The measures are Placement (percentage of individuals being employed after receiving service),

Retention (percentage of individuals working four continuous quarters, and Wage Gain (the increase in average hourly wage after one year.) A caseload management report displaying the number of Temporary Assistance to Needy Families (TANF) cases is also published. The data also includes customer demographics including gender, disability, age, ethnicity, and education.

6.3 Description of how the State treats records, particularly those containing medical information, in a manner that ensures their confidentiality (See 29 CFR 32.15; 29 CFR 37.37(b)(2); and 29 CFR 37.41.)

See response to Element 5.8. All CCWD, OED and recipient staff must adhere to the confidentiality requirements set forth in the WSO Joint Policy 05-10 on Confidentiality and all the references contained within this policy.

The guiding principles of the OED confidentiality policy is as follows:

- Need-to-Know – It is our policy to limit authorized disclosures to entities only when there is a “need-to-know.” Need-to-know means that access, possession of, or other use of customer-related information is essential. The “need-to-know” must be assessed in the context of the program purpose or objective to be achieved.
- Informed Consent – It is our policy to only disclose confidential information supplied by job seekers who have received full disclosure of how the information will be used and have given consent to use and disclose the information. Our electronic data system requires that job seekers mark a box stating that they have read the privacy statement on the Job Seeker Responsibilities screen, and thus given informed consent, before they can continue registering in the system.

An interagency agreement between the OED and CCWD permits the sharing of information and data for the purpose of operating an integrated workforce system. The operational provisions in the agreement include:

1. Each entity must adhere to 20 CFR 603.10(a), ORS 657.665(4) (b), & OAR 471-010-0115 to access confidential information.
2. Public officials are responsible for their agents or contractors, and they must hold them accountable for complying with the written agreement. Public officials must sign the agreement along with their agents or contractors that receive confidential information.
3. A “need to know” the information is mandatory. Only those with a “need to know” will be allowed access to the information provided under the agreement.
4. Informed consent is required from job seeker customers prior to releasing or sharing their information.
5. The information shared does not include employer wage records or employer tax data.
6. The information will be shared through electronic access, fax, e-mail, in writing, and verbally.

7. Confidential information must be safeguarded.
8. To ensure compliance, the State retains the right to perform on-site inspections of the agency, entity or contractor.
9. Failure by a signatory entity to comply will force the immediate suspension of the agreement and further disclosure of information will be stopped until the State has accepted the corrective action.

6.4 Description of how the State maintains a log of complaints filed that alleges discrimination on one or more of the bases prohibited by WIA Section 188 (See 29 CFR 37.37(c)).

Complaints alleging discrimination on one or more of the following basis: race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIA 1B financially assisted program or activity are kept in a log as required by the Civil Rights Center. Complaints may be filed at the local level, the State level or with the CRC Director. The local EOC notes each complaint filed in a discrimination complaint log and the log is forwarded to the State EOO for documentation. The complaint log contains the name and address of the complainant, the basis of the complaint, a description of the complaint, date complaint was filed, disposition, date of disposition and any other pertinent information relating to the complaint. The local EOCs inform the State EOO about complaint investigations and submit complaint reports on a quarterly basis. The State EOO reports to CRC on an annual basis.

6.5 Description of the procedures used by the State to ensure that records of the above listed individuals are maintained for a period of not less than 3 years. (See 29 CFR 37.39.)

CCWD policy 589-40.4 requires that all LWIAs and sub recipients must comply with Federal record retention rules and regulations. Governmental sub recipients must follow the record retention requirements specified at 29 CFR 97.42 and nongovernmental grantees must follow the requirements specified at 29 CFR 95.53 related to the retention and disposition of records.

In addition, this policy requires, in accordance with 29 CFR 37.39, that all recipients and sub recipients retain all records pertinent to applicants, registrants, eligible applicants/ registrants, participants, terminees, employees, and applicants for employment, for a period of not less than three years from the close of the applicant program year. Such records must be maintained as whole record system. All records must be retained beyond the required three years if any litigation or audit has begun or a claim is instituted involving the grant or agreement covered by the records. The records shall be retained until the litigation, audit, or claim has been resolved or the required three years, whichever period is longer.

Records Retention and Disposition policy (FAC 28-16 (1) provides guidance for OED.

OAR 166-300-0010 specifies the requirements for state agency records management. It applies to all public records, regardless of media or physical format, created and stored by state and local agencies. Section 166-300-0040 provides the schedule for personnel records which includes affirmative action, EEOC compliance records and EEOC complaint reviews.

6.6 Describe the process by which grant applicants and recipients notify the Director of the CRC of administration enforcement actions and lawsuits brought against them that allege discrimination on one or more of the bases prohibited by WIA section 188. (See 29 CFR 37.37(a).)

The State and each grant applicant and recipient are required to promptly notify the Director of the CRC when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief.

