



# New EO Officer–Roles and Responsibilities

**U.S. Department of Labor**

**Civil Rights Center**

*Office of Compliance Assistance and Planning*

**Elba Colon**

*EO Specialist*





# Today's Topics

- ▶ Introduction to CRC
- ▶ Who must designate an EO Officer
- ▶ Who is eligible to be an EO Officer
- ▶ What are the EO Officer responsibilities
- ▶ The MOA and the EO Officer
- ▶ Recipient's obligations to the EO Officer
- ▶ Upcoming training
- ▶ Questions and Answers



# Civil Rights Center (CRC)

CRC enforces various Federal civil rights laws, including laws that cover programs and activities that either are conducted by DOL itself, or receive certain types of financial assistance from the Federal government.

Section 188 of WIA is a primary source of CRC's authority. **Section 188 prohibits discrimination, and requires equal opportunity, in the workforce development system on the bases of race, color, national origin, religion, age, sex, disability, citizenship, political affiliation or belief, and status as a participant in a WIA Title I-financially assisted program or activity.** The nondiscrimination regulations that implement WIA Section 188, which are enforced by CRC, are published at 29 CFR part 37.



# CRC Jurisdiction

All programs and activities offered through the One-Stop system by “One-Stop partners” are covered by the WIA nondiscrimination regulations, even if the principal source of financial assistance for a program or activity is a Federal department or agency other than DOL.

Examples include:

- DOL programs: **Unemployment Insurance (UI); Wagner-Peyser / employment service (ES) programs; Job Corps**; programs for Native Americans and migrant and seasonal farmworkers; veterans' workforce investment programs; the Senior Community Service Employment Program (SCSEP); the Trade Adjustment Assistance program (TAA); YouthBuild
- **Department of Education-funded programs**: adult education and literacy activities under WIA Title II; vocational rehabilitation programs; vocational education programs

# Jurisdiction Con't

- **Department of Health and Human Service-funded programs:** Temporary Assistance for Needy Families (TANF); employment and training activities carried out under Community Services Block Grants
- **Department of Housing and Urban Development-funded programs:** all employment and training programs carried out by HUD
- **Department of Agriculture:** **the Food Stamp program**
- **Programs and activities funded by other Federal departments and agencies:** Examples include **AmeriCorps, USA Freedom Corps, Volunteers for America**, and other programs authorized by the National and Community Service Act of 1990
- **“Other appropriate Federal, State, or local programs, including programs in the private sector”:** under this provision, **CRC has jurisdiction over any employment-related programs instituted under the American Recovery and Reinvestment Act (ARRA)** that are offered by One-Stop partners through the One-Stop system.



# Who Must Designate an EO Officer?

29 CFR § 37.23 Who must designate an Equal Opportunity Officer?

**Every recipient** must designate an Equal Opportunity Officer (“EO Officer”), except small recipients and service providers, as defined in §37.4\*. The responsibilities of small recipients and service providers are described in §§37.27 and 37.28.

*\*Small recipient means a recipient who (a) serves a total of fewer than 15 beneficiaries during the entire grant year, and (b) Employs fewer than 15 employees on any given day during the grant year.*





# Who is eligible to be an EO Officer?

29 CFR § 37.24 Who is eligible to serve as an Equal Opportunity Officer?

**A senior-level employee** of the recipient should be appointed as the recipient's Equal Opportunity Officer. Depending upon the size of the recipient, the size of the recipient's WIA Title I-financially assisted programs or activities, and the number of applicants, registrants, and participants served by the recipient, the EO Officer may, or may not, be assigned other duties. However, he or she **must not have other responsibilities or activities that create a conflict, or the appearance of a conflict**, with the responsibilities of an EO Officer.



