



**SAN JOAQUIN COUNTY
 EMPLOYMENT AND ECONOMIC DEVELOPMENT DEPARTMENT
 POLICIES AND PROCEDURES DIRECTIVE**

DIRECTIVE NO.	EFFECTIVE DATE	APPLICABILITY	PAGE
24-12	September 24, 2024	Departmental	1 of 6
SUBJECT: NONDISCRIMINATION AND EQUAL OPPORTUNITY			

I. PURPOSE

The purpose of this directive is to provide general guidance on the implementation of the nondiscrimination and equal opportunity provisions in [Section 188 of the Workforce Innovation and Opportunity Act \(WIOA\)](#) and [Title 29 Code of Federal Regulations \(CFR\) Part 38](#) that prohibit discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries' only, citizen or participation in a WIOA Title I financially assisted program or activity.

II. GENERAL INFORMATION

The nondiscrimination and equal opportunity provisions found in Section 188 of WIOA and 29 CFR Part 38 prohibit discrimination on the basis of race; color; religion; sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity); national origin (including LEP); age; disability; political affiliation or belief; or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title I-financially assisted program or activity.

The Nondiscrimination Plan outlined in [WSD17-01](#) contains compliance requirements for programs and activities of the America's Job Center of California (AJCC) delivery system. Along with it, is a system that must be implemented to ensure that all contracts, cooperative agreements, job training plans, including the policies and procedures "comply fully with the nondiscrimination and equal opportunity provisions of WIOA" and acknowledge the government's right to seek judicial enforcement of the nondiscrimination assurance.

This PPD supersedes PPD D-9 Nondiscrimination and Equal Opportunity Universal Access, dated January 1, 2018.

References

- [WIOA Public Law 113-128, Section 188](#)
- [Title 29, CFR, Part 38](#)
- [Workforce Services Directive WSD17-01, Nondiscrimination and Equal Opportunity Procedures](#)

Definitions

Complaint - an allegation of a violation of the nondiscrimination and equal opportunity provisions.

Recipient - any entity to which financial assistance under WIOA Title I is extended, either directly from the Department of Labor (DOL) or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIOA Title I funded program or activity. In addition, One-Stop partners, as defined in Section 121(b) of the WIOA, are treated as “recipients” and are subject to the nondiscrimination and equal opportunity requirements of [Title 29 CFR Part 38](#), to the extent that they participate in the One-Stop delivery system.

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

III. POLICY

As required in [Title 29 CFR Section 38](#), it will be the policy of EEDD that all WIOA Adult, Dislocated Worker and Youth program recipients will take appropriate steps to ensure universal access to WIOA Title I financially assisted programs and activities.

This policy is based on EEDD interpretation of WIOA law and subsequent federal, state, and local laws, regulations, and policies and will be reviewed and updated based on any additional federal or state guidance.

IV. PROCEDURE

A. Ensuring Universal Access to WIOA Programs

As required by [Title 29 CFR Section 38](#), recipients must take appropriate steps to ensure universal access to WIOA Title I financially assisted programs and activities by doing the following:

1. Implementing an outreach and recruitment plan to solicit participation of all potentially WIOA Title I eligible reportable individuals in the entire locale.
2. Creating an outreach and recruitment plan that will reach specific target populations through media, schools, and community services groups.

3. Considering a pool of individuals for participation that includes members of both sexes, various racial and ethnic groups, and individuals with disabilities.
4. Establishing a hiring and eligibility process that is accessible to qualified individuals with disabilities.
5. Utilizing facilities designed to provide reasonable access to individuals with disabilities in the following areas: training, job structure, work schedule, work procedure, and work equipment and auxiliary aids accommodations.
6. Utilizing posters and/or literature as alternative informational format.
7. Utilizing websites and virtual services as an alternative informational format.
8. Contracts, cooperative agreements, and job training plans must contain the nondiscrimination assurances specified in [29 CFR 38.25](#) and [29 CFR 38.26](#).

B. Equal Opportunity Officer

EEDD will designate an EO Officer who will be responsible for coordinating our obligations under these regulations.

The EO Officer's responsibilities include the following:

- Serving as the liaison with the EDD EEO Office.
- Investigating and monitoring the Local Area's and its subrecipients' WIOA Title I funded activities and programs.
- Reviewing the Local Area's organizations and its subrecipients' written policies.
- Developing, publishing, and enforcing the Local Area's discrimination complaint procedures (See Attachment 1: EO Officer Process Plan).
- Conducting outreach and education about equal opportunity and nondiscrimination requirements consistent with [29 CFR Section 38.40](#), and how an individual may file a complaint consistent with [29 CFR Section 38.69](#).
- Participating in continuing training and education and ensuring that assigned staff receives the necessary training and support to maintain competency.
- Informing participants, employees, and program beneficiaries of their equal opportunity rights and responsibilities, and how the discrimination complaint process works.

C. Discrimination Notices

EEDD will display the *Equal Opportunity is the Law* and *What to Do if You Believe You Have Experienced Discrimination* notices.