DOCUMENTATION – ELEMENT 6

- 6.1 Instructions to recipients within the State regarding information collection, access to records, and maintenance of records. (See 29 CFR 37.37)
 - A. CCWD Policy 589-40.3
 - B. CCWD Policy 589-40.4

- 6.2 Samples of each policy issuance that discusses ensuring the confidentiality of demographic information regarding individuals.
 - A. OED Policy ADM12 (2)
 - B. OAR 471-010-0005
 - C. OAR 471-015-0005

- 6.3 Samples of reports regarding the above demographic information.
 - A. Monthly demographic report
 - B. PRISM Placement report

- 6.4 Samples of formats and instruction, in hard copy and electronic file forms, for complaint logs used by the State and its recipients to track complaints that allege a violation of 29 CFR Part 37.

Element 7 – Equal Opportunity Monitoring

Purpose:

The State addresses how it and its recipients are complying with the requirements of 29 CFR 37.54 (d) (1) (iii). The State of Oregon has established procedures to periodically monitor all aspects of the recipient's compliance with Workforce Investment Act (WIA) Section 188 and 29CFR Part 37. Each equal opportunity monitoring review includes a review of compliance with responsibilities it has been assigned through the State of Oregon's MOA; and a review of each recipient's programs and activities to determine whether discrimination is occurring.

7.1 How the data and records collected are analyzed by the recipients pursuant to 29 CFR 37.37 through 41, to determine whether any differences based upon race/ethnicity or sex have practical or statistical significance.

Oregon ensures compliance with its administrative obligations under WIA section 188 and 29 CFR Part 37 during the regularly scheduled monitoring process. Monitoring recipients to ensure their programs and activities are operating in a nondiscriminatory manner includes the analysis of the data and records collected by the recipients pursuant to 29 CFR 37.37 through 41 to determine whether any differences based upon race, ethnicity, sex or disability have practical or statistical significance. Where significant differences are found, follow-up investigations to determine, through records review, interviews, and other appropriate investigative techniques, are conducted to determine whether differences are due to discrimination.

7.2 The identity of the individuals and their job titles who are responsible for conducting these analysis.

The State EOO, state agency EOOs and local EOCs all provide monitoring and review of data. Their identities are noted in Element 1.

7.3 If the State and local-level EOCs are not responsible, what role do they play in coordinating the analysis of data?

The State EOO will conduct a statistical information analysis of program services to all targeted populations on an annual basis. The OED Workforce and Economic Research unit assists in the collecting and analyzing of the EO data by race/ethnicity, sex, age and disability status for programs, employment activity, placements and terminations. Total enrollments and services are compared to enrollments and services per race, ethnicity and sex with the most current census data. . The State EOO identifies regions that reflect significant differences and those meeting or exceeding percentage of service. The State EOO then reports this data to local WIBs and EOC.

7.4 Where significant differences are found, follow-up investigations to determine, through records review, interviews, and other appropriate investigative techniques, whether the differences are due to discrimination and what the process is and who has representation.

All significant statistical disparities identified in programs, activities, or employment provided by recipients will be investigated. Follow-up investigation may include a full on site review that includes interviews, collection of additional data and policies. If deficiencies are identified as discriminatory, on-site technical assistances will be provided. A corrective action plan may be necessary to ensure that the processes and procedures are in place to take appropriate steps in order to achieve voluntary compliance. The State EOO and local EOC may continue to provide technical assistance in this process. After all attempts to provide assistance and correction of deficiencies fail, the imposition of sanctions will be considered. See Element 9.

7.5 The system for evaluating the extent to which recipients are complying with the administrative obligations of 29 CFR 37 including:

Assurances

Assurances are required to be provided by each local WIA provider as described in Element 3 – Assurances.

Equal Opportunity Officers

Equal Opportunity Officers are listed in Element Two – Notice and Communication

Notice and communication

Equal Opportunity Officers are listed in Element Two –Notice and Communication

Data and information collection and maintenance

Data and information collection and maintenance are kept both at the local and state level as described in Element Six - Data Collection and Maintenance.

Universal access

Universal access is addressed in Element Four - Universal Access.

Complaint processing procedures

All recipients are required to follow a formal complaint process and procedures as outlined in Element 8.

7.6 Performing the responsibilities assigned such recipients by the State through the MOA, such as: Conducting equal opportunity monitoring/evaluation reviews of applicants for and recipients of WIA Title 1 financial assistance (including monitoring assurances and programmatic and architectural accessibility)

- Imposing sanctions and corrective actions for violations noted by a recipient during its monitoring reviews.

- Ensuring policy development, communication, and training are carried out.

The on-site compliance review will combine a review of summary materials as completed in a desk audit compliance review with an architectural accessibility review of the recipient's facilities, operations and procedures. Physical review of each facility may be done in collaboration with CCWD and other state agencies

Before conducting an on-site compliance review, the State EOO and local EOCs will notify the local or Regional WIB, state agency EOOs and the WSO Center operators. The regional/local EOCs then notify all pertinent sub recipients. A letter confirming arrangement of the compliance review will be send as soon as possible after notification. Prior desk audit compliance reviews, on-site compliance reviews, complaint files, and the self-evaluation monitoring instrument will also be reviewed for previous findings or to determine discriminatory trends.

