

STATE OF NORTH CAROLINA
WORKFORCE INVESTMENT ACT
METHODS OF ADMINISTRATION
EQUAL OPPORTUNITY POLICY

Workforce Investment Act Equal Opportunity Officer
Warren M. Perry, Field Services Section Chief
313 Chapanoke Road, Suite 120; 4316 Mail Service Center
Raleigh, North Carolina 27699-4316
Telephone Number: (919) 329-5242
1-800-735-2962 (TT); 1-800-735-8262 (Voice)

1. Designation of State and Local-Level Equal Opportunity (EO) Officer

The Division of Employment and Training (DET) within the Department of Commerce has been designated by the Governor of North Carolina as the administrative entity and recipient of Workforce Investment Act (WIA) Title I funds for the State, as promulgated by the Workforce Investment Act of 1998. The Director of the Division of Employment and Training has designated Warren M. Perry, Employment and Training Unit Supervisor, as the Equal Opportunity Officer with the responsibility and authority to ensure compliance with Equal Opportunity (EO) laws and regulations. The Equal Opportunity Officer is a senior-level employee who reports directly to the Division of Employment Training's Director, Thomas J. White. In addition the EO Officer is a part of the management team that meets on a regular basis. The Director for the Civil Rights Center (CRC) shall be notified in writing by the Director of the Division of Employment and Training if a change occurs in this designation. This notification will be given immediately upon knowledge of such change. The Equal Opportunity Officer may be contacted at 313 Chapanoke Road, Suite 120, 4316 Mail Service Center, Raleigh, North Carolina 27699-4316. The telephone number is (919) 329-5242 (Relay numbers are 1-800-735-2962 (TT) and 1-800-735-8262 (Voice). The E-mail address is wperry@nccommerce.com. The identity and information concerning the EO Officer is distributed internally and externally along with the State Equal Opportunity Policy.

The EO Officer will be the State's contact to handle request from CRC and to seek guidance when required. The EO Officer is responsible for overseeing the development and implementation of the State's MOA. This is accomplished by working primarily with CRC and Local Area (LA) EO Officers. The EO Officer will participate in management meetings, committees, work groups, etc to ensure that all existing and developing State policies and procedures are in compliance with equal opportunity nondiscriminatory laws.

The EO Officer develops State procedures for processing discrimination complaints under WIA Title I activities and monitor them as required under 29 CFR Part 37. These procedures are published under the State's Division of Employment and Training website and mailed to each LA and subrecipient. These procedures are also discussed during scheduled equal opportunity training sessions with LAs and other subrecipients.

The Equal Opportunity Officer is responsible for monitoring and investigating the State's equal opportunity activities. State activities will be monitored continuously on a daily basis through observation and interaction with staff. The Equal Opportunity Officer is also responsible for monitoring the activities of the agencies that receive WIA Title I funds from the State, to make sure that the State's subrecipients are not violating their nondiscrimination and equal opportunity obligations under WIA Title I and 29 CFR Part 37. The EO Officer, with the assistance of program monitors, will schedule annual on-site visits to

each LA and subrecipient to review their compliance with WIA Title I, State, and local equal opportunity requirements. In addition, reviews will be performed on LAs and subrecipients that exhibit difficulty in maintaining compliance with equal opportunity requirements.

The Equal Opportunity Officer and his staff shall undergo training, at the State's expense, to maintain competency if required to do so by the Director of the Civil Rights Center. Whether or not required by the Director of the Civil Rights Center, the Equal Opportunity Officer and his staff will receive training on a regular basis to maintain competency with equal opportunity laws.

The Equal Opportunity Officer has one Administrative Officer, three Employment and Training Specialist I's and one Program Assistant V staff members which assist him in performing the Workforce Investment Act Equal Opportunity Policy for the Division. The Equal Opportunity Officer directly supervises these staff members. The Department of Commerce Equal Opportunity staff assists the Division of Employment and Training in compliance with equal opportunity laws. The EO Officer has twenty years of experience in employment and training equal opportunity laws and regulations. The EO Officer has attended the Civil Rights Center's workshops and conferences in the past and shall continue to attend training sessions in the future. The EO Officer and staff have and will continue to attend State sponsored EO training to keep abreast of changes and new developments.

