



# One-Stops: Complying with the Legal Requirements

---

## Section Purpose

---

Provide information on the legal requirements of the One-Stop system in service delivery for people with disabilities

---

## Section Contents

---

- A) **One-Stop Systems: Legal Guidelines & Requirements for Serving People with Disabilities:** Discusses the specific legal obligations of the One-Stop system in serving people with disabilities, and the legal rights of people with disabilities in using the One-Stop system
- B) **Policy Brief: *Provisions in the Workforce Investment Act Relating to Nondiscrimination on the Basis Of Disability and the Development by the Governor of a Written Methods of Administration:*** Detailed analysis and excerpts from the Workforce Investment Act Nondiscrimination and Equal Opportunity Regulations pertaining to people with disabilities

---

# One-Stop System: Legal Guidelines & Requirements for Serving People with Disabilities

---

*By David Hoff, Institute for Community Inclusion*

Services and activities provided by the One-Stop system must comply with a number of regulations concerning provision of services for people with disabilities.

- As recipients of federal funds from the U.S. Department of Labor and other federal sources, the One-Stop system and One-Stop Centers must comply with Section 504 of the Rehabilitation Act
- As activities provided or made available by state or local governments, the One-Stop System must comply with Title II of the Americans with Disabilities Act (ADA)
- The One-Stop system must also abide by specific regulations on nondiscrimination and equal opportunity for services provided under the Workforce Investment Act [29 CFR Part 37], which focus not only on services for people with disabilities but address equal opportunity for a wide range of other groups and individuals.

The purpose of this piece is to specifically focus on the legal requirements of the One-Stop system and One-Stop Centers concerning provision of services to people with disabilities, with a general review of the legal requirements. Elsewhere in this section is a Policy Brief, “Provisions in the Workforce Investment Act Relating to Nondiscrimination on the Basis of Disability and the Development by Governor of a Written Methods of Administration” which provides detailed excerpts and interpretation of these regulations.

The Nondiscrimination and Equal Opportunity regulations prohibit One-Stop Systems from discriminating against people with disabilities in the process of hiring One-Stop staff. However, the information contained in this piece focuses only on nondiscrimination and equal opportunity in delivery of services.

***Please note:*** *The information in this section is based on interpretation of various federal regulations and requirements and has undergone a thorough review process. However, it should in no way be interpreted as an official policy document or legal determination. One-Stop systems are advised to discuss specific legal issues with competent counsel.*

## IMPACT OF STATE AND LOCAL LAWS AND REGULATIONS CONCERNING NONDISCRIMINATION

**This piece contains information only on federal laws and regulations. Federal requirements are the baseline standards for nondiscrimination and equal opportunity. State and local laws and regulations may have additional requirements that the One-Stop system must comply with.**

What do the regulations say?

- Need to anticipate needs of people with disabilities: The One-Stop system is required to have anticipated the needs of people with disabilities in the physical design of centers, as well as the design of services. Programs or activities of One-Stop Centers, when viewed in their entirety, must be readily accessible and useable by people with disabilities. What this means is that people with various physical and mental disabilities should be able to go into a One-Stop Center and use many of the available services, without having to make special requests for

accommodations. In addition (as noted below in more detail), individuals do have the right to ask for accommodations to meet their own specific needs. [For information on accommodations, see Section 3.]