Areas to be reviewed include, but are not limited to:

- Policies and procedures, to ensure that they do not violate the prohibitions contained in 29 CFR 37.5 through 29CFR 37.10
- Contracts and other similar agreements, to ensure they are both non-discriminatory and contain the required language regarding non-discrimination and equal opportunity;
- Accessibility of services to persons with disabilities and other applicants with special needs;
- Equal opportunity posters and bulletin boards to determine if the name of the local EOC is posted and if the required EO posters (including the required notice, assurances, EO policy statement, and tag lines) are displayed in the waiting area of the WSO Center.
- The local-level complaint log for thorough documentation and proper maintenance.
- Staff training records to assure that staff have received EO/civil rights related training from the local EOC or other designated representative
- Interview staff to ensure knowledge of the complaint system and understanding of auxiliary aids and accommodations.

Each EOC is required to attend state level EO trainings and to be responsible for on going training of field office staffs for the WSO Centers.

7.7 Ensuring that their programs and activities are operating in a nondiscriminatory manner and ensuring equal opportunity, including but not limited to:

- Conducting analyses, by race/ethnicity and sex, of program and employment activity, including but not limited to rates of application, placement, and termination, to determine if significant differences exist, and

- Conducting follow-up monitoring to determine the cause of any such differences, through the analysis of the records of individual registrants, applicants, eligible applicants/registrants, employees and applicants for employment; interviews and other appropriate techniques.

The State of Oregon has a common intake system for the WIA Adult and Dislocated Worker programs and the Wagner-Peyser Act programs, the WorkSource Oregon Management Information System (WOMIS) registration program which collects demographic and other standardized data elements as required by DOL. All recipients are required to use the WOMIS registration program and to maintain a management information system that collects information on customer services and outcomes. This information is reported monthly to the CCWD. The integrated Workforce reporting system allows access to the following reports: Daily registrations, Daily Skills Assessments, Education levels, monthly age ranges, Monthly demographics, Monthly Employment Barriers, and Monthly Language Preferences. Within the next 12-18 months it is Oregon's vision to have one uniform reporting system. All data on WIA youth participants continue to be reported by the LWIBs through their local MIS which report directly to the State MIS.

The State EOO completes yearly analyses by race, ethnicity, age, sex and disability and provides the reports to all workforce regions. Any regions found to be deficient in service to the target populations will receive further review to determine if the deficiency is due to discrimination.

7.8 The procedure for reviewing recipients' policies and procedures, to ensure that the policies and procedures do not violate the prohibitions contained in 29 CFR 37.5 through 37.10.

A desk audit review is conducted prior to on-site reviews to analyze program materials and policies. The review will determine if the recipient is in full compliance with Section 188 which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or believe. During the site reviews, monitors may ask for and review additional polices and procedures

7.9 The written reports prepared for each review. These reports must provide, among other things, that the results of the monitoring review will be made available to the recipients (s) reviewed.

At the conclusion of the review, the monitor(s) conducts an exit conference with pertinent staff to have a brief discussion on issues identified during the course of the review. The monitor(s) meets with staff to make a determination of findings, observations and best practices. Subsequent to the on-site review, the State EOO will distribute a written report to the Governor's office, state agency EOO, LWIBs, local/regional EOCs and WSO Center Managers. The report will detail those areas

in which the center is in compliance and those areas in which the center is not in compliance. The report may also make recommendation for corrective actions to occur within 30 working days of the report date. The State EOO, state agency EOOs and local/regional EOCs will maintain monthly communication until all findings have been corrected. Sanctions for uncorrected findings are addressed in Element 9 of this document.

7.10 The involvement of the State EOO and local-level EOCs in conducting reviews. Where EO monitoring is carried out by individuals other than the State EOO or local level EOC, the narrative should provide the names, titles, and organizations of those persons.

The State EOO and local EOCs are the primary reviewers and a list of EOCs is contained in Element One. The WIA Title 1-B Fiscal and Programmatic monitors review certain equal opportunity items as part of their annual reviews. The WSO Centers and/or affiliate sites that have a significant number of farm workers in their area also conduct reviews of services to Migrant and Seasonal Farm workers. The self monitoring reports are submitted to the State Monitor Advocate for review and analysis. The State Monitor Advocate is located within the OED.

7.11 What training is provided to these individuals and by whom? How does the State EOO coordinate the review efforts from start to finish?

Local and regional EOCs are required to attend ongoing trainings provided by the State EOO. The EOCs have the responsibility for continued training of their WSO Center staff. Evaluation of training is part of the Annual Compliance Review.

7.12 The procedure for determining which recipients are to be reviewed, the frequency of reviews of recipients, and the number of recipients to be reviewed per year.