2. Notice and Communication

The Equal Opportunity Officer will take a pro-active approach in communicating the Equal Opportunity Policy, assuring the widest possible dissemination and assuring that all Division staff receives training in the Equal Opportunity Policy. The EO Officer will disseminate the Equal Opportunity Policy within 180 days of full implementation of the State's Workforce Investment Act Title I program. The EO Officer will develop the poster (notice) and ensure that they respond promptly in reasonable numbers and places. The EO Officer shall, at a minimum, include in all internal and external publications and broadcasts, the phrase "equal opportunity employer/program," and that "auxiliary aids and services are available upon request to individuals with disabilities." Recruitment brochures and other materials that are ordinarily distributed or communicated in written or oral form, or electronically and/or on paper to staff or the public at large will include this same statement. Where a telephone number is included on the materials, they will indicate a TDD number or provide for an equally effective means of communication. North Carolina's current relay numbers are 1-800-735-2962 (TT) and 1-800-735-8262 (voice).

LAs and other subrecipients shall post the notice in prominent places and in reasonable numbers. Notices shall be put in WIA five-year strategic plans, all Joblink Centers in conspicuous places in or near the entrance of the

facilities, LA Requests for Proposals, LA personnel manual, etc., and upon successful application for WIA services, individuals shall be provided a written copy of such policy. A copy of the notice shall be signed by the participant and placed in each participant file or where files are maintained electronically. The State is coordinating with the State's Division of Vocational Rehabilitation in developing the notice in braille for certain individuals with disabilities. In addition, LAs are required to seek guidance from local Services for the Blind agencies. The LA and other subrecipients must specify how this requirement is being met and how it will continue to be met.

Information in language other than English shall be developed in areas where that language represents a 5% or more share of the spoken language. The State, in keeping with 29 CFR Part 37.35, has identified the Hispanic/Latino community as the language area that is most likely to exceed the 5% or more share of the spoken language within a LA. The State is working with the North Carolina Office of the Governor Hispanic/Latino Affairs to assess the language need within each county of the Hispanic/Latino community. LAs shall work with local Hispanic/Latino group to ensure that communications with Hispanic/Latino are as effective as communication with others. They will also address the possibility of participating in a "Spanish in the Workplace" class for WIA-funded employees, as well as other employees. Using computer programs to translate English into Spanish and developing a cross-cultural council is another area in which research is being done.

The EO Officer shall inform new employees of their equal opportunity rights under WIA Title I. LAs and other subrecipients shall be trained in group and individual sessions on a continuous basis. Steps shall be taken to ensure that communications with individual with disabilities are as effective as communications with others.

3. Review assurances, job training plans, contracts, and policies and procedures

Each grant administration agreement for application for financial assistance under Title I of WIA shall include the following assurance:

As a condition to the award of financial assistance from the Department of Labor under Title I of WIA, the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

Section 188 of the Workforce Investment Act of 1998 (WIA), 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 belief, and against beneficiaries on the basis of either citizenship/status

as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I-financially assisted program or activity;

Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin;

Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant applicant also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIA Title I-financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

Each grant applicant and each training provider seeking eligibility further assures that it is able to provide programmatic and architectural accessibility for individuals with disabilities.

The State's Grant Administration Agreement requires LAs and other subrecipients to incorporate these requirements by reference in their contracts, the contracts of their subrecipients, and such other arrangements. Where the WIA Title I financial assistance is intended to provide, or is in the form of, either personal property, real property, structures on real property, or interest in any such property or structures, the assurance will obligate the State and its LAs/subrecipients as appropriate. In case of a subsequent transfer, the transferee of such property, structures, etc. shall also be obligated to such assurances. The assurance will obligate the State, LA, other subrecipients, and transferees for the period during which WIA Title I financial assistance is extended. The State shall monitor grant applicant for compliance with these assurances doing the annual on-site review. An inventory of property is conducted during annual on-site reviews.

4. Universal Access

The Equal Opportunity Officer shall require all grant applicants 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. Such efforts shall include a close working relationship including mutual customer referral procedures with local agencies that routinely serve these populations. These organizations include, but are not limited to, Pro-Familia, and Telamon Corporation to reach Latino families, community service organizations and local youth agencies.

Outreach efforts may include, but are not limited to: (1) advertising the programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations such as minority colleges/universities; (2) sending notices about openings in programs and/or activities to schools or community service groups that serve various populations; and (3) consulting with appropriate community service groups about ways to improve outreach and service to various populations. These service groups include minority newspapers, local Joblink Centers, homeless shelters, public housing community centers, public schools, adult education sites, local community colleges, and English as a Second Language (ESL) classes, etc. Focus group surveys and feedback shall be used to determine if services are responsive to the needs of the community.