- **Cannot refuse to provide services:** A One-Stop Center may not refuse to provide services because the person has a disability. People with disabilities must have opportunities to participate in the programs and services of the One-Stop system that are as effective and meaningful as those provided to people without disabilities.
- **Maximum integration:** People with disabilities must be served in the most integrated setting as possible, in the same programs and services as everyone else, side-by-side with people without disabilities. The law does allow for the development of separate services or programming for people with disabilities, but only when this is deemed necessary to provide a person with a disability with services that are as effective as those provided to others. For example, a One-Stop Center can offer a job seeking skills class for people with disabilities that addresses disability issues.
- **Cannot require participation in separate programs:** Even when separate programs for people with disabilities are permitted, the person with a disability may refuse to participate in the separate program option, and has the right to use the same services that are offered to non-disabled individuals.
- **No unnecessary eligibility standards or rules:** Unnecessary requirements that tend to screen out individuals with disabilities, such as requiring a driver's license as the only acceptable means of identification, or a requirement that individuals must complete intake forms without assistance, are not allowed.
- **No special requirements for people with disabilities:** The One-Stop system may not impose requirements on people with disabilities that are not imposed on others. For example, a One-Stop Center cannot require that a person with disability always be accompanied by a support person, caregiver, or personal assistant.
- **Special benefits are permitted:** The One-Stop system and a One-Stop Center may provide special benefits, beyond those required by regulations, to individuals with disabilities. Examples include such things as additional one-on-one assistance, extra time beyond typical time limits for use of a computer work station, e-mailing or sending job listings to a person's home, etc.
- **Must provide reasonable accommodations:** The One-Stop system and One-Stop Centers must provide reasonable accommodations to customers with disabilities, unless providing the accommodation would cause undue hardship. "Reasonable accommodations" are modifications or adjustments which allow a person with a disability to enjoy the same benefits of services as people without disabilities, such as more intensive staff assistance, provision of a sign-language interpreter, etc.
- **Must make reasonable modifications:** The One-Stop system and One-Stop Centers must also make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination unless making modifications would fundamentally alter the nature of services. For example, it is reasonable to modify a policy that registration materials must be filled out without assistance. However, if a One-Stop Center has a policy that people must work quietly in the resource library, it is not reasonable to make an exception to this policy for a person with a disability.

- **Equally effective communications:** The One-Stop system must ensure that communications with customers and members of the public with disabilities are as effective as communications with others. This means, among other things, providing appropriate auxiliary aids and services when needed (unless it would result in a fundamental alteration in the nature of services or activities).
  - ◆ Auxiliary aids and services include: qualified interpreters, assistive listening headsets, closed and open captioning on videos, telecommunications devices for deaf persons (TDDs and TTYs), computers that allow voice input and output, readers, taped texts, Brailled materials, videotext displays, and transcription services. *For more information on telecommunications and computer accessibility strategies, see Section 3.*
  - ◆ The method or device desired by the customer should be given primary consideration, unless it can be shown that another effective means of communication exists.
  - ◆ The One-Stop system and One-Stop Centers are not required to provide the newest or most advanced technologies as long as the auxiliary aid or service that is selected allows for effective communication.
- **No extra charges:** A One-Stop Center cannot charge a person with a disability a fee to cover the costs of providing accessibility. Examples: a One-Stop cannot charge a person who is deaf for the cost of a sign language interpreter; a person who needs specialized equipment (such as a voice output computer) cannot be charged for the cost of this equipment; if a person with a disability needs additional assistance from center staff in order to have access to One-Stop services, the individual cannot be charged for the extra staff time
- **Procedures for Determination of Limits on Program Accessibility:** If a local One-Stop system believes that it does not need to make facilities or services accessible because it would result in “undue hardship” (fundamental alteration in the nature of the program, or pose undue financial or administrative burdens), the following guidelines should be followed (per federal regulations):
  - ◆ Direct service staff cannot decide that an action which would allow program access by a person with a disability is unfeasible. This decision must be made by a member of senior management. Local One-Stop systems should determine the appropriate official to make such decisions (the Center Director, Chair of the Local Workforce Investment Board, state oversight officials, etc.) and communicate this determination to all staff.
  - ◆ The determination that undue financial burdens would result must be based on all resources available for use in the operation of the One-Stop Center. It is likely that in making this determination, arbitrators and courts would consider the resources of the state’s entire workforce development system, not just the funding available to an individual Center.
  - ◆ If it is determined that an action would result in undue hardship, this decision must be given in writing to the individual or individuals who requested the accommodation. This statement must include the reasons that the accommodation would result in an undue hardship.
  - ◆ The One-Stop Center must consider and take any other actions that would not result in undue hardship, but which would allow maximum access for the person with a disability to the services and programs of the One-Stop system.