The State EOO conducts and/or coordinates four types of compliance reviews: Intensive on-site reviews, ADA self-evaluation, CCWD program monitoring and Annual Reports of Compliance. At a minimum, five Oregon WSO Centers will be scheduled for intensive reviews per year. All of the 40 WSO Centers will be reviewed in turn, and in addition each center must complete an ADA self-evaluation once every two years. The CCWD program review will be completed yearly and encompasses EO compliance questions. The final review is the Annual Report of Compliance. This report is a self assessment and ensures that WIA recipients evaluate compliance with WIA 188 and CFR 29 part 37. Intensive on-site reviews may be scheduled if complaint records or data analysis indicates non compliance

DOCUMENTATION – ELEMENT 7

- 7.1 Schedules of reviews and criteria for targeting recipients for review.
- 7.2 Monitoring instruments (s) used by State – and/or local-level staff to monitor recipient EO activities.
 - A. ADA checklist (exhibit 5.4 B)
 - B. WIA Self Evaluation(exhibit 5.4E)
 - C. Annual Compliance Review (5.4C)
 - D. CCWD Monitoring Guide (5.4A)
 - E. Work Systems Inc. Review
- 7.3 Policy issuances and procedural guidance regarding monitoring reviews and recipient evaluations.
 - A. OAR 589020-0110 (exhibit 1.2A)
 - B. OAR 471-010-0005 (exhibit 1.2B)
 - C. Workforce Investment Act Title 1 Monitoring System (589-40.1)
- 7.4 A representative sample of reports of monitoring reviews, including findings resulting from reviews and the status of follow-up actions.
Klamath Falls (exhibit 5.5A)

Element 8 – Complaint Processing Procedures

Purpose:

The State and its recipients are complying with and will continue to comply with the requirements of 29 CFR 37.76 through 37.79 regarding complaint processing procedures. These procedures provide the complainant with the option to file with the recipient or directly with the Civil Rights Center, United States Department of Labor.

8.1 The State complaint procedures that have been developed and published for investigating complaints that allege discrimination on the basis of race, color, national origin, religion, sex, age, disability, political affiliation or belief, and for beneficiaries only, citizenship status for WIA.

Complaints alleging discrimination in the state of Oregon based on race, color, national origin, religion, sex, age, disability, political affiliation or belief and for beneficiaries only, citizenship status for WIA, are taken very seriously.

Complainants will be encouraged, but not required, to informally resolve such allegations. Every attempt will be made to resolve the issue at the WSO Center or location where they are received. When a customer tells a WSO staff person they want to make a discrimination complaint, the staff person shall both explore with the customer whether a misunderstanding may have occurred and offer the discrimination complaint process.

Customer allegations may be the result of miscommunication or misunderstanding and may not involve discriminatory acts. The staff person may need to consult with a supervisor, manager or EOC to informally resolve the allegation and/or to process the formal discrimination complaint. If the complainant wishes to file a discrimination complaint, staff must assist them. Staff must assist them by providing the recommended complaint form and the required consent form. If the complainant needs accommodations to understand and complete the form, the accommodation will be provided.

The regional WSO manager or EOC is responsible for receiving written complaints filed at the local level, and determining the jurisdiction of complaints. The manager or regional EOC and state agency EOC prepare a Final Notice. The state agency EOC provides the technical expertise to support the resolution of the complaint. If corrective actions are required as a result of the findings in a Final Notice, the State EOC monitors them to their satisfactory conclusion based on timelines established in the Final Notice. . The State EOC maintains a complaint log and notifies the Governor and USDOL CRC of complaints and their outcomes.

The Department of Human Services (DHS) administers the TANF and Vocational Rehabilitation programs for the state of Oregon. DHS has a discrimination complaint process governed by Oregon law. This process will be recognized for the purpose of reporting complaints of discrimination under this MOA.

8.2 That complaints may be filed alleging intimidation and retaliation in accordance with 29 CFR 37.11

It is against the law to retaliate against a customer or employee for filing a complaint, or participating in an investigation. Oregon statewide policy on Discrimination and Harassment Free Workplace Policy # 50.010.01 reads as follows:

“This policy prohibits retaliation against employees who file a complaint, participate in an investigation, or report observing discrimination, workplace harassment or sexual harassment.

- (A) Employees who believe they have been retaliated against because they filed a complaint, participated in an investigation, or reported observing discrimination, workplace harassment or sexual harassment, should report this behavior to the employee’s supervisor, another manager, the Human Resource section, the Executive Director, or the chair, as applicable. Complaints of retaliation will be investigated promptly.
- (B) Employees who violate this policy by retaliating against others may be subject to disciplinary action, up to and including dismissal.
- (C) State temporary employees and volunteers who retaliate against others may be subject to termination of their working or volunteer relationship with the agency, board or commission.”

8.3 Who may file a complaint:

Complaints may be filed by an applicant/registrant for aid, benefits, services or training; eligible applicants/registrants; participants; employees; applicants for employment; eligible service providers; and service providers that may be attributed a characteristic protected under the WIA.

