

# METHODS OF ADMINISTRATION (MOA) ANALYSIS CHECKLIST

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## Element 1: Designation of Equal Opportunity Officer

- Each individual designated as a State-level Equal Opportunity Officer and each individual designated as a local level Equal Opportunity Officer are identified by name, position title, business address (including e-mail address if applicable) and telephone number (including TDD/TTY number). (See 29 CFR 37.23.)
- The level within the organization of the position occupied by the EO Officer(s) is described in terms of the individual's authority and reporting level to the top official (e.g. senior level, etc.). (See 29 CFR 37.24.)
- The EO Officer's duties/responsibilities appear to constitute a conflict of interest or the appearance of such. (See 29 CFR 37.24)

- The EO Officer's level provides for access to the top officials of the organization on EO matters and a discussion of how this access is achieved and communicated. (See 29 CFR 37.24.)
- The duties of the EO Officer(s) are described sufficiently and the manner in which those duties are carried out. (At a minimum, the duties assigned to the EO Officer must include those listed in 29 CFR 37.25. The individual to whom the EO Officer reports on EO matters by name, job title, and organization must also be included:
  - Serving as the recipients' liaison with CRC;
  - 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;
  - Reviewing the recipient's written policies to make sure that those policies are nondiscriminatory;
  - 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;
  - Reporting directly to the appropriate top level 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;
  - 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
  - If applicable, overseeing the development and implementation of the recipient's Methods of Administration under 29 CFR Part 37.54.
- The manner in which the recipient makes known the identity of the EO Officer(s) to applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment, as well as interested members of the public. (See 29 CFR 37.26.) *Note: The description should be clear as to how, when, and by whom this requirement is implemented.*
- Describes the EO duties, responsibilities and activities associated with the implementation of 29 CFR Part 37, (i.e. handling complaints, monitoring, data collection and analysis, etc.) and all other duties, responsibilities and activities.
- The level of staff and other resources available to State and local level EO Officer(s) to ensure that WIA Title I; financially assisted programs and activities operate in a nondiscriminatory way are identified and deemed to be adequate. (See 29 CFR 37.26(c).) *Note: The description should address support staff; other substate EO liaison staff; staff that are used to monitor (if different from EO staff) Are these staff/resources sufficient for the EO officer to ensure compliance with 29 CFR 37?*
- The State's plan for ensuring that State and local level EO Officers and their staffs are sufficiently trained to maintain competency is adequate. (See 29 CFR 37.26(d).) *Note: The description should include more than a commitment to train. In this description, if the State has designated local-level EO officers/liaison staff, it is expected there should be discussion on how the EO officer*

*will ensure that they have received and will continue to receive training on carrying out EO responsibilities. You should look for documentation to support what is stated.*

### **Documentation for Element 1**

- Please assess the specific documentation provided by the State.
- Examples of such document include (notices, directives, memoranda, letters to community groups, flyers, and relevant pages of handbooks and manuals) that communicates, either internally or externally, the EO Officer's name and other required information to registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employees, and interested members of the public.
- Examples of each communication (e.g., directives) that instructs the State's recipients as to the actions they are to take to comply with 29 CFR 37.23 through 28 with regard to EO Officers.
- A copy of the State EO Officer's position description, showing those duties specifically related to WIA equal opportunity activities, and other duties is provided.
- A representative sample of local-level EO Officer position descriptions is provided unless a single, standard position description has been adopted for all local-level EO Officers. In that case, a single copy of that description is sufficient.
- Copies of the official organization chart(s) showing the organizational location of each EO Officer and the reporting relationship on EO matters is provided.
- The identity of any staff who perform duties that support WIA EO activities (e.g., clerical, data analysis) along with a position description for each such staff member, and the average hours per week spent on EO-related activities by each such staff member (if positions are not devoted to WIA equal opportunity activities on a full-time basis) are provided.
- EO budget and source of funds for EO-related activities are provided.
- Summary of EO-related training that staff (EO staff and others) have received and a schedule of EO training delivered or to be delivered in the future is provided. This may be training delivered by the State- or local-level EO Officer to recipient staff, or training delivered to EO Officers or recipient staff by outside sources, such as CRC.