- ◆ The view of the United States Department of Justice is that compliance with these program accessibility requirements would not, in most cases, result in undue financial and administrative burdens on a public entity such as a local One-Stop system.
- ◆ When determining that an action to make services accessible is unfeasible, it is recommended that that legal advice be sought from the U.S. Department of Labor Civil Rights Center (USDOL CRC) or other legal sources (see list of resources at the end of this piece).
- Compliance with MOA: Each state’s Governor is required to develop and adhere to a written Methods of Administration (MOA) document that specifies how the state will reasonably guarantee that programs under WIA (including One-Stop Centers) will comply with WIA’s nondiscrimination and equal opportunity provisions. The contents of this MOA are covered by very specific requirements; items include how staff will be trained to ensure equal opportunity, and how the state will monitor WIA programs for compliance. Local One-Stop systems and One-Stop Centers must ensure that they comply with their state’s MOA.
- Requirement to have an Equal Opportunity Officer: Every One-Stop Center must designate an Equal Opportunity Officer, who should be a senior level employee of the One-Stop. Among other responsibilities, the Equal Opportunity Officer:
  - ◆ Serves as a liaison with the U.S. Department of Labor Civil Rights Center [USDOL CRC]
  - ◆ Monitors and investigates the One-Stop’s activities to ensure that the One-Stop is fully compliant with nondiscrimination and equal opportunity requirements
  - ◆ Reviews the One-Stop’s written policies to ensure they are not discriminatory
  - ◆ Develops and publishes the One Stop’s procedures for processing complaints
  - ◆ Reports directly to appropriate officials (including the state WIA director and the Governor’s WIA liaison) about equal opportunity issues
  - ◆ Participates in ongoing training.

### How do the regulations actually impact One-Stop services?

- An individual with a disability who goes to a One-Stop Center must be provided the same orientation, registration, assessment, and any other services that are typically provided, in the same settings as everyone else.
- People with disabilities must be able to use the One-Stop Center library and other resources, and are entitled to receive information in formats and in a way that they can understand. For example, if an individual has dyslexia, information must be conveyed verbally; an individual who is blind, must receive written information in Braille or other format that allows them access to the information.
- People with disabilities are entitled to sign up for any open classes or workshops offered by the One-Stop Center.
- People with disabilities must be given equal consideration for all of the intensive and training services that are offered via the One-Stop system.

### Can a One-Stop Center ask whether an individual has a disability?

A One-Stop may not make unnecessary inquiries into the existence of a disability. One-Stops may ask whether an individual has a disability, but there must be a specific reason for making such an inquiry. . (Note: This is different from the employment provisions of the ADA under Title I, which prohibit employers from asking about the presence of a disability, prior to an offer of employment.) Possible reasons for asking about disability could include:

- to determine if the individual is eligible for special services or funding as a result of the individual's disability
- for data collection purposes as required by the Nondiscrimination and Equal Opportunity regulations
- to ensure that accommodation needs are met so individual can fully benefit from services.

Requests for information concerning the presence of a disability cannot be used as a basis for excluding individuals from receiving services. For more information on this issue, see the piece "Asking About Disability and Respecting Confidentiality" in Section 1.

### What disability statistics are One-Stops required to collect?

Each One-Stop must record the disability status (when known) of every applicant, registrant, terminatee, applicant for employment, and One-Stop employee. This information must be stored in a manner that ensures confidentiality of information about an individual's disability status. Local One-Stop systems and One-Stop Centers must also maintain logs of complaints alleging discrimination.

### Who enforces the equal opportunity regulations?

The Civil Rights Center (CRC) of the U.S. Department of Labor is responsible for administering and enforcing the nondiscrimination and equal opportunity provisions in WIA and the implementing regulations and developing and issuing policies, standards, guidance, and procedures for effecting compliance.

### Who may file complaints of discrimination and how are they filed?

Any person who believes that either he or she, or any specific class of individuals, has been or is being subjected to discrimination may file a written complaint, either personally or through a representative. The complaint may be filed with either the One-Stop's Equal Opportunity Officer or the Director of the USDOL Civil Rights Center. The deadline for filing complaints is 180 days from the time the alleged discriminatory act happened.