The Strategic Five-Year State Plan establishes veterans as participants to receive priority services beyond the self-service phase. All other criteria that will be used for determining priority of services for participants beyond the self-service phase will be decided at the local level when insufficient funds exist to serve all participants beyond the self-service phase.

Through annual monitoring review of outreach efforts, the focus of the State is to determine whether all reasonable efforts have been made to reach specified groups. If participation has not increased and it is determined that outreach efforts have been insufficient, LAs shall receive written guidance with a requirement to submit a written plan to address the deficiency.

The Equal Opportunity Officer shall monitor and evaluate the success of grant applicant efforts to broaden the composition of those considered for participation and employment in their programs and activities as described above on an ongoing basis.

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

In accordance with regulations implementing section 504 of the Rehabilitation Act of 1973, as amended, the Division of Employment and Training will ensure that each program or activity, when viewed in its entirety is readily accessible to

qualified persons with disabilities. The Administrative Officer review to determine whether services are denied and why services were denied to determine if any pattern of discrimination exists. The Division will periodically analyze policies and practices to determine the level of accessibility and compliance with section 504 of the Rehabilitation Act of 1973, as amended.

The Americans with Disabilities Act (ADA) mandates State and local governments give civil rights protection to individuals with disabilities that are like those provided to individuals on the basis of race, sex, national origin, and religion. The law also guarantees equal opportunity for individuals with disabilities in employment, public accommodation, transportation, State and local government services and telecommunications.

As outlined in ADA, the Division of Employment and Training will adhere to the following provisions through periodic EO compliance reviews:

Make reasonable accommodations, procure auxiliary aids and make reasonable modifications when the modifications are necessary to avoid discrimination on the basis of disability for qualified applicants or employees;

Protect qualified persons with disabilities who can perform the essential functions of the job with or without reasonable accommodation;

Protect individuals with a history of disabilities and those assumed to have a disability;

Prohibit discrimination against people with disabilities in all employment practices including recruitment, hiring, training, job assignment, pay, layoffs, firing, promotions, leave, benefits, and all other employment-related activities.

When necessary, seek professional consultation from outside resources such as the Office of the Americans with Disabilities Act, the Governor's Advocacy Council for Persons with Disabilities and North Carolina Vocational Rehabilitation to ensure that job qualifications do not discriminate on the basis of disability.

The Division of Employment and Training has ensured that all its buildings, programs and activities are physically and programmatically accessible to individuals with disabilities in the most integrated setting possible. The Division will further ensure that 1) pre-employment/employment medical inquiries are limited to those permitted by and in accordance laws and regulations, 2) the confidentiality of medical information provided by registrants, applicants, eligible applicants or registrants, participants, employees, and applicants for employment, 3) communications with persons with disabilities are as effective as with others, and 4) that reasonable modification of policies, practices and procedures will be provided.

The State will review all complaints and grievances. Those involving individuals with know disabilities will be reviewed for compliance section 504 of the Rehabilitation Act of 1973. Where violations can be substantiated, the State will impose tighter control and oversight and, when applicable, corrective actions/sanctions.

During monitoring visits, interviews will be held with a sampling of participants. Individuals with disabilities will be encouraged to voice concerns regarding activity accessibility both architectural and programmatic. Aids, benefits, training, and employment provided these individuals would be examined. If individuals with disabilities are found to be receiving fewer services, aids, or benefits or are achieving at a lesser capacity than non-disabled individuals, the State will investigate and require reporting on compliance from the guilty agency to ensure that changes immediately occur.

When violation of this section is found, the guilty party will be required to provide reasonable modification of policies, practices and procedures for individuals with disabilities as well as architectural standards. Exceptions would be limited to those able to substantiate that such modifications would fundamentally alter the nature or the service, program or activity. Even so, the guilty party would have the burden of proof as specified in the fundamental alteration. The State will communicate with affected individuals with disabilities to determine whether reasonable accommodations have been made. Where no method is found to accommodate individuals with disabilities to a training facility without significant alteration to the training facility, participants may be referred to other providers whose services are accessible.