### **Element 2: Notice and Communication**

- A copy of the EO is The Law Notice that meets the wording requirements under 29 CFR part 37.30, is provided.
- The method and frequency for disseminating the EO notice to registrants/applicants/ and eligible applicants/registrants; participants, applicants for employment and employees/union or professional organization that hold collective bargaining agreements or professional agreements with the recipient; subrecipients; and members of the public is sufficiently described in the narrative. Based on the narrative, assess whether the notice is:
  - Posted is prominently in a reasonable number of places?
  - Is disseminated in internal memoranda and other written or electronic communication?
  - Is included in handbooks or manuals?

- A description of how the EO notice is provided for individuals with disabilities (both hearing and visually impaired) is sufficiently addressed in the narrative. (See 29 CFR 37.31(b).)
- A description of how the participants are provided an opportunity to sign a copy (signed or unsigned) of the EO notice and the procedure for making the copy (signed or unsigned) for making it a part of the participant's file is sufficiently addressed. (See 29 CFR 37.31(a).)
- Where participant files are maintained electronically, a description of how the requirement for participant signature and inclusion of the notice in participant's file are and will be met is sufficiently addressed.
- The MOA describes how the state ensures that within its WIA system, services and information in languages other than English are provided. Such activities include:
  - A thorough annual assessment of the language needs of a significant number or proportion of the population to be served (documented results of analysis should be addressed in the MOA.)
  - An identification of reasonable steps, based on the results of the annual assessment, it has and will implement to provide services and information in appropriate language. This information includes the initial and continuing notice required under 29 CFR 37.29 and 37.30 and all information that is communicated under 37.34.
- A description of the procedures that have been implemented to meet the particularized language needs of limited English speaking individuals who seek services/information from the recipient in circumstances other than those indicated above.
- Policy statement/guidance issued on the procedures for identifying and assessing the language needs of its LEP applicants/clients that provide for a range of interpreter assistance, notification to LEP persons, in appropriate language, of the right to free language assistance, etc.
- A description of the manner in which and the extent to which orientation for registrants, applicants, eligible registrants/applicants, employees, applicants for employment, and members of the public are made aware of the rights of such persons to file a complaint under 29 CFR 37 is sufficiently addressed. (See 27 CFR 37.36).
- A description of how the State disseminates the EO notice to its subrecipients throughout the WIA system is sufficiently addressed.
- A description of how the State/Administrative entities ensure that subrecipients post the EO notice as required.
- A description of how the State ensures that recruitment brochures and other materials routinely made available to the public include the statement equal opportunity employer/program and auxiliary aids and services are available upon request to individuals with disabilities is sufficiently addressed. Also, where a telephone number is included on these materials, a TDD/TTY number is also provided. (See 29 CFR 37.34(a).)
- A description of the steps taken to ensure that communications with individuals with disabilities are as effective as communication with others is sufficiently addressed. (See 29 CFR 37.29(b).)

- A description of the process the State has used and will continue to use to develop and communicate policy and conduct training regarding nondiscrimination and equal opportunity is sufficiently addressed. (See 29 CFR 37.25(c), and 37.54(d)(2)(iii), and 37.54(d)(2)(vi).)

### Documentation for Element 2:

- Please assess the documentation provided by the State.
- A copy of each communication that instructs the State's recipients on how they are to comply with the requirements of 37.29 through 37.36 regarding notice and communication.
- A copy of the posted notice required by 29 CFR 37.29 and 37.30.
- A copy of any checklist of the contents of participant and employee files, indicating that the notice requirement has been met. (See 29 CFR 37.31(a)(4).)
- A copy of any orientation agendas that include, as an agenda item, a discussion of equal opportunity and nondiscrimination under WIA section 188 and 29 CFR Part 37. (See 29 CFR 37.36.)
- A copy of each item of material, distributed at orientation sessions, that addresses the rights of individuals under WIA section 188 and 27 CFR part 37. (See 29 CFR 37.36.)
- Copies of agendas (and a list of dates) of past and proposed EO policy briefings and EO training. (See 29 CFR 37.25(f), 37.26(d) and 29 CFR 37.54(d)(2)(vi).)
- A copy of each policy issuance or instruction that relates to WIA section 188 or 29 CFR Part 37. (See 29 CFR 37.25(c), 37.54(d)(iii), 29 CFR 54(d)(vi) and 37.54(d)(viii).)
- A copy of each recruitment brochure and other item of material distributed to the public by WIA Title I; financially assisted recipient, showing that each includes the statements "equal opportunity employer/program" and "auxiliary aids and services are available upon request to individuals with disabilities"; and the telephone numbers for TDD/TTY access and/or telephone relay services. (See 29 CFR 37.34(a).)