## What are the required elements of a One-Stop System's complaint resolution procedures?

At a minimum, complaint resolution procedures must:

- Provide for a notice of final action within 90 days from the date the complaint is filed
- Contain:
  - a) notice that complaint has been received;
  - b) written statement of the issues and whether the One-Stop will accept or reject the issue for investigation
  - c) a period for fact-finding or investigation
  - d) a period for voluntary resolution
  - e) a written notice of final resolution which must include a notice of right to file an appeal with the CRC
- Provide for alternative dispute resolution, such as an impartial mediator.

## Requirements for Outreach and Marketing Targeted to People with Disabilities

As part of its efforts to provide universal access, One-Stops must do outreach and marketing to both the general public and specific populations, including people with disabilities. Examples of outreach noted in the regulations include:

- Advertising the One-Stop system's services in the media
- Sending notices about One-Stop services to schools and community service groups that serve people with disabilities
- Consulting with appropriate service groups (such as community rehabilitation providers, disability agencies, and advocacy groups) to determine how the One-Stop system can improve its outreach and services to people with disabilities and broaden the pool of people using One-Stop services.

## What are a One-Stop's obligations to disseminate its equal opportunity policy?

The One-Stop Center must provide notice that it does not discriminate on any prohibited grounds to:

- Registrants and applicants for services
- Participants in One-Stop system services
- Applicants for employment and employees
- Unions or professional organizations that hold collective bargaining or professional agreements with the One-Stop system
- Sub-recipients or subcontractors that receive WIA Title I funds from the One-Stop system
- Members of the public

This notice must be available in accessible formats, and the One-Stop system must ensure that communication of this policy to people with disabilities is as effective as communication with other people.

The equal opportunity policy notice must contain the following specific wording:

## Equal Opportunity Is the Law

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

- Against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and
- Against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas:

- Deciding who will be admitted, or have access, to any WIA Title I-financially assisted program or activity;
- Providing opportunities in, or treating any person with regard to, such a program or activity; or
- Making employment decisions in the administration of, or in connection with, such a program or activity.

### 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, DC 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.



This notice must also include the Equal Opportunity Officer's name and contact information.

### Where must this notice be published?

At a minimum this notice must be:

- posted prominently in reasonable places where it will be available to customers
- disseminated in internal communications
- included in internal and external handbooks and manuals
- made available to each customer, and made part of each customer's file

### What information concerning equal opportunity must outreach materials include?

The One-Stop Center must indicate that it is an "equal opportunity employer/program" and that "auxiliary aids and services are available upon request to individuals with disabilities" in recruitment brochures and other materials that are ordinarily distributed or communicated in written or oral form. These materials must also indicate the telephone number of the center's TDD/TTY or relay service.

### Resources:

U.S. Dept. of Labor Civil Rights Center Contact Information:

The Director  
Civil Rights Center (CRC)  
U.S. Department of Labor  
200 Constitution Avenue NW, Rm N-4123  
Washington, D.C. 20210  
Phone: (202) 219-8927  
e-mail: CRC-WIA@dol.gov

You can also contact the Civil Rights Officer at your regional USDOL office (locations are listed in government pages of the phone book, and are also available at: [www.dol.gov/dol/opa/public/aboutdol/offices.htm](http://www.dol.gov/dol/opa/public/aboutdol/offices.htm))

U.S. Department of Justice ADA Hotline

Voice: (800) 514-0301  
TTY: (800) 514-0383  
Web site: [www.usdoj.gov/crt/ada/adahom1.htm](http://www.usdoj.gov/crt/ada/adahom1.htm)

Call to obtain answers to both general and technical questions.

*Additional ADA resources are listed in the resource section of this manual*

National Association of Protection and Advocacy Systems  
900 Second Street, NE, Suite 211  
Washington, D.C. 20002

Voice: (202) 408-9514, Fax: (202) 408-9520  
Web site: [www.protectionandadvocacy.com](http://www.protectionandadvocacy.com)

This is the national association for the Protection and Advocacy (P & A) Systems, which are federally mandated to protect the rights of persons with disabilities through legally-based advocacy. Every state and territory has a P & A. To find the P & A in your local area, contact NAPAS or consult the listing on their web site. P & As can help answer questions concerning the ADA and other legal issues for people with disabilities.