Where applicable, job descriptions will be reviewed. If found that job qualifications would tend to exclude individuals with disabilities because of their disabilities, the affective party will be required to present evidence that the qualification is related to the specific job or jobs. In addition, the interview questions will be reviewed to ensure that pre-employment questions regarding disability may only be those to determine the applicant's ability to perform job-related functions.

During monitoring files will be checked to ensure that medical examinations are not required prior to job offers unless the requirements of 29 CFR Part 32.15 are met. Medical information provided by registrants, applicants, eligible applicant/registrants, participants, terminees, employees and applicants for employment would be maintained in separate files on separate forms. Only persons with a need to know will be privy to the information as outlined in 32.15 (d) (1), (2), (3), and (4). The State will diligently review policies, practices, and make on-site visits to ensure that LAs and other subrecipients provide programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

The North Carolina relay numbers are publicized in advertisements, brochures and other appropriate means. Signs will be posted at entrances of any inaccessible facility, directing users to another entrance. LA will not be allowed to use buildings that are wholly inaccessible to individuals with disabilities. Auxiliary aids or services will be furnished as necessary to allow the disabled a means to participate in the program or activity. Requests of individuals with disabilities will be given primary consideration.

6. Data and Information Collection and Maintenance

The Equal Opportunity Officer will collect and maintain records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. This information will be collected and maintained in the Division's Management Information System. The race/ethnicity, sex, age, and where known, the disability status of each applicant, registrant, eligible applicant/registrator, participant, terminee, employee, and applicant for employment will be recorded. Such information shall be stored in such a manner as to ensure confidentiality and shall be used only for the purposes of record keeping and reporting; determining eligibility, where appropriate, for WIA Title I funded programs or activities; determining the extent to which the subrecipient is operating its WIA Title I funded program or activity in a nondiscriminatory manner; or other use authorized by the nondiscrimination and equal opportunity provisions of WIA Title I.

In addition to the information, which shall be collected, maintained, and upon request, submitted to the Civil Rights Center, the Equal Opportunity Officer will maintain a log of complainants filed that allege discrimination on the ground(s) of disability, race, color, religion, sex, national origin, age, political affiliation or belief, and for beneficiaries only, citizenship and/or participation in any WIA Title I financially assisted program or activity. The log shall include: the name and address of the complainant; the ground(s) of the complaint, i.e., race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship and/or participation in any WIA Title I financially assisted program or activity; a description of the complaint; the date the complaint was filed; the disposition and date of disposition of the complaint; and other pertinent information. Information that could lead to identification of a particular individual as having filed a complaint shall be kept confidential. The log shall be developed and maintained by Equal Opportunity Officer.

Records shall be maintained for a period of not less than three years from the close of the applicable program year. Records shall include information concerning applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment and such other records as are required under the law or by the Director. Records regarding complaints and actions taken on the complaints shall be maintained for a period of not less than three years from the date of resolution of the complaint. Record retention is reviewed during on-site monitoring visits.

The identity of any individual who furnishes information relating to, or assisting in, an investigation or a compliance review, including the identity of any individual who files a complaint, must be kept confidential to the extent possible, consistent with a fair determination of the issues. An individual whose identity it is necessary to disclose must be protected from retaliation.

The Director of the Civil Rights Center shall be notified by registered mail in the event any administrative enforcement actions or lawsuits are filed against the State alleging discrimination on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I-financially assisted program or activity.

North Carolina's WorkforcePlus Management Information System (MIS) for the Workforce Investment Act is a browser-based (internet) case management system that can be accessed by authorized individuals twenty four hours a day, seven days a week from any computer with internet access. The system is designed to be accessed using version 4.0 or higher of the Microsoft Internet Explorer web browser. WorkforcePlus will not work properly with any other browser.

The WorkforcePlus is an automated Management Information System that provides for the storage and maintenance of data that is necessary to comply with federal and state reporting requirements. An individual participant record is created in WorkforcePlus for each individual applicant for WIA services. The WorkforcePlus stores participant data that will be used to report required information to the U. S. Department of Labor, the North Carolina General Assembly, and other interested parties.

The LAs and other subrecipients or their service providers are required to use the WorkforcePlus for collecting and maintaining data on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Individuals wanting to input, delete, or change information in the WorkforcePlus system must be authorized by the State.

The Equal Opportunity Officer and other authorized users of WorkforcePlus system can access standard reports, which include reports used to help determine compliance with equal opportunity laws that have been designed by the Management Information System manager. The MIS manager is available to design specialized reports when necessary.