### Element 3: Assurances

The MOA sufficiently describes how the State ensures that:

- Each grant applicant, and each training provider seeking eligibility, includes in its application for financial assistance under Title I of WIA the required EO assurance. (See 29 CFR 37.20(a)(1).)
- The required assurance is incorporated into each grant, cooperative agreement, contract, or other arrangement whereby Federal financial assistance under Title I of WIA is made available. (See 29 CFR 37.20(a)(2).) NOTE: 29 CFR 37.20(a)(2) provides that the assurance may be incorporated by reference into these documents.
- Each grant applicant, and each training provider seeking eligibility, is able to provide programmatic and architectural accessibility for individuals with disabilities. (See subpart C of 29 CFR Part 32.)
- Job training plans, contracts, assurances, and other similar agreements entered into by recipients are both nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity. (See 29 CFR 37.54(b)(2)(iv).)

- State- and local-level policy issuances, or issuances from other recipients, are not discriminatory either in intent or effect. (See 29 CFR 37.54(d)(2)(iii).)
- Policies on WIA Title I nondiscrimination and/or equal opportunity issues are developed and implemented in a timely manner.

### Documentation for Element 3

- Please assess the documentation provided by the State.
- A copy of each directive that instructs individuals at the State and/or local level who are responsible for reviewing assurances, job training plans, contracts, and policies and procedures as to the requirements of, and their duties under, 29 CFR 37.20, 37.54(d)(1)(i), and (d)(2)(i), (iii) and (iv).
- Copies of assurance pages of plans, contracts, and other agreements.
- Copies of memos or directives to contract managers advising them to include the required assurance in the appropriate documents.
- Copies of checklists or other guidelines used by contract specialists, attorneys, or others who review contracts and agreements that indicate that nondiscrimination and equal opportunity are considered in the evaluation of such documents.
- A copy of procedures developed to review the ability of grant applicants, and training providers seeking eligibility, to comply with the nondiscrimination and equal opportunity provisions of WIA and 29 CFR Part 37.
- A copy of each WIA EO issuance (e.g., the general EO policy statement, the policy statement on sexual harassment and the policy statement on religious accommodation).

### Element 4: Universal Access (See 29 CFR 37.54 (d)(1)(vi).)

- The MOA narrative includes an assessment by the State of the population to be served for each One Stop/LWIA including: the various racial and ethnic groups; members of both sexes; individuals with disabilities; individuals in different age groups; and individuals with different language needs. This assessment applies to those considered for employment and participation in WIA programs and activities.
- Based on the results of this assessment, the State has developed outreach and recruitment plans for broadening the pool of those groups where the assessment indicates that their participation and employment levels should be increased.
- The State's plan should include the requirements for establishing communication linkages with community or advocacy organizations for participation and employment to increase outreach, along with a listing of these organizations.
- The State's plan should include the criteria that will be used for determining priority of services for participants beyond the self service phase.

### Documentation for Element 4:

- Please assess the documentation provided by the State.
- Copies of targeting, outreach and recruitment plans.

- Criteria for determining priority of service.
- Copies of plans for One-Stop delivery systems to expand the pool of those considered for participation or employment in their programs and by race/ethnicity, sex, disability status, age, and language needs.
- Samples of brochures, posters, public-service announcements, computer screens displaying related information, and other publicity materials.

### **Element 5: Compliance with 504 Disability Requirements**

The MOA describes in sufficient detail how the State and sub-state levels:

- Meet their obligation not to discriminate on the basis of disability. (See 29 CFR 32.12 (a), 32.26, and 37.7.)
- Provide reasonable accommodation for individuals with disabilities (See 29 CFR 32.13 and 29 CFR 37.8)
- Provide reasonable modification of policies, practices and procedures, as required (See 29 CFR 37.8)
- Provide architectural accessibility for individuals with disabilities (See 29 CFR 32.28)
- Provide programmatic accessibility for persons with disabilities (See 29 CFR 32.27)
- Provide for and adhere to a schedule to evaluate job qualifications to ensure that the qualifications do not discriminate on the basis of disability. (See 29 CFR 32.14.)
- Limit pre-employment/employment medical inquiries to those permitted by and in accordance with WIA section 188, Section 504, the Americans with Disabilities Act of 1990, and their implementing regulations. (See 29 CFR 32.15.)
- Ensure the confidentiality of medical information provided by registrants, applicants, eligible applicants/registrants, participants, employees, and applicants for employment. (See 29 CFR 32.15.)
- Administer their WIA Title I financially assisted programs and activities so that each individual with a disability participates in the most integrated setting appropriate to that individual. (See 29 CFR 37.7(d).)
- Are able to communicate with persons with disabilities as effectively as with others. (See 29 CFR 37.9.)

### **Documentation for Element 5:**

- Please assess the documentation provided by the State.
- Copies of policies/procedures issued by the State or any of its WIA Title I recipients, including:
  - The procedures by which persons with disabilities are assured of participation in programs and activities in as integrated setting as possible.
  - The procedures by which the availability of reasonable accommodation and reasonable modification are made known to persons with disabilities, and the procedures for making and resolving such requests.
  - The procedures by which the State ensures that communication with persons with disabilities is as effective as communication with others

- The procedures by which the State ensures that the programs and activities operated by its WIA Title I recipients are architecturally and programmatically accessible to individuals with disabilities.
- Any evaluation conducted to determine the programmatic or architectural accessibility of a WIA Title I-financially assisted program or activity and the status of any corrective actions taken by the recipient involved.
- Copies of publications and agendas for any training conducted for recipient staff that is intended to raise awareness of disability issues.

## **Element 6: Data and Information Collection & Maintenance**

The MOA describes in sufficient detail:

- The system it has in place to collect and maintain records on applicants/registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment.
- The responsibility of the sub-state levels and service providers in the collection and maintenance of data.
- The system it has in place to collect and record race/ethnicity, sex, age, and disability status of each individual in the categories identified above (i.e. applicant/registrants, etc.)
- The definition of an applicant/registrant for services for data collections purposes (under 29 CFR 37 in the preamble section, an individual is considered an applicant at the point at which s/he submits personal information (e.g. name, address or SSI, etc.) in response to a request by the recipient for such information).
- The procedures used by the State to ensure that records of the above listed individuals are maintained for a period of not less than 3 years.
- The process by which EO reports are generated and made available to the EO Officer and other appropriate personnel for review and evaluation.
- The procedure the State has in place by which grant applicants and recipients notify CRC of administrative enforcement actions and lawsuits brought against them that allege discrimination on a basis covered under 29 CFR 37.
- The procedure by which the log of discrimination complaints filed on the bases covered under 29 CFR 37 is maintained as required and includes the following information:
  - Name, address of the complainant, the basis, a description of the complaint, date filed, disposition, date of disposition and any other pertinent information.

Note: ES/UI are required partners in WIA, therefore, the MOA should include a discussion of what data is collected for these programs.

### **Documentation for Element 6:**

- Please List and Assess Documentation Provided by the State.
- Instructions to recipients within the State regarding information collection, access to records, and maintenance of records. (See 29 CFR 37.37.)

- Samples of each policy issuance that discusses ensuring the confidentiality of demographic information regarding individuals.
- Samples of reports regarding the above demographic information.
- Samples of formats and instructions, in hard copy and electronic file forms, for complaint logs used by the State and its recipients to track complaints that allege a violation of 29 CFR Part 37.

## Element 7: Monitoring Recipients for Compliance

- How the data and records collected are analyzed by the recipients pursuant to 29 CFR 37.37 through 41, to determine whether any differences based upon race/ethnicity or sex have practical or statistical significance.
- The identity of the individuals and their job titles who are responsible for conducting these analysis.
- If the State and local-level EO Officers are not responsible, what role do they play in coordinating the analysis of data?
- 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 what is the process and who has representation.
- Performing the responsibilities assigned such recipients by the State through the MOA, such as:
- Conducting equal opportunity monitoring/evaluation reviews of applicants for and recipients of WIA Title I financial assistance (including monitoring assurances and programmatic and architectural accessibility).
- Imposing sanctions and corrective actions for violations noted by a recipient during its monitoring reviews. Ensuring policy development, communication, and training are carried out.
- The procedure for reviewing recipients' policies and procedures, to ensure that the policies and procedures do not violate the prohibitions contained in 29 CFR 37.5 through 37.10.
- The written reports prepared for each review. These reports must provide, among other things, that the results of the monitoring review will be made available to the recipient(s) reviewed.
- The involvement of the State- and local-level EO Officer(s) in conducting reviews. Where EO monitoring is carried out by individuals other than the State- or local-level EO Officer, the narrative should provide the names, titles, and organizations of those persons.
- What training is provided to these individuals and by whom? How does the State EO Officer coordinate the review efforts from start to finish?
- The procedure for determining which recipients are to be reviewed, the frequency of reviews of recipients, and the number of recipients to be reviewed per year.
- Ensuring that their programs and activities are operating in a nondiscriminatory manner and ensuring equal opportunity, including but not limited to:
  - Conducting analyses, by race/ethnicity and sex, of program and employment activity, including but not limited to rates of application, placement, and termination, to determine if significant differences exist; and