**Full text of the WIA Regulations on Nondiscrimination and Equal Opportunity:** *Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998; Final Rule; Part 37 of Title 29 of the Code of Federal Regulations [29 CFR Part 37]; Federal Register, November 12, 1999. Available on-line at: [www.dol.gov/dol/\\_sec/public/regs/fedreg/final/99028202.htm](http://www.dol.gov/dol/_sec/public/regs/fedreg/final/99028202.htm)*

---

## Provisions In The Workforce Investment Act Relating To Nondiscrimination On The Basis Of Disability And The Development By The Governor Of A Written Methods Of Administration

---

*The following material is reproduced from the Institute for Community Inclusion, Center on State Systems and Employment (RRTC), Center on Workforce Investment and Employment Policy (RRTC) publication Policy Brief; Volume 2 Number 3 - March 2000*

### INTRODUCTION

On August 7, 1998 President Clinton signed into law the Workforce Investment Act of 1998 (Public Law 105-220). Hereinafter in this policy brief, Public Law 105-220 will be referred to as “The Act” or “WIA.” Title I of WIA provides assistance to states interested in establishing statewide and local workforce investment systems.

Interim final regulations issued by the Department of Labor on November 12, 1999 [Part 37 of Title 29 of the Code of Federal Regulations, 29 CFR Part 37] implement the nondiscrimination and equal opportunity provisions set out in Section 188 of the Act. Section 188 prohibits discrimination on the grounds of disability as well as race, color, religion, sex, national origin, age, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I financially assisted program or activity. These regulations are modeled on regulations issued under the Job Training Partnership Act.

The purpose of this policy brief is to identify and describe the key provisions in the interim final regulations articulating the nondiscrimination and equal opportunity responsibilities of the Governor, recipients of WIA funds, and programs and activities that are part of the One-stop delivery system and that are operated by One-Stop partners. The focus on the policy brief will be on those provisions specifically addressing nondiscrimination and equal opportunity for persons with disabilities.

Of particular importance is the requirement in the interim final regulations that the Governor develop and maintain a written document called a “Methods of Administration” describing how the state plans on meeting its nondiscrimination and equal opportunity responsibilities. This document must be completed within 180 days of either the date on which the interim final rule is effective (May 6, 2000) or the date on which the Secretary of Labor gives final approval of the state plan, whichever is later.

### GENERAL PROVISIONS

#### What is the Purpose of the Regulation?

The purpose of the interim final regulation is to implement the nondiscrimination and equal opportunity provisions set out in section 188 of WIA. The regulations also provide uniform procedures for implementing these provisions.

#### To whom does this regulation apply?

The regulation applies to any recipient of assistance under Title I of WIA, including state-level agencies that administer, or are financed in whole or in part with WIA Title I funds, state and local workforce investment boards, local WIA grant recipients, One-Stop operators, service providers, and on-the-job training employers. The regulation also applies to programs and

activities that are part of the One-Stop delivery system and that are operated by One-Stop partners to the extent that the programs and activities are being conducted as part of the One-Stop delivery system.

What forms of discrimination do the Act and the implementing regulations prohibit?

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

What specific discriminatory actions based on disability are prohibited by the regulation?

The specific discriminatory actions based on disability follow generally the regulations implementing Title II of the Americans with Disabilities Act. [64 Federal Register 61692, November 12, 1999] Discriminatory actions that are prohibited by the regulation include:

- Denying a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefits, services, or training;
- Affording such an opportunity that is not equal to that afforded others;
- Providing such an opportunity that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
- Providing different, segregated, or separate opportunity to individuals with disabilities or any class of individuals with disabilities, unless such action is necessary to provide qualified individuals with disabilities with an opportunity that is as effective as that provided to others; and
- Otherwise limiting a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others.