The notice must meet the following criteria:

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

D. Data and Information Collection and Maintenance

Nondiscrimination data and information must be collected and maintained. This data must include, but is not limited to records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Each recipient must record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, participant, terminee, applicant for employment, and employee. This information must be kept for no less than three years from the close of the applicable program year.

This data is to be used for only the following purposes:

- Recordkeeping and reporting.
- Determining eligibility, where appropriate, for WIOA Title I-financially assisted programs or activities.
- Determining the extent to which the recipient is operating its WIOA Title I-financially assisted program or activity in a nondiscriminatory manner.
- Other uses authorized by law.

Any medical or disability related information must be collected in a separate form. This information must be maintained in separate files, apart from any other information about the individual, and treated as confidential.

E. Local Area Complaint Log

EEDD must notify the state when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical

conditions, transgender status, and gender identity), national origin (including LEP), age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in a WIOA Title I-financially assisted program or activity.

There must be a log of complaints filed that allege discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIOA Title I financially assisted program or activity. The log must include the following:

- The name and address of the complainant.
- The basis of the complaint.
- A description of the complaint.
- The date the complaint was filed.
- The disposition and date of disposition of the complaint.
- Other pertinent information.

F. Complaint Processing Procedures

Any person who believes that they have been or are being subjected to discrimination prohibited by the nondiscrimination and equal opportunity provisions of the WIOA may file a written complaint by using the Discrimination Complaint Form (Attachment 2). The complaint should be filed with the Equal Opportunity Officer or directly with the CRC at DOL. The complaint must be filed within 180 days of the alleged discrimination.

All complaints must include the following information:

- The complainant's name, address, or other means of contacting him or her.
- Identity of the respondent.
- A description of the complainant's allegation(s) in sufficient detail to allow the CRC or EO Officer, as applicable, to determine whether (1) the CRC or EEDD has jurisdiction over the complaint, (2) the complaint was filed timely, and (3) the complaint has apparent merit (i.e., whether the allegation(s), if true, would violate any of the nondiscrimination and equal opportunity provisions of the WIOA).
- The signature of the complainant or his or her authorized representative.

The complainant must be offered an Alternative Dispute Resolution (ADR) upon receipt of the complaint. The choice whether to use ADR rests with the complainant. The preferred form of ADR is mediation.

A Notice of Final Action must be issued within 90 days of the date the complaint was filed. If the decision is not acceptable to the complainant, the complainant or their representative may file a complaint with the CRC within 30 days after the date on which they received the Notice.

The EO Officer shall ensure that all parties involved are given due process which includes the following:

- A notice to all parties of the specific charges
- A notice to all parties of the responses to the allegations
- The right of both parties to representation
- The right of each party to present evidence, and to question others who present evidence
- A decision made strictly on the evidence on the record

V. QUESTIONS REGARDING THIS DIRECTIVE

May be referred to the Executive Director EEDD via Managers or designee.

VI. UPDATE RESPONSIBILITY

The Executive Director of EEDD and/or designee will be responsible for updating this directive, as appropriate.

VII. APPROVED



PATRICIA VIRGEN
EXECUTIVE DIRECTOR

PV/jl

Attachment 1: Equal Opportunity Officer Process Plan
Attachment 2: Discrimination Complaint Form

Equal Opportunity Officer Process Plan

1. The Equal Opportunity Officer (EOO) will be designated by the EEDD administrator. The EOO is responsible for the coordination of the obligations under the “Nondiscrimination and Equal Opportunity” and “Grievance and Complaint Procedures” PPDs. The EOO will coordinate the handling of complaints and will communicate the Equal Opportunity policies and procedures to staff. If the EOO staff changes send an email to eeomail@edd.ca.gov and the Regional Advisor.
2. EOO maintains a Local Area Complaint Log. The complaint log is made available to EDD upon request. EOO also notifies EDD if there are any lawsuits or administrative enforcement actions. Send an email to eeomail@edd.ca.gov and our Regional Advisor.
3. EOO will refer to the WSD17-01 State Directive, and EEDD’s internal policies on equal opportunity, and grievance procedures for details on handling complaints.
4. If a complaint comes in from a complainant or a representative making the complaint for an individual, via email, voicemail, or in person, the EOO will obtain the contact information of the complainant and provide them with the grievance complaint form. The complainant will complete and return the form as soon as possible. Complaints regarding discrimination must be submitted within 180 days from the incident. The complainant must include the resolution they are seeking on the form. The complainant can also file directly with the CRC as noted on the EO notice that is included with this attachment.
5. The complainant must be offered an Alternative Dispute Resolution (ADR), which is an option to settle the complaint through mediation. This is the preferred method of handling complaints. The ADR is on the complaint form.
6. Upon receipt of the complaint form, the EOO reviews to determine if the complaint has merit and that it was received by the deadline. If so the EOO sends a notice to the complainant that starts the informal investigation. A copy of the notice is sent to any staff that is mentioned on the complaint and their manager. If no one specific is named on the complaint, the notice is sent to the department manager.
7. The informal process consists of:
 - a. Interviewing the complainant, witnesses, and anyone named specifically on the complaint.
 - b. Compiling all the information and keeping the notes secured.
 - c. Resolution is determined and a Final Determination letter is sent to all involved. Additionally, the EOO Office and the Regional EDD Advisor is sent a copy of the complaint and final determination.