Generally, there are three types of complaints: (1) Individuals filing on their own behalf; (2) Individuals or a group filing on a class basis; or (3) A third party complaint authorized by the complainant in writing.

8.4 Complaint may be filed with CRC or recipient with whom there is the 180 day time period for filing.

All complaints must be submitted in writing within 180 days of the alleged incident, and must contain standard information as described in 29 CFR 37.73 as printed in the Department of Labor's Civil Rights Center's (CRC) Complaint Information Form. However, for good cause shown, the Director may extend the filing time. The time period for filing is for the administrative convenience of CRC, and does not create a defense for the respondent.

8.5 The form used for filing a complaint

A person may file a complaint by completing the State of Oregon WIA Complaint form or otherwise submit details of the alleged discrimination. A complaint consent form concerning the investigatory use of personal information must also be completed.

8.6 Information a complaint may contain

The complaint must be filed in writing and must contain the following information:

- The complainant's name and address (or another means of contacting the complainant)
- The identity of the individual or entity that the complainant alleges is responsible for the discrimination (respondent).
- A description of the complainant's allegations must include enough detail to allow the investigator to determine: 1) who has jurisdiction over the complaint, 2) whether the complaint was filed in time, and 3) whether the complaint has apparent merit. In other words, whether the complainant's allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIA or 20 CFR Part 37, and,
- The complainant's signature or the signature of the complainant's authorized representative

8.7 How due process will be provided:

During the process of attempting to come to resolution of the complaint, the State EOO shall assure that all parties involved are given due process. The due process elements include the following:

- Notice to all parties of the specific charges
- 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 rebut evidence presented
- A decision made strictly on the evidence on the record.

Upon receipt of the formal written complaint the WSO staff person handling the complaint will process the complaint as follows:

Step 1: Log the complaint and notify EOC and state agency EOO, if applicable, as agency policy dictates.

- Immediately upon receipt of a written complaint. the EOC or other person designated must:
- Offer Alternative Dispute Resolution (ADR) services and attempt to resolve the complaint. It is the policy of the State that ADR programs exist in every state agency, for use internally and with external customers. In addition, ORS Chapter 36, Mediation and Arbitration, state that it is the intent of the State to foster the development of community based programs to assist citizens in resolving disputes and developing skills in conflict resolution. All One Stop sites have been encouraged to identify and use local ADR resources. The local EOC will initiate the ADR process with the complainant and contact the State EOO if necessary.
- Send written notice to the complainant. The written notice must contain:
 - A complaint process timeline;
 - References to Alternative Dispute Resolution options;
 - Option of direct filing with USDOL CRC;
 - Acknowledgement that the recipient has received the complaint; and
 - Notice the complainant has the right to be represented in the complaint process.

8.8 Provide for written notice of lack of jurisdiction of complaint

Step 2: Within 30 days,

Determine Jurisdiction. The recipient will determine if the complaint meets the following criteria for jurisdiction:

That the individual making the complaint believes that he/she, or any class of individuals, has been subjected to discrimination on a basis prohibited by WIA Section 188 and 29 CFR 37;

- That the individual or entity against which the complaint is filed receives financial assistance under WIA;
- That the written complaint is filed within 180 days of the alleged discriminatory act;
- That the complaint is filed in writing, is signed by the complainant or their authorized representative and contains the required elements.

If the recipient determines that it does not have jurisdiction over a complaint, it must notify the complainant, in writing, immediately. This notice of lack of Jurisdiction must include a statement of the reasons for the determination and notice

that the complainant has a right to file a complaint with USDOL CRC within 30 days.

8.9 Provide for initial written notice to the complainant

Send an Initial Notice that must contain:

- A statement of the issues raised in the complaint, and
- For each such issue, a statement whether the recipient will accept the issue for investigation or reject the issue, and the reasons for each rejections.
- Notification that they will receive Notice of Final Action within 90 days of the receipt of the complaint.

8.10 Period of fact finding or investigation

Step 3: Fact Finding/Investigation

The local/regional EOC or State EOO has 90 days in which to resolve the complaint. The State EOO should be notified. The EOO can provide technical assistance during the investigation and if a conflict of interest is determined will take over the investigation. Use of ADR should be offered to assist in possible resolution of the issue. The investigator should take extensive notes during this process to assure nothing is missed and to help with the resolution of the complaint. During this time the EOC should gather all available information relating to the alleged discriminatory actions. At a minimum this fact finding should include:

- Discussion with the complainant in order to record all elements of the complaint;
- Interviews with any witnesses or others who have knowledge of the issue involved;
- Review of written and electronic files and records which pertain to the complaint and alleged discrimination; and
- Interviews with the person(s) accused of the act (the respondent).

8.11 Period during which the recipient attempts to resolve the complaint. The methods available to resolve the complaint must include alternative dispute resolution.

Step 4: The investigating authority will offer ADR from the time the complaint is received. Mediation is an informal dispute resolution process whereby a mediator, as an impartial third party, acts to encourage and facilitate the resolution of a dispute without prescribing what it should be. Mediation is a structured, non-adversarial negotiation process, as well as a short-term process. All requests for mediation shall be processed through the WSO center or the local EOC. ADR may be utilized any time during the investigation of the alleged complaint.

Step 5: Determination

At the conclusion of the investigation of the complaint, the investigating authority must take the following actions:

- Determine whether there is reasonable cause to believe that the respondent has violated the nondiscrimination and equal opportunity provisions of WIA or 29 CFR Part 37; and
- Notify the complainant, the respondent, and the EOC.

Step 6: Within 90 days a written notice of final action must be provided to the complainant.

Violation Not Found. If the investigation authority determines that there is no reasonable cause to believe that a violation has taken place, a Final Determination must be issued. The Final Determination must:

- Be issued within the 90 day complaint resolution period
- Give the investigation authority's decision on the issue and an explanation of the reasons underlying the decision; and
- Notice that the complainant has the right to file the complaint with the Director of Civil Rights

Violation Found: If the investigating authority finds reasonable cause to believe that the respondent has violated the nondiscrimination and equal opportunity provisions of WIA or 29 CFR Part 37, an Initial Determination must be issued. The initial Determination must include:

- The specific findings of the investigations;
- The corrective or remedial action that the Governor's Office and State EOO propose to the respondent, under Element Nine of this MOA and 29 CFR Part 37.94;
- The time by which the respondent must complete the corrective or remedial action;
- Whether it will be necessary for the respondent to enter into a written agreement under Element Nine of this MOA; and
- The opportunity to engage in voluntary compliance negotiations.

8.12 Corrective Action

If, during the course of investigating the complaint, discriminatory actions are discovered, corrective action will be taken immediately, regardless of whether the complaint is resolved at the state level or is filed with USDOL CRC. This process of corrective actions and sanctions is described in Element Nine.

DOCUMENTATION – ELEMENT 8

- 8.1 The State discrimination complaint procedures developed pursuant to 29 CFR 37.76 through 37.79
 - A. WIA Title 1B Non-Criminal Grievance-Complaint Procedure (589-40.3)
 - B. Discrimination and Harassment Free Workplace (50.010.01)
 - C. TOC/OWA Policy Memorandum WIA-18-10/01
 - D. OAR 839-003-0000

- 8.2 The instrument (e.g. directive, memorandum) used to inform recipients of the complaint procedures directing recipients as to their use.
 - A. Complaint brochure (exhibit 1.1D)
 - B. Web page
 - C. Complaint form

- 8.3 ADR procedures, if not included with complaint processing procedures.
 - A. ADR brochure
 - B. Oregon Executive Order 00-09

Element 9 – Corrective Actions and Sanctions

Purpose:

The State should address how it and its recipients are complying with the requirements of 29 CFR 37.54 (d)(2)(vii) in developing procedures for obtaining prompt corrective action when instances of noncompliance with WIA section 188 or 29CFR Part 37 are found or, as necessary, applying sanctions.

9.1 Describe the standard for corrective and remedial actions to be applied when violations of WIA section 188 or 29 CFR part 37 are found. Corrective and remedial actions must be designed to completely correct each violation. For each corrective action, a time frame should be established that sets the minimum time necessary to completely correct the violation. In the case of a finding of discrimination, the procedures must provide, where appropriate, for retroactive relief (including but not limited to back pay) and prospective relief (e.g., training, policy development and communication) to ensure that the discrimination does not recur.

The State of Oregon has established procedures for corrective and remedial actions to be applied when there is a violation of WIA section 188 and/or 29 CFR Part 37 by an LWIA or sub-recipient. Authority for corrective actions and sanctions can be found at OAR 589-020-0110 and OAR 471-010-0070. Findings of noncompliance may result from investigation of a complaint or a recipient compliance review.

Corrective actions and sanctions are intended to guarantee equal access to programs, activities, and employment opportunities provided by WIA financially assisted recipient organizations. Corrective actions must be appropriate for the violation identified and serve to end the discrimination or redress specific violations(s).

Local/regional level EOCs are instructed to notify the State EOO and/or state agency EOO if they are contacted directly by USDOL CRC regarding an alleged violation. Any corrective actions, if necessary, will be reported to USDOL CRC.

Where a compliance review or complaint investigation results in a finding of noncompliance, the State EOO must notify the:

- (a) Grant applicant or recipient;
- (b) Grant making agency; and
- (c) Governor's Office.

Sanctions may include: written warnings for non-compliance, recommendation for termination of funding (partial, offset, and/or temporary suspension) and legal action under applicable laws. Recipients acknowledge notice that corrective actions and sanctions may be imposed to move recipients into compliance with the requirements of the WIA and these Methods of Administration.

Violations may range in seriousness from technical violations, such as failure to post EO notices, to discrimination violations based on the prohibited grounds of discrimination or equal opportunity protections afforded by the law. Corrective actions must correct the specific violation and/or make whole the complainant. The appropriate state agency will provide guidance and/or technical assistance to a non-complying sub-recipient, will obtain written agreement or assurance to document the correction of the violation, and provide reports on corrective actions taken and follow-up monitoring.

Standards for Corrective and Remedial Actions

Oregon reserves to the Governor accountability for implementation of the Methods of Administration, including complaint processing and resultant corrective or remedial action. The Governor also reserves the right to sanction grantees for failure to comply with the terms and conditions of grant contracts. The State EOO, acting in cooperation with the state agency EOOs, will monitor corrective action determined against a respondent in a Notice of Final Action for a specific complaint. See Element 8 of Oregon's MOA for further details.

9.2 Describe the procedures for follow-up monitoring to ensure that commitments to take corrective action and remedial action are fulfilled.

Where a corrective or remedial action plan is established, the recipient will report in writing to the State EOO overseeing the action plan on a monthly basis regarding its progress on the plan until all actions in the plan are satisfied. Each progress report shall indicate the status of each item in the plan, including the actions the recipient has taken during the last month toward accomplishment of each item of the plan, the actions that remain to be done on each item of the plan, and a schedule of completion dates for each remaining item of the plan. The State EOO will do a follow up to insure that the situation has been corrected and to assure that the deficiency does not recur.

The State WIA EO Officer overseeing the action plan will also do a desk review and/or a site visit, as appropriate to ensure that the commitments of the plan are satisfied and the violation will not recur. Any instances of noncompliance will be examined as part of the next schedule review of the recipient.

Corrective actions for technical violations are tailored specifically to each finding and designed to correct the problem completely. When appropriate, the corrective actions also include training for the staff responsible for its implementation. For

each corrective action, a time frame is established by the recipient and the Governor's Office that sets the minimum time necessary to correct the violation completely.

Discrimination violations may include, but are not limited to, findings of disparate treatment, disparate impact, and failure to provide a reasonable accommodation. Corrective actions involving discrimination may include, but are not limited to, corrective, curative, or preventive requirements designed to prevent a recurrence of the discrimination; nondiscriminatory referral; cessation provisions; and make whole relief.

As described in 29 CFR 37.94 (b)(2), make whole relief for discrimination violations includes, as appropriate: back pay (which must not accrue from a date more than two years before the filing of a complaint or the initiation of a compliance review or other monetary relief); hire or reinstatement; retroactive seniority; promotions; benefits or other services discriminatorily denied; and such other remedial or affirmative relief as the Governor's Office and/or the USDOL CRC deems necessary, which may include but is not limited to, outreach, recruitment and training designed to ensure equal opportunity. Monetary relief may not be paid from federal funds.

Where the agency EOO or EOC determine that a violation of the nondiscrimination and equal opportunity provisions of WIA has occurred below the state level, the agency EOO and/or EOC must notify the State EOO and the violating recipient(s) through the issuance of a Letter of Findings, Notice to show Cause or Initial Determination, as appropriate, under 37.62 or 37.63, 37.66, and 37.67 respectively.

(1) Such issuance must:

- (i) Direct the agency EOO to initiate negotiations immediately with the violating recipient(s) to secure compliance by voluntary means;
- (ii) Direct the agency EOO to complete such negotiations within 30 days of the agency EOO's receipt of the Notice to Show Cause or within 45 days of the agency EOO's receipt of the Letter of Findings or Initial Determination, as applicable. The Governor's Office, through the State EOO, reserves the right to enter into negotiations with the recipient at any time during the period. For good cause shown, the Governor's Office, through the State EOO, may approve an extension of time to secure voluntary compliance. The total time allotted to secure voluntary compliance must not exceed 60 days.
- (iii) Include a determination as to whether compliance must be achieved by:
 - (A) Immediate correction of the violation(s) and written assurance that such violations have been corrected, under 37.96; or
 - (B) Entering into a written Conciliation Agreement under 37.97; or

(C) Both A and B.

- (2) If the Governor's Office, through the State EOO, determines, at any time during the period described in paragraph (b) (1) (ii) of this section, that a recipient's compliance cannot be achieved by voluntary means, the Governor's Office/State EOO must so notify the EOC and agency EOO.
- (3) If the Governor's Office/State EOO is able to secure voluntary compliance under paragraph (b) (1) of this section, the Governor's Office/State EOO must submit to the EOC for approval, as applicable: Written Assurance that the required
- (4) action has been taken, as described in 37.96; a copy of the Conciliation Agreement, as described in 37.97; or both.
- (5) The Governor's Office, through the State EOO, may disapprove any written assurance or Conciliation Agreement submitted for approval under paragraph (b) (3) of this section that fails to satisfy each of the applicable requirements provided in 37.62 or 37.63, 37.66 and 37.67, or 37.91 respectively. The Governor's Office/State EOO may secure compliance with the nondiscrimination and equal opportunity provisions of WIA and this part through, among other means, the execution of a written assurance and/or Conciliation Agreement under 37.96 or 37.97, as applicable.

9.3 Describe the reports required from the violating recipient regarding actions to correct the violation(s).

Where a corrective or remedial action plan is established, the recipient will report in writing to the State EOO overseeing the action plan on a monthly basis regarding its progress on the plan until all actions in the plan are satisfied. Each progress report shall indicate the status of each item in the plan, including the actions the recipient has taken during the last month toward accomplishment of each item of the plan, the actions that remain to be done on each item of the plan, and a schedule of completion dates for each remaining item of the plan. The State EOO will do a follow up to insure that the situation has been corrected and to assure that the deficiency does not recur.

A written assurance must provide documentation that the violations listed in the Letter of Findings, Notice to Show Cause or Initial Determination, as applicable, has been corrected.

The required elements of a Conciliation Agreement for the Governor's Office are the following:

- (a) Must be in writing;
- (b) Address each cited violation;
- (c) Specify the corrective or remedial action to be taken within the stated period of time to come into compliance;

- (d) Provide for periodic reporting on the status of the corrective and remedial action;
- (e) Provide that the violation(s) will not recur; and
- (f) Provide for enforcement for a breach of the agreement.

9.4 Describe the sanction procedures to be followed where voluntary compliance cannot be achieved.

The State will conclude that compliance cannot be secured by voluntary means under the following circumstances:

- (a) The grant applicant or recipient fails or refuses to correct the violation(s) within the time period established by the Letter of Findings, Notice to Show Cause, Initial Determination, Corrective Action Report ; or
- (b) The Governor’s Office has not approved an extension of time for agreement on voluntary compliance, under 37.95(b)(1)(ii), and the Governor’s Office:
 - (1) Has not been notified, under 37.95(b)(3), that the grant applicant or recipient has agreed to voluntary compliance;
 - (2) Has disapproved a written assurance of Conciliation Agreement, under 37.95(b)(4); or
 - (3) Has received notice from the State EOO under 37.95(b) (2), that the grant applicant or recipient will not comply voluntarily.

If the Governor’s Office concludes that compliance cannot be secured by voluntary means, the State must either:

- (a) Issue a Final Determination;
- (b) Refer the matter to the State of Oregon, Attorney General’s Office with a recommendation that an appropriate civil action be instituted; or
- (c) Take such other action as may be provided by law.

A Final Determination must contain the following information:

- (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 grant applicant or recipient and the State continue to disagree;
- (c) A list of any modifications to the findings of fact or conclusions that were set forth in the Initial Determination, Notice to Show Cause or Letter of Findings;
- (d) A statement of the grant applicant’s or recipient’s liability, and, if appropriate, the extent of that liability;

- (e) A description of the corrective or remedial actions that the grant applicant or recipient must take to come into compliance;
- (f) A notice that if the grant applicant or recipient fails to come into compliance within 10 days of the date on which it receives the Final Determination, one or more of the following consequences may result:
 - (1) After the grant applicant or recipient is given the opportunity for a hearing, its WIA Title I funds may be terminated, discontinued, or withheld in whole or in part, or its application for such funds may be denied, as appropriate;
 - (2) The Governor's Office may refer the case to the CRC with a request to file suit against the grant applicant or recipient; or
 - (3) The Governor's Office may take any other action against the grant applicant or recipient that is provided by law;
- (g) A notice of the grant applicant's or recipient's right to request a hearing under the procedures described in 37.112 through 37.115; and
- (h) A determination of the Governor's Office liability, if any, under 37.52.

Procedures for Effective Compliance

When it becomes known to the Governor's Office that a Conciliation Agreement has been breached, the State EOO may issue a Notification of Breach of Conciliation Agreement.

A Notification of Breach of Conciliation Agreement must:

- (a) Specify any efforts made to achieve voluntary compliance, and indicate that those efforts have been unsuccessful;
- (b) Identify the specific provisions of the Conciliation Agreement violated;
- (c) Determine liability for the violation and the extent of the liability;
- (d) Indicate that failure of the violating party to come into compliance within 10 days of the receipt of the Notification of Breach of Conciliation Agreement may result, after opportunity for a hearing, in the termination or denial of the grant, or discontinuation of assistance, as appropriate, or in referral to the CRC to file suit;
- (e) Advise the violating party of the right to request a hearing, and reference the applicable procedures in Section 37.52.

In such circumstances, the Governor's Office/State EOO must notify: (a) the grant making agency; and (b) the recipient or grant applicant, as applicable.

DOCUMENTATION – ELEMENT 9

- 9.1 A copy of any policy memorandum/directive explaining this element and its distribution
 - A. OAR 589-020-0110 (exhibit 1.2A)
 - B. OAR 471-010-0005 (exhibit 1.2B)

- 9.2 A copy of each instrument (e.g. directives, memoranda) used to inform recipients of the States procedures regarding corrective actions and sanctions.
Corrective Action report