In addition, a recipient:

- May not deny a qualified individual with a disability the opportunity to participate in WIA Title I financially assisted programs or activities despite the existence of permissibly separate or different programs or activities.
- Must administer WIA Title I financially assisted programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.
- May not, directly or through contract or other arrangement, use standards, procedures, criteria, or administrative methods that have the purpose or effect of subjecting qualified individuals with disabilities to discrimination or defeating or substantially impairing accomplishment of the objectives of the WIA Title I financially assisted program or activity.
- In the selection of contractors, must not use criteria that subject qualified persons with disabilities to discrimination.
- Must not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and

equally enjoying any aid, benefit, service, training, program, or activity unless such criteria can be shown to be necessary for the provision of the aid, benefit, service, training, program or activity being offered.

- Furthermore, with regard to aid, benefits, services, training, and employment, a recipient must provide reasonable accommodation to qualified individuals with disabilities who are applicants, registrants, participants, employees (or applicants for employment), unless providing the accommodation would cause undue hardship.
- The term “reasonable accommodation” means modifications or adjustments to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, training, or employment; modifications or adjustments that enable a qualified individual with a disability to receive aid, benefits, services, or training equal to that provided to nondisabled individuals or to perform the essential functions of a job; or modifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges as are enjoyed by other similarly situated individuals without disabilities.
- A recipient must also make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination unless making modifications would fundamentally alter the nature of the service, program, or activity.
- In addition, recipients must take appropriate steps to ensure communications with beneficiaries, registrants, applicants, participants and members of the public who are individuals with disabilities are as effective as communications with others. This means, among other things, furnishing appropriate auxiliary aids and services where necessary unless it would result in a fundamental alteration in the nature of a service, program, or activity.

To what extent are employment practices covered by the regulation?

Discrimination is prohibited in employment practices in the administration of, or in connection with the following:

- Any WIA Title I financially assisted program or activity; and
- any program or activity that is part of the One-Stop delivery system and is operated by a One-Stop partner to the extent that the program or activity is being conducted as part of the One-Stop delivery system.

Recipients that are also employers, employment agencies, or other entities covered by Titles I and II of the ADA should be aware of obligations imposed by those titles. This rule does not preempt consistent state and local requirements.

What office in the Department of Labor is responsible for administering this regulation?

The Civil Rights Center, in the Office of the Assistant Secretary for Administration and Management, is responsible for administering and enforcing the nondiscrimination and equal opportunity provisions in WIA and the implementing regulations and for developing and issuing policies, standards, guidance, and procedures for effecting compliance.

## RECORDKEEPING AND OTHER AFFIRMATIVE OBLIGATIONS OF RECIPIENTS

What is the grant applicant's obligation to provide a written assurance of compliance with the nondiscrimination provisions of Section 188 of WIA?

As a condition to the award of financial assistance under Title I of WIA, the grant applicant must assure that it will comply fully with the nondiscrimination and equal opportunity provisions of WIA and other civil rights statutes such as the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

The WIA state plan must provide a statement that WIA Title I assisted programs and activities will be conducted in compliance with these laws and implementing regulations. The state must also certify that it has developed and maintains a Methods of Administration (which is described below).

What are the rules governing the designation and responsibilities of equal opportunity officers?

Every recipient (except small recipients) must designate an equal opportunity officer. A small recipient means a recipient who has fewer than 15 beneficiaries per year and employs fewer than 15 employees. The individual should be a senior level employee of the recipient i.e., the individual should have the requisite education, training, and experience and have authority to direct the equal opportunity effort. The responsibilities of the equal opportunity officer include:

- Serving as a liaison with the Department of Labor's Civil Rights Center;
- Monitoring and investigating the recipient's activities;
- Reviewing the recipient's written policies;
- Developing and publishing the recipient's procedures for processing complaints;
- Reporting directly to appropriate officials (including the state WIA director and the Governor's WIA liaison) about equal opportunities matters;
- Undergoing ongoing training;
- If applicable, overseeing the development and implementation of the recipient's Methods of Administration.

What are a recipient's obligations to disseminate its equal opportunity policy?

A recipient must provide initial and continuing notice that it does not discriminate on any prohibited ground to, among others, registrants, applicants, participants, and employees. During each presentation to orient new participants and new employees, and the general public, a recipient must include a discussion of the rights, including the right to file a complaint, under the nondiscrimination and equal opportunity provisions of WIA.

What are the recipient's responsibilities to collect and maintain data and other information?

Each recipient must record the disability status (where known) of every applicant, registrant, terminee, applicant for employment, and employee. This information must be stored in a manner ensuring confidentiality. Recipients must also maintain logs of complaints alleging discrimination. The most important purposes of the equal opportunity data and information collection and maintenance system are to assist the CRC and those assigned by the state in monitoring performance by recipients, identifying instances or areas of discrimination and identifying individuals or groups of individuals who have been discriminated against. A vital element of a system is the ability for the reviewer to correlate aggregate data to individual records.

What are a recipient's responsibilities under the regulation regarding the provision of universal access to WIA Title I financially assisted core services?

Recipient's responsibilities include:

- Advertising the recipient's program in the media;
- Sending notices to schools and community service groups that serve various populations; and
- Consulting with appropriate service groups about ways in which the recipient may improve its outreach and service to various populations to broaden the pool of those considered for participation in One-Stops and other WIA-assisted programs and activities.

#### GOVERNOR'S RESPONSIBILITIES TO IMPLEMENT THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF WIA

What are the Governor's Oversight Responsibilities?

The Governor is responsible for oversight of all WIA Title I financially assisted state programs. This responsibility includes ensuring compliance with the nondiscrimination and equal opportunity provisions.

To what extent may a Governor be liable for the actions of a recipient he or she has financially assisted under WIA Title I?

The Governor is jointly and severally liable for all violations of the nondiscrimination and equal opportunity provisions by recipients unless the Governor:

- Established and adhered to a Methods of Administration (see below);
- Entered into a contract with the recipient that clearly establishes the recipient's responsibilities;
- Acted with due diligence to monitor the recipient's compliance;
- Took prompt and appropriate corrective action to effect compliance.

What are a Governor's oversight responsibilities regarding recipients' recordkeeping?

The Governor must ensure that recipients collect and maintain prescribed records in an appropriate manner.

What are a Governor's responsibilities to develop and maintain a Methods of Administration?

Each Governor must establish and adhere to a Methods of Administration (MOA) for state programs under WIA Title I. The MOA must be designed to give reasonable guarantee that all recipients will comply and are complying with the nondiscrimination and equal opportunity provisions of WIA and the implementing regulations. The MOA must be in writing (with narrative and documentation), reviewed and updated periodically (at least every two years), and signed by the Governor.

At a minimum, each Methods of Administration must:

- Describe how the state programs and recipients have satisfied the requirements concerning:
  - assurances,
  - equal opportunity officers,
  - notice and communication,
  - data and information collection and maintenance,
  - universal access,
  - Governor's oversight responsibilities regarding recipient recordkeeping, and
  - complaint processing procedures;

- Include a system for determining whether a grant applicant or service provider is likely to conduct its programs and activities in a nondiscriminatory way;
- Include a system for periodically monitoring the compliance of recipients which must include—a statistical or other quantifiable analysis of records and data, an investigation of any significant differences identified, and an assessment to determine whether the recipient has fulfilled its administrative obligations (e.g., assurances, equal opportunity officers, notice and communication, data and information collection and maintenance, universal access, and complaint processing procedures) and any duties assigned to it under the MOA (e.g., monitoring, sanctions and corrective actions, and policy development, communication and training);
- Include a review of recipient policy issuances to ensure they are nondiscriminatory;
- Include a system for reviewing recipient’s job training contracts and other similar agreements to ensure that they are nondiscriminatory and contain required language;
- Include procedures for ensuring that recipients comply with section 504 of the Rehabilitation Act (e.g., provide reasonable accommodation, reasonable modifications to policies and procedures, program and architectural accessibility, administering the program in the most integrated setting appropriate, and ensuring effective communication);
- Include a system of policy communication and training to ensure that personnel are aware of and can effectively carry out these responsibilities;
- Include procedures for obtaining prompt corrective action (including in the case of a finding of discrimination, procedures for retroactive relief— e.g., back pay, and prospective relief— e.g., training, policy development and communication— to ensure that the discrimination does not recur), or, as necessary, applying sanctions when noncompliance is found; and
- Include supporting documentation to show that the commitments made in the Methods of Administration have been and or are being carried out, including—policy and procedural issuances, copies of monitoring instruments and instructions, evidence that nondiscrimination and equal opportunity policies have been developed and communicated, information reflecting the extent of training, reports of monitoring reviews and reports of follow-up actions taken (e.g., use of sanctions), and copies of any notices made.