- Conducting follow-up monitoring to determine the cause of any such differences, through the analysis of the records of individual registrants, applicants, eligible applicants/registrants, employees and applicants for employment; interviews; and other appropriate techniques.
- The system for evaluating the extent to which recipients are complying with the administrative obligations of 29 CFR 37 including:
    - Assurances. (See 29 CFR 37.20 through 37.22.)
    - Equal Opportunity Officers. (See 29 CFR 37.23 through 37.28.)
    - Notice and communication. (See 29 CFR 37.29 through 37.36.)
    - Data and information collection and maintenance. (See 29 CFR 37.37 through 37.41.)
    - Universal access. (See 29 CFR 37.42.)
    - Complaint processing procedures. (See 29 CFR 37.70 through 37.80.)

#### **Documentation for Element 7:**

- Please assess the following documentation.
- Schedules of reviews and criteria for targeting recipients for review.
- Monitoring instrument(s) used by State- and/or local-level staff to monitor recipient EO activities.
- Policy issuances and procedural guidance regarding monitoring reviews and recipient evaluations.
- A representative sample of reports of monitoring reviews, including findings resulting from reviews and the status of follow-up actions

#### **Element 8: Complaint Processing Procedures**

The MOA describes in sufficient detail:

- The State's complaint procedures that have been developed and published for investigating complaints that allege discrimination on the basis of race, color, national origin, religion, sex, age, disability, political affiliation or belief, and for beneficiaries only, citizenship status for WIA. Note: Basis not covered by WIA should not be included B if there are procedures, please note if other bases are included and identify them.
- Complaints may be filed alleging intimidation and retaliation in accordance with 29 CFR 37.11.
- Who may file a complaint
- Complaint may be filed with CRC or Recipient and with whom there is the 180 day time period for filing.
- The form used for filing a complaint
- Information a complaint may contain

- How due process will be provided:
  - right to notice of the charges
  - right of representation
  - right of the parties to provide evidence and question others who present evidence
  - a decision based strictly on the recorded evidence
  - Include the name, title, address, telephone number and TDD/TTY number of the individual responsible for receiving the complaint.
- Provide for written notice of lack of jurisdiction of complaint, including reasons for the determination and notice of CP's right to file with CRC within 30 days of the CP's receipt of notice.
- Provide for initial written notice to the CP acknowledging that the recipient has received the complaint and notice that CP has right to representation.
- Provides a written statement to CP containing the issues raised in the complaint and for each issue, a statement whether the recipient will accept the issue for investigation or reject the issue, and the reason for rejection.
- A period for fact-finding or investigation of the circumstances.
- A period during which the recipient attempts to resolve the complaint. The methods available to resolve the complaint must include alternative dispute resolution (ADR) (see 29 CFR 37.76(b)(4) and (c)).

### **Documentation for Element 8**

Please assess the documentation provided by the State:

- The State's discrimination complaint procedures developed pursuant to 29 CFR 37.76 through 37.79.
- The instrument (e.g. directive, memorandum) used to inform recipients of the complaint procedures and directing recipients as to their use.
- The ADR procedures, if not included with complaint processing procedures.

### **Element 9: Corrective Actions and Sanctions**

The MOA describes in sufficient detail:

- A description of the corrective actions to be taken when violations are found. Corrective actions must be designed to completely correct technical violations (e.g. failure to post notice, failure to collect data, etc.) and discrimination violations. In the case of a finding of discrimination, the procedures must provide, where appropriate, for retrospective relief (including but not limited to back pay) and prospective relief (e.g. training, policy development and communication) to ensure that the discrimination does not recur.
- The time frames for the completion of each corrective and remedial action identified.
- Provisions for execution of a written agreement or assurance to document the correction of the violation.
- The provision for follow-up monitoring to ensure that commitments are fulfilled.

- The provision for reports from the violating recipient.
- The specific sanction and sanction procedures to be followed where voluntary compliance cannot be achieved.

**Documentation for Element 9:**

- Please assess documentation provided by the State.
- A copy of any policy memorandum/directive explaining this element and its distribution.
- A copy of each instrument (e.g. directives, memoranda) used to inform recipients of the States procedures regarding corrective actions and sanctions.