7. Monitoring Recipients for Compliance

The Equal Opportunity Officer, on an annual basis, shall coordinate the monitoring of every subrecipient for compliance with administrative obligations under WIA section 188 and 29 CFR Part 37. Monitoring shall involve, at a minimum: 1) analysis of the data and records collected regarding the race/ethnicity, sex, age, and where known, disability status of every applicant,

registrant, eligible applicant/registrant, participant, terminee, applicant for employment, and employee and 2) 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.

The monitoring review shall: 1) evaluate the extent to which subrecipients are complying with assurances requirement of 29 CFR 37.20 through 37.22; 2) ensure that equal opportunity officers are complying with 29 CFR 37.23 through 37.28; 3) ensure that initial and continuing notice that discrimination on any prohibited ground will not be tolerated; 4) take appropriate steps to ensure that universal access is available to all WIA Title I-financially assisted programs and activities; 5) ensure that complaint processing procedures are followed; and 6) ensure that all aspects of the state's methods of administration are being followed. Written reports of each monitoring review shall be prepared and made available to the subrecipient.

The Administrative Officer will conduct annual on-site reviews of LAs and other subrecipients to determine compliance with this section. On-site reviews shall be conducted primarily during the second and third quarters of each program year. Technical assistance will be conducted throughout the year but primarily during the first quarter of each program year. Corrective action, if applicable, will take place throughout the year but primarily following on-site reviews.

The State Equal Opportunity Officer will be involved in coordinating the analysis of data along with the Administrative Officer who will actually take the lead in compiling the data. The LA Equal Opportunity Officer will be involved with the day-to-day equal opportunity requirements at the local level and will also be involved with the compilation and analysis of data.

Where significant differences are found, the Equal Opportunity Officer shall through records review, interviews, and other appropriate investigative techniques determine whether the differences are due to discriminatory conduct. Corrective actions/sanctions, if appropriate, shall follow this investigative process.

8. Complaint Processing Procedures

The Equal Opportunity Officer shall adopt and publish procedures for processing complaints that allege a violation of the nondiscrimination and equal opportunity provisions of the Workforce Investment Act Title I. The procedures shall provide for the prompt and equitable resolution of such complaints. The EO Officer shall be responsible for the adoption and publication of procedures pursuant to 29 CFR 37.76 through 37.79 and for ensuring that such procedures are followed. The EO Officer shall ensure that complainants alleging violations of nondiscrimination and equal opportunity provisions of WIA are provided a written notification of the resolution within ninety (90) days of the filing of the complaint. Such notification

shall include a statement of the complainant's right to file a complaint with the U. S. Department of Labor Civil Rights Center.

The initial, written notice to the complainant shall contain an acknowledgment that the complaint has been received and notice that the complainant has the right to be represented in the complaint process. A written statement of the issue(s) to the complainant shall include a list of the issues raised in the complaint and for each issue, a statement whether the complaint will be accepted for investigation or rejected and the reasons for each rejection.

The complaint processing procedures shall provide for alternative dispute resolution (ADR). The complainant shall have the choice of pursuing the customary investigation process or using the alternative dispute resolution process. If the parties do not reach an agreement under alternative dispute resolution, the complainant may file a complaint with the Director of the Civil Rights Center (CRC). The State has selected the mediation process as its alternative dispute resolution.

The State's complaint Processing Procedures are found in Local Area Issuance No. 2001-05.

9. Corrective Actions/Sanctions

The State's procedures for obtaining prompt corrective action or, as necessary, applying sanctions when non-compliance is found, is contained in sections 3.9 and 3.10 of the Grant Administration Agreement. Corrective and remedial actions will be designed to completely correct each violation and will be developed in coordination with the Equal Opportunity Officer and the violator. A time frame for correction will be established and a minimum of time will be allowed for compliance. Where appropriate, retroactive relief and prospective relief will be provided for in the corrective action procedure to ensure there is no repeat of discrimination. The violator will be advised in writing that failure to comply will result in sanctioning.

The Equal Opportunity Officer will be available for guidance during the corrective period. At the end of the allowed period for compliance, the violator will submit to the Equal Opportunity Officer a report detailing actions taken and implemented to correct the violation(s). A follow up monitoring will be conducted to ensure that all commitments are fulfilled. If, upon follow up, the violator has failed to voluntarily comply, sanction procedures as specified in Grant Administration Agreement will be invoked.