# What are the responsibilities of an EO Officer?

29 CFR § 37.25 What are the responsibilities of an Equal Opportunity Officer?

An Equal Opportunity Officer **is responsible for coordinating a recipient's obligations** under this part. Those responsibilities include, but are not limited to:

- (a) Serving as the recipient's **liaison with CRC**;
- (b) Monitoring and investigating the recipient's activities, and the activities of the entities that receive WIA Title I funds from the recipient, to **make sure that the recipient and its subrecipients are not violating their nondiscrimination and equal opportunity obligations** under WIA Title I and this part;
- (c) Reviewing the recipient's written policies to make sure that those **policies are nondiscriminatory**;

# EO Officer Responsibilities con't

- (d) Developing and publishing the recipient's **procedures for processing discrimination complaints** under §§37.76 through 37.79, and making sure that those procedures are followed;
- (e) **Reporting directly to the appropriate official** (including, but not limited to, the State WIA Director, Governor's WIA Liaison, Job Corps Center Director, SESA Administrator, or LWIA grant recipient) about equal opportunity matters;
- (f) **Undergoing training** (at the recipient's expense) to maintain competency, if the Director requires him or her, and/or his or her staff, to do so; and
- (g) If applicable, overseeing the development and implementation of the recipient's **Methods of Administration** under §37.54.

# The Methods of Administration (MOA)

Each Governor **must establish and adhere to a Methods of Administration** for State programs as defined in §37.4.

Each Methods of Administration must be designed to **give a reasonable guarantee** that all recipients will comply, and are complying, with the **nondiscrimination and equal opportunity provisions** of WIA and this part.

*From 29 CFR 37.54*

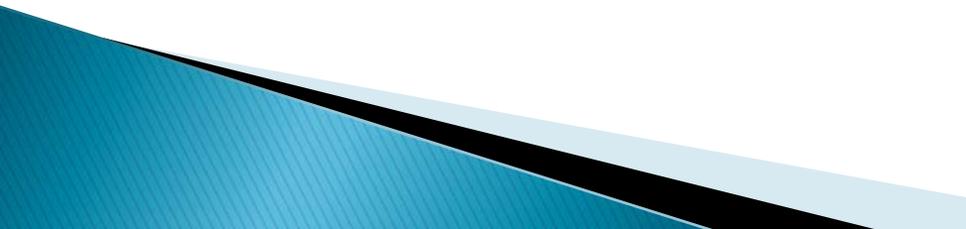
# Role of the MOA

“...the MOA is intended to be a document that State-and local-level staff and management, through the EO Officer, can consult when **determining appropriate steps to take when confronted with an EO issue.**”

*--State Guidance for Developing Methods of Administration (MOA) Required by Regulations Implementing Section 188 of the Workforce Investment Act of 1998 (WIA) Federal Register / Vol. 65, No. 166 / Friday, August 25, 2000 / Notices/Page 51984*



# MOA Elements

1. Designation of Equal Opportunity Officers
  2. Notice & Communication
  3. Assurances, Contracts & Other Agreements
  4. Universal Access
  5. Compliance with Federal disability nondiscrimination laws
  6. Data Collection & Record keeping
  7. Monitoring
  8. Complaint Processing Procedures
  9. Corrective Actions/Sanctions Procedures
- 



## Element 1. Designation of State-and local-level Equal Opportunity (EO) Officers

“...any individual appointed as EO Officer should **have the skill, ability, knowledge and authority** to properly oversee and direct the EO program to which that individual has been assigned.”



## Element 2. Notice and Communication

“...ensure the establishment of a notice and communication system that makes all registrants, applicants, eligible applicants/registrants, applicants for employment, employees and interested members of the public **aware of both the recipient's obligation to operate its programs and activities in a nondiscriminatory manner, and the extent of the rights of members of these groups to file complaints of discrimination.**”



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

“...the procedures the State and its recipients are following and will continue to follow in **assessing the ability of grant applicants**, if funded, **or training providers**, if declared eligible, **to comply with WIA section 188 and 29 CFR part 37.**”



## Element 4. Universal Access

“...comply with the requirements of 29 CFR 37.42 relating to the provision of **universal access to programs and activities.**”

*“make efforts... 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.**”*



## Element 5. Compliance with Federal disability nondiscrimination laws

“...comply with the requirements of the **disability related requirements** of WIA section 188; Section 504 of the Rehabilitation Act of 1973, as amended; and their implementing Regulations...”

- *reasonable accommodations*
- *reasonable modification of policies, practices and procedures*
- *architectural accessibility*
- *programmatic accessibility*
- *communicate with persons with disabilities as effectively as with others*
- *confidentiality of medical information*

## Element 6. Data and Information Collection and Maintenance

...ensure that a **data and information collection and maintenance system** for its WIA Title I-financially assisted State programs is established and maintained. (See 29 CFR 37.53.)”

- *Monitoring recipient equal opportunity performance;*
- ***Identifying instances or areas of discrimination;*** and
- *Identifying individuals or groups of individuals who have been discriminated against on a basis prohibited by WIA section 188 and 29 CFR part 37.*

# Element 7. Monitor Recipients for Compliance

“...establish procedures to **monitor periodically all aspects of the recipient's compliance** with WIA section 188 and 29 CFR part 37.”

*Each EO monitoring review must include a review of each recipient's:*

- *Compliance with its administrative obligations under WIA section 188 and 29 CFR part 37 (e.g., assurances, notice and communication, EO Officers);*
- *Compliance with responsibilities it has been assigned through the MOA;*
- ***Programs and activities, to determine whether discrimination is occurring.*** *This activity is the most important part of the monitoring review.*

## Element 8. Complaint Processing Procedures

“...comply with the requirements of 29 CFR 37.76 through 37.79 regarding **complaint processing procedures.**”

*...and those procedures are....*



# Required complaint processing procedures

- a) Written Notice of Final Action issued within **90 days**.
- b) Procedures must include:
  - (1) Initial written notice **acknowledging the complaint and giving right to be represented** in the complaint process;
  - (2) A written statement listing the **issues raised and whether the recipient will accept or reject each issue for investigation** (giving reasons for when an issue is rejected)
  - (3) A period for fact-finding or **investigation**;
  - (4) A period to **attempt resolution** of the complaint.
  - (5) A written **Notice of Final Action** that contains:
    - (i) For each issue, either: (A) The recipient's decision and explanation of the reasons for the decision, or (B) A description of the way the parties resolved the issue; and
    - (ii) Notice of a **right to file a complaint with CRC** within 30 days.
- c) The procedures must provide for **alternative dispute resolution (ADR)**.

## Element 9. Corrective Actions/Sanctions

“...comply with the requirements of 29 CFR 37.54(d)(2)(vii).” 29 CFR 37.54(d)(2)(vii):  
*Procedures for obtaining prompt corrective action or, as necessary, applying sanctions when noncompliance is found...*”



29 CFR § 37.110 What enforcement procedures does the Department follow to effect compliance with the nondiscrimination and equal opportunity provisions of WIA and this part?

(a) ... the Secretary may:

(1) After opportunity for a hearing, **suspend, terminate, deny or discontinue the WIA Title I financial assistance**, in whole or in part;

(2) **Refer the matter to the Attorney General** with a recommendation that an appropriate civil action be instituted; or

(3) Take such action as may be provided by law.

(b) Deferral of new grants. When proceedings under §37.111 have been initiated against a particular recipient, the Department **may defer action on that recipient's applications for new WIA Title I financial assistance** until a Final Decision under §37.112 has been rendered.

# What are a recipient's obligations to the EO Officer?

29 CFR § 37.26 What are a recipient's obligations relating to the Equal Opportunity Officer?

A recipient has the following obligations:

- (a) Making the Equal Opportunity Officer's name, and his or her position title, address, and telephone number (voice and TDD/TTY) public;
- (b) Ensuring that the EO Officer's identity and contact information appears on all internal and external communications about the recipient's nondiscrimination and equal opportunity programs;

# Obligations to EO Officer con't

- (c) **Assigning sufficient staff and resources** to the Equal Opportunity Officer, and providing him or her with the **necessary support of top management**, to ensure compliance with the nondiscrimination and equal opportunity provisions of WIA and this part; and
- (d) Ensuring that the EO Officer and his/her staff are **afforded the opportunity to receive the training necessary and appropriate to maintain competency.**
- 

# Available Resources

- ▶ CRC
  - Website
    - Statues and Regulations
    - MOA Checklist
    - Online Training
- ▶ Other Labor
  - ODEP
  - ETA
  - BLS
- ▶ Other Federal
  - DOJ
  - EEOC

# Q&A's