When must the Governor carry out his or her obligations with regard to the Methods of Administration?

The Methods of Administration must be completed within 180 days of either the date on which the interim final rule is effective (May 6, 2000) or the date on which the Secretary of Labor gives final approval of the state plan, whichever is later.

### COMPLIANCE PROCEDURES (INCLUDING COMPLAINT RESOLUTION PROCEDURES)

How does the Director of the Civil Rights Center, Department of Labor, evaluate compliance with the nondiscrimination and equal opportunity provisions in WIA and the implementing regulations?

The Director may conduct pre-approval compliance reviews of grant applicants and post-approval compliance reviews of recipients. The Director may also investigate and resolve complaints. Further, the Director may periodically review the adequacy of the Methods of Administration as well as the adequacy of the Governor’s performance under the MOA.

Who may file a complaint and with whom?

Any person who believes that either he or she, or any specific class of individuals, has been or is being subjected to discrimination may file a written complaint, either by him/herself or through a representative. The complaint may be filed with either the recipient or the Director of the Civil Rights Center.

What are the required elements of a recipient's complaint resolution procedures?

At a minimum, procedures must:

- Provide for a notice of final action within 90 days from the date the complaint is filed;
- Contain specified elements (e.g., notice that complaint has been received, written statement of issues and whether recipient will accept or reject the issue for investigation, period for fact-finding or investigation, period for voluntary resolution, and a written notice of final resolution which must include a notice of right to file an appeal with the CRC); and
- Provide for alternative dispute resolution.

Are there any circumstances in which the Director will send a complaint to another authority?

Yes. Where a case involves an allegation of employment discrimination under the ADA, the Director may refer the complaint to the Equal Employment Opportunity Commission.

Where the complaint alleges discrimination by an entity that operates a program or activity financially assisted by a grantmaking agency other than the Department of Labor, but that participates as a partner in a One-Stop delivery system, the Civil Rights Center in DOL and the Office for Civil Rights in the grantmaking agency (e.g., the Department of Education where the partner is the state vocational rehabilitation agency) will have dual jurisdiction over the complaint. Under these circumstances, the Director of the Civil Rights Center will refer the complaint to the grantmaking agency for processing.

According to the preamble to the interim final regulations, local workforce investment boards, when developing and entering into memoranda of understanding with One-Stop partners should include attention to equal opportunity issues that may affect the One-Stop partners or the delivery system. Such issues include how discrimination complaints will be handled and how the cost of reasonable accommodations will be shared. [64 FR 61697, November 12, 1999]

If the Director concludes that compliance cannot be secured by voluntary means what actions must he or she take? [29 CFR 37.99]

If the Director concludes that compliance cannot be secured by voluntary means, he or she must either issue a final determination (which could result in withholding in whole or in part of WIA Title I funds), refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted, or take such other action as may be provided by law.

*This policy brief was written by Robert Silverstein of The Center for the Study and Advancement of Disability Policy (CSADP). The CSADP is a partner of the Rehabilitation Research and Training Center on State Systems and Employment at the Institute for Community Inclusion/UAP (#H133B30067), and the Rehabilitation Research and Training Center on Workforce Investment and Employment Policy at Community Options, Inc. (#H133B980042). The Centers are funded, in part, by the National Institute on Disability and Rehabilitation Research (NIDRR) of the US Department of Education. CSADP's work related to work incentives is funded, in part, by the Robert Wood Johnson Foundation. The opinions contained in this publication are those of the grantees and do not necessarily reflect those of the US Department of Education or the Robert Wood Johnson Foundation.*

*For more information on this study, please contact Robert Silverstein at (202) 223-5340 or bobby@csadp.org.*