- d. Final Determination must be distributed within 90 days of receipt of the complaint.
 - e. The complainant has 30 days to send their objection (if any) to the CRC upon receipt of the Final Determination.
8. EOO will ensure that Equal Opportunity Notices are prominently displayed in the Centers, and that staff are aware of the process for complaints.
 9. EOO ensures that the items listed on the Section 188 Checklist are being completed.
 10. EOO is available to answer questions about any Non-Discrimination and Equal Opportunity concerns.

4. Tell Us About the Incident(s)

- Explain briefly what happened and how you were discriminated against.
- Provide the date(s) when the incident(s) occurred.
- Indicate who discriminated against you. Include names and titles if possible.
- If other people were treated differently than you, tell us how they were treated differently.
- Attach any documents that you think might help us better understand your complaint.

5. Please List Below Any Person(s) (Witnesses) That We May Contact for Additional Information to Support or Clarify the Complaint.

Name	Address	Phone

6. Basis for the Discrimination

Check the type of discrimination you experienced, such as age, race, color, national origin, disability, etc. If you believe more than one basis was involved, you may check more than one box.

- | | |
|--|---|
| <input type="checkbox"/> Age - provide date of birth: | <input type="checkbox"/> Citizenship |
| <input type="checkbox"/> Color | <input type="checkbox"/> Disability |
| <input type="checkbox"/> National Origin (Including limited English proficiency) | <input type="checkbox"/> Religion |
| <input type="checkbox"/> Retaliation | <input type="checkbox"/> Harassment |
| <input type="checkbox"/> Gender - Specify <input type="checkbox"/> F <input type="checkbox"/> M | <input type="checkbox"/> Sex (including including pregnancy, childbirth, or related medical conditions, gender identity, and transgender status) |
| <input type="checkbox"/> Race - indicate race: | <input type="checkbox"/> Status as a program participant under the <i>Workforce Innovation Opportunity Act</i> |
| <input type="checkbox"/> Political Affiliation or Belief | <input type="checkbox"/> Other (Specify): |

7. Have You Previously Filed a Complaint Against this Person(s)/Entity? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If YES, answer the questions below, if NO move to section 8.	
a. Was your complaint in writing?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b. On what date did you file the complaint?	
c. Name of office where you filed your complaint:	
Address: _____	
City: _____	State: _____ ZIP Code: _____
Phone number: () -	
Contact person (if known): _____	
d. Have you been provided a final decision or report?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If you marked "YES", please attach a copy of the complaint.	

8. What Corrective Action or Remedy Do You Seek? Please Explain.

9. Choosing a Personal Representative	
<ul style="list-style-type: none"> ▪ You may choose to have someone else represent you in dealing with this complaint. It may be a relative, friend, union representative, an attorney, or someone else. ▪ If you choose to appoint someone to represent you, all of our communication to you will be routed through your representative. 	
Do you want to authorize a personal representative to handle this complaint?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If YES, complete the section below. If NO, go to Section 10.	
AUTHORIZATION OF PERSONAL REPRESENTATIVE	
I wish to authorize the individual identified below to act on my behalf as my personal representative, in matters such as mediation, settlement conferences, or investigations regarding this complaint.	
Name: _____	
<input type="checkbox"/> I am an attorney representing the complainant. <input type="checkbox"/> I am not an attorney representing the complainant.	
Mailing Address: _____	
City: _____	State: _____ Zip Code: _____
Phone : () -	Fax: () -
Email: _____	

10. Alternate Dispute Resolution (ADR) Also Known as Mediation

Notice—You must indicate if you wish to mediate your case. The Local Area Workforce Development Area cannot begin to process your complaint until you have made a selection. Please check **YES** or **NO** in the spaces below.

- Mediation is an alternative to having your complaint investigated.
- Neither party loses anything by mediating.
- The parties to the complaint review the facts, discuss opinions about the facts, and strive for an agreement that is satisfactory for both.
 - Agreement to mediate is not an admission of guilt by the person(s)/entity that you claim discriminated against you.
 - Mediation is conducted by a trained, qualified and impartial mediator.
 - You (or your Personal Representative) have control to negotiate a satisfactory agreement.
 - **Terms of the agreement are signed by the complainant and the person(s)/entity that you claim discriminated against you.**
 - **Agreements are legally binding on both parties.**
 - If an agreement is not reached, a formal investigation will start.
 - Failure to keep an agreement will result in a formal investigation.
 - A formal investigation will be opened if retaliation is reported.
- **Do you wish to mediate your complaint?**
(Please check only one box)

YES, I want to mediate. **NO**, please investigate.

If you select “YES” you will be contacted within five business days with more information.

11. Complainant Signature

Your signature on this form will initiate the processing of this complaint. By signing this form, you are declaring under penalty of perjury that the information included is true and correct to the best of your knowledge of belief.

Signature:

Date: