

## ***Nondiscrimination Plan for Equal Opportunity Compliance in the Workforce Innovation and Opportunity Act Programs***

The Nondiscrimination Plan (NDP), formerly known as the Methods of Administration (MOA), is a written assurance, with supporting documentation, that describes the actions an individual state will take to ensure that its Workforce Innovation and Opportunity Act Area (WIOA) Title-I financially assisted programs, activities, and recipients are complying and will continue to comply with the nondiscrimination and equal opportunity requirements of WIOA and its implementing regulations. The U.S. Department of Labor, Civil Rights Center (CRC) issued new regulations pertaining to section 188 of WIOA in January 2017. These new regulations are located at 29 CFR Part 38.

The Commonwealth of Pennsylvania assures that it will ensure compliance with Section 188 of WIOA, 29 CFR Part 38, Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, Title IX, Education Amendments of 1972 and Title VI, Civil Rights Act of 1964, Americans with Disabilities Act and all other regulations that seek to ensure non-discrimination. The Governor has designated Robert V. O'Brien, Executive Deputy Secretary, Department of Labor & Industry as the State-level Equal Opportunity Officer. The Office of Equal Opportunity (OEO) in the Commonwealth of Pennsylvania's Department of Labor and Industry (L&I) is responsible for implementing and monitoring that agency's compliance with nondiscrimination and equal opportunity provisions of WIOA. That office is led by James Kayer, who has been designated by Robert V. O'Brien to act as Pennsylvania's State-level Equal Opportunity Officer.

Pennsylvania's NDP details the Commonwealth's commitment to compliance with Section 188 of the WIOA and 29 CFR Part 38's equal opportunity and nondiscrimination provisions. Based on federal regulations, Pennsylvania's NDP includes the following nine required elements:

1. Designation of State and local level Equal Opportunity Officers
2. Equal Opportunity Notice and Communication
3. Assurances
4. Universal Access
5. Compliance with Disability Requirements
6. Data and Information Collection and Maintenance
7. Equal Opportunity Monitoring
8. Complaint Processing Procedures
9. Corrective Action and Sanctions

### **Submission and Approval**

This NDP details the steps Pennsylvania has taken and will continue to take to ensure that all WIOA, Title I financially-assisted programs, activities and recipients comply with the nondiscrimination and equal opportunity requirements of Section 188 of the WIOA and its implementing regulations.

L&I, under the direction of Secretary W. Gerard Oleksiak, is the State agency responsible for overseeing the Employment Service, Unemployment Insurance, and WIOA programs in Pennsylvania. The Secretary is the top agency official, appointed by Governor Tom Wolf of Pennsylvania, to oversee the management, administration, and implementation of the Commonwealth's workforce investment/development strategy. As such, the NDP will apply to all programs to which financial assistance under WIOA Title I is extended.

The current document represents Pennsylvania's submission for certification of the NDP. All inquiries regarding this document should be directed to:

Mr. James J. Kayer, Director  
Office of Equal Opportunity  
Pennsylvania Department of Labor & Industry  
651 Boas Street, Room 1402  
Harrisburg, Pennsylvania 17121  
(717) 787-1182 or 800-622-LIAA (5422)  
TTD/TTY (800) 654-5984  
PA Relay 711

## ELEMENT # 1

### **ELEMENT 1.**

#### ***Designation of State and Local Level Equal Opportunity Officers (29 CFR 38.28)***

The intent of this section is to ensure that the individual(s) the recipient appoints as EO Officers(s) have the education, training and experience, and are provided the necessary ongoing training and qualified staff, to perform his/her duties assigned under Part 38. Additionally, the EO Officer(s) should not be in a position that would constitute, or appear to constitute, a conflict of interest. Further, the State should ensure that she/he reports, on EO matters, directly to the appropriate official in the organization, and that she/he otherwise has the authority to direct the State/Local level EO effort.

***The individual designated as State-level Equal Opportunity Officer and everyone designated as Local-level Equal Opportunity Officer, by name, position title, business address (including e-mail address if applicable) and telephone number (including TDD/TTY number. The level within the organization (described in such terms as the individual's authority and position relative to the top of the hierarchy occupied by the EO Officer(s).***

- The new regulations require every Governor to appoint a State-level Equal Opportunity Officer, “who reports directly to the Governor and is responsible for State Program-wide coordination of compliance with the equal opportunity and nondiscrimination requirement in WIOA.” 29 CFR 38.28. The Commonwealth of Pennsylvania has designated Robert V. O’Brien as its State-level Equal Opportunity Officer. Mr. O’Brien has authorized James J. Kayer to act as the State-level Equal Opportunity Officer pursuant to 29 CFR part 38.4 (aa) and 38.28(a).

The Equal Opportunity Officer for L&I is James J. Kayer, Director of the Office of Equal Opportunity. Mr. Kayer’s mailing address is Pennsylvania Department of Labor and Industry, Office of Equal Opportunity, Room 1402 Labor and Industry Building, 651 Boas St., Harrisburg, PA 17121. He may be contacted by email at [jkayer@pa.gov](mailto:jkayer@pa.gov), or by telephone at (717) 787-1182.

The L&I OEO consists of a staff of six (6) people - one (1) staff person and five (5) professionals. Program responsibilities include oversight for the administration of the internal Equal Opportunity (EO) program for the Department and EO Compliance for WIOA, State Workforce Agencies (SWA), and the Office of Vocational Rehabilitation (OVR) programs.

Mr. Kayer reports to Robert O’Brien, Executive Deputy Secretary, with direct access to W. Gerard Oleksiak, Secretary of Labor and Industry. Secretary Oleksiak has been designated by the Governor to implement WIOA on his behalf in the Commonwealth of Pennsylvania. He is also responsible for the administration of programs and components in L&I, including Equal Opportunity and Nondiscrimination in WIOA Programs and SWAs.

There are two Equal Opportunity Specialists primarily responsible for Federal Programs:

These positions are responsible for coordinating the State’s responsibilities under 29 CFR Part 38 and monitors all phases of EO in SWAs. as well as being responsible for Section 504, ADA, and OVR Equal Opportunity Compliance.

***The manner in which the recipient makes the identity of the EO Officer(s) known to applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment, as well as interested members of the public.***

- The EO Officer's identity is made known through the public display of "Equal Opportunity is the Law" posters, distribution of pamphlets and booklets, through the issuance of an annual Policy Statement, the Civil Rights Statement, Internet, Intranet and through the designated Equal Opportunity Liaison within each PA CareerLink® and UC Service Center, as well as, the WIOA Policies and Procedures Manual and through contact with the Equal Opportunity Officers for WIOA. The Equal Opportunity Officers' names, position titles, addresses and telephone numbers (including TDD/TTY) will be included on all the above-mentioned internal and external communications.

***The level of staff and other resources available to State and Local level EO Officer(s) to ensure that WIOA Title I- financially assisted programs and activities operate in a non-discriminatory way.***

- All staff positions within L&I's OEO are full-time. The WIOA component responsibilities lay with two (2) full-time employees for LWDA/PA CareerLinks®, UC Service Centers and OVR. An organizational chart depicting OEO's staff and organizational position within the L&I is attached. (*See Attachment B; OEO Organizational Chart*). All resources of OEO are made available to State and Local level EO Officer(s) when it pertains to EO matters. (*See: WIOA Combined State Plan Attachment A*)

***The State's plan for ensuring that State and local level EO Officers and their staff are sufficiently trained to maintain competency.***

OEO will provide NDP Training in three central locations throughout the Commonwealth for local level EO Officers, EO Liaisons, Site Administrators and Workforce Investment Board Staff. L&I's OEO has attended and/or participated in the following training:

Three staff members have attended ongoing NASWA Equal Opportunity Committee meetings and training sessions that are offered 3 times each year.

James Kayer attended the December 2017 training for State Level Equal Opportunity Officers offered by the CRC.

- OEO will schedule Technical Assistance for Local WIOA Equal Opportunity Officers and PA CareerLink®/UC Service Center Liaisons on an ongoing and an "as needed" basis. OEO will provide Equal Opportunity Orientation training for all UC Service Center and PA CareerLink® employees and partners on an ongoing basis.

***The identity, by name, title and organization, of the individual to whom the State and Local level EO Officer(s) reports on equal opportunity matters.***

- James J. Kayer, L&I Director of Office of Equal Opportunity

***A description of the professional and support staffing levels and resources provided to each State and Local level EO Officer to assist him or her in ensuring compliance with WIOA Section 188 and 29 CFR Part 38.***

- Other support staff and resources of L&I's OEO includes one Equal Opportunity Assistant under the direct supervision of the Director. The incumbent performs complex clerical duties, which require the utilization of typing skills and application of quasi-independent judgment for all Equal Opportunity (EO) Compliance Programs, and related activities for the entire office.

***The type and level of training each State and Local level EO Officer has received and will receive to ensure that he or she can fulfill his or her responsibilities as an EO Officer.***

- Training will be conducted on a continuing basis as it becomes available at the Federal or State levels or through professional organizations. OEO staff will attend the Annual National CRC Training Conference if scheduling permits as well as other CRC sponsored training. OEO Staff also will attend training components that are provided as part of the attendance of NASWA's Equal Opportunity Committee meetings which are held 2 to 3 times each year. OEO has provided training for local level Equal Opportunity Officers/Liaisons and will ensure that all local Equal Opportunity Officers/Liaisons are aware of the National training conference.

***How the State makes public the names, position titles and telephone numbers (including TDD/TTY numbers) of each State and Local level EO Officer.***

- The EO Officer's identity is made known through the public display of "Equal Opportunity is the Law" posters, distribution of pamphlets and booklets, through the issuance of an annual Policy Statement, the Civil Rights Statement, Internet, Intranet and through the designated Equal Opportunity Liaison within each PA CareerLink® and UC Service Center, as well as, the WIOA Policies and Procedures Manual and through contact with the Equal Opportunity Officers for WIOA. The Equal Opportunity Officer's name, position title, address and telephone number (including TDD/TTY) will be included on the above-mentioned internal and external communications.

***A description of any duties, other than WIOA equal opportunity responsibilities, assigned to each State and local level EO Officer.***

- All Equal Opportunity positions are full-time. (*Attachment B-OEO Organizational Chart*)

**ELEMENT 2.**

*Notice and Communication 29 CFR 38.54 (c)(1)(iii)*

In this element, the State should address how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 38.34 through 38.39. States should 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 the recipient's obligation to operate in a nondiscriminatory manner, and further, the extent of the right of members of these groups to file complaints of discrimination.

***The method and frequency of the notice, including initial dissemination.***

- An Equal Opportunity Policy Statement is disseminated annually and “Equal Opportunity is the Law” posters (copy attached) will be distributed to each UC Service Center/PA CareerLink® office to be posted in highly visible areas within the UC Service Center/PA CareerLink® to provide continuing notice that it does not discriminate and to ensure compliance with nondiscrimination and equal opportunity provisions. (*See Attachment C Policy Statements and Commonwealth Management Directives*)

Additionally, the “Equal Opportunity is the Law” statement has been included in the Pennsylvania Unemployment Compensation Handbook (Handbook). The Handbook, which includes the Equal Opportunity statement and notice to the claimants about their civil rights, is given to each UC claimant. Applicants who complete registration through the Internet cannot complete the registration process unless they acknowledge they have read and understood their civil rights.

Notification of policies and rights, stating that the Commonwealth does not discriminate, are communicated to recipients of WIOA Title I federally funded programs and activities, including recipients who require alternative formats. An Equal Opportunity Policy Statement will be disseminated to all WIOA programs within the Commonwealth of Pennsylvania. The “Equal Opportunity is the Law” poster has been developed in English and Spanish, as well as, alternate formats and has been disseminated to the WIOA programs. L&I requires that posters be displayed in prominent locations in applicable facilities.

***How the notice is made available to individuals with disabilities.***

- Each applicant/claimant (including applicants/claimants with disabilities) who registers for work with a Pa CareerLink® will receive notification of their Civil Rights information electronically at the time of registration. Applicants/claimants who file for unemployment benefits receive notification of their Civil Rights information via the UCP-1 form, in the UC Service Centers, which includes the “Equal Opportunity is the Law” information. Upon request, auxiliary aids and services will be made available to individuals with disabilities to ensure effective communication. OVR, in most cases, will be a partner in PA CareerLinks®. Individuals who wish to register for services at a PA CareerLink® through the Internet will also have access to assistive technology upon request, such as monitor arms for positioning the monitors, standard text enlargement program such as Zoom Text Xtra, for access to “text only” content on the Internet LYNX, and a Web reader or “talking browser” for auditory access to Web content.

The above-mentioned publications, as well as additional SWA Publications, will contain appropriate tag lines - “Equal Opportunity employer/program,” “auxiliary aids and services are available upon request to individuals with disabilities.” TDD and relay numbers will be included in publications and appear on the “Equal Opportunity is the Law” poster.

All Unemployment Compensation Service Centers (UCSCs)/PA CareerLinks® will ensure that interested individuals, including individuals with disabilities, can obtain information about the existence and location of accessible services, activities, and facilities. Proper signage at entrances including the international symbol for accessibility will be used at each primary entrance of an accessible facility.



Assurance that these requirements are met will be determined during on-site visits and compliance reviews for structural accessibility and through review of the Americans with Disabilities Act Self-Evaluation Survey (*Attachment D - Pennsylvania Physical and Program Access Self-Assessment Process and Nondiscrimination and Equal Opportunity Self-Evaluation Guide (NEOSEG)*). Additionally, all UC Service Centers/PA CareerLinks®/LWDAs will be monitored to assure that, where needed, services are provided in languages other than English to the significant population eligible to receive services, and to ensure that interpreter services are available to effectively communicate with those applicants/claimants with language barriers. (*Attachment E-Limited English Proficiency Plan*)

An Equal Opportunity statement will be included on pamphlets, brochures and other publications provided to LWDAs regarding WIOA Title I federally funded programs or activities, which state that “Equal Opportunity Employer/Program and auxiliary aids and services are available upon request to individuals with disabilities”. Steps have been taken to ensure that communications with individuals with disabilities are as effective and provide an equal opportunity to participate in and enjoy the benefits of the services, programs and activities. (refer to 29 CFR 38.15). A TDD/TTY number is also included on the “Equal Opportunity is the Law” posters, pamphlets, brochures, and other publications to accommodate the deaf and hard of hearing (29 CFR 38.15).

The Office of Vocational Rehabilitation/Bureau of Blindness and Visual Services and the Office of Deaf and Hard of Hearing, are resources located within L&I. The Mid-Atlantic ADA Center is also used as a resource and two members of the OEO (Mr. Kayer, & Ms. Bonner) have been certified as ADA trainers by the Mid-Atlantic ADA Center.

In addition, the EO Federal Unit is a member of the Pennsylvania Rehabilitation Council.

#### ***How States ensure that recipients post the notice.***

- Information on where and how the recipient posts notices is discussed at technical assistance training, and monitored through Equal Opportunity Compliance Reviews. Notices must be posted in highly visible areas such as entrances, employee break room bulletin boards, Intranet, etc. The same information is given to each registered applicant and eligible applicant, in handbooks, and electronically if registered through the Internet. UC Service Centers/PA CareerLinks® notices will be posted electronically.

A recipient must provide initial and continuing notice that it does not discriminate based on any factors prohibited by the regulations. L&I requires that the “Equal Opportunity is the Law” poster be displayed in prominent locations of the LWDA and offices of sub-recipients. (*29 CFR 38.34*)

The Equal Opportunity notice is required to be posted prominently in reasonable numbers and places throughout the LWDA. It will be disseminated in internal memoranda and on PA CareerLink® computer screens where participants must acknowledge their Civil Rights as well as handbooks and manuals. The Civil Rights information will become a permanent part of the participants’ record. In addition, the notice will be provided in alternative formats to individuals with disabilities. (*29 CFR 38.15*).

***How a copy of the notice is placed in the participant's file or where the files are maintained electronically, how the requirement of 29 CFR 38.43 is and will continue to be met.***

- Every applicant/claimant requesting services in a PA CareerLink® will receive and acknowledge receipt of their Civil Rights notice including the right to file a complaint by signing a *Statement of Receipt*. The statement will become a permanent part of the record. Copies of Civil Rights notice in English and Spanish can be found in the documentation section of NDP, Element #2 (*See: Attachment A - WIOA Combined State Plan Attachment A and Attachment F Equal Opportunity Comprehensive Compliance Review Guide*)
- When an applicant files a claim for unemployment compensation benefits, they will receive a handbook (UCP-1) which contains the civil rights notice. When the applicant calls for his/her first check, they must acknowledge they received and understood their civil rights. An annotation is put in the computer that civil rights information was received. This annotation is maintained for the life of the claim.

Pennsylvania has implemented the Civil Rights information electronically. Anyone who receives or requests services must first be registered. If for some reason a participant/applicant cannot register on his/her own, an employee of the PA CareerLink® will assist. Additionally, if a participant requests WIOA services, they will again receive their Civil Rights notice through orientation.

Applicants/claimants filing for services through the Internet must acknowledge that they have read and understood their Civil Rights. This acknowledgement will be acceptable as a statement of receipt and will be maintained as part of the applicant/claimant file.

***How the State ensures that recruitment brochures and other materials routinely made available to the public include the statements “equal opportunity employer/program” and “auxiliary aids and services are available upon request to individuals with disabilities” and, where a telephone number is included on these materials, the State ensures that they indicate a TDD/TTY number or provide for an equally effective means of communication.***

- Pennsylvania UC Service Centers and PA CareerLinks® are monitored for their accessibility to individuals with disabilities. Each office has an Americans with Disabilities Act (ADA) self-evaluation document on file (See Documentation). Additionally, each office has TDD and Relay capabilities and has a plan in place for serving the individuals with disabilities, as well as a plan to serve limited English Speaking applicants/claimants seeking services. The Disabilities Checklist from the Civil Rights Center will be instituted in all WIOA funded programs upon approval at the federal level.

OEO will be responsible for ensuring that the taglines “equal opportunity employer/program” and “auxiliary aids and services are available upon request to individuals with disabilities,” as well as TDD/TTY/Relay numbers are included on all material routinely made available to the public.

***How program-related information is published or broadcast in the news media (e.g., publications of Requests for Proposal) and the means by which the State ensures that***

***publications/broadcasts state that the program is an equal opportunity employer/program and that auxiliary aids and services are available upon request to individuals with disabilities.***

- All recipients of WIOA/Title I funds must ensure that all information disseminated to the public through pamphlets, booklets, posters and the Internet includes a statement that the program is an equal opportunity employer/program and that auxiliary aids and services are available to individuals with disabilities.

When publishing or broadcasting program information in the news media, the EO taglines must be included as follows: “Equal Opportunity employers/program, auxiliary aids and services are available upon request to individuals with disabilities.” (29 CFR 38.38). The notification of information required in the dissemination of policies, must also be provided in languages other than English. When a significant part of the eligible population needs information in a language other than English, both the initial notice and other materials must be provided in the needed language taking into consideration program scope and population size. (29 CFR 38.35)

***The manner and extent to which information in a language other than English is provided, and the way the State ensures that persons of limited English-speaking ability have access to and use its programs and activities on basis equal to that of those who are proficient in English.***

- A statewide Interpreter vendor will provide easy access for Labor & Industry customers who do not speak English.

Civil Rights information is made available in English and other languages. Based on information provided by the Center for Workforce Information & Analysis (PA – L&I), it has been determined that English is the primary language and Spanish is the second most spoken language in the Commonwealth. The information provided showed all languages in each county in Pennsylvania (***Attachment E - LEP Plan***). Additional information showed labor force characteristics for employment and unemployment by sex, age, minority, and veteran status. This information is based on 2000 census data, and has been used to identify the significant number or proportion of the population that would be directly affected by a WIOA Title I-financially assisted program or activity. These individuals may need services or information in a language other than English, to be effectively informed about, or able to participate in the program or activity. If it is determined that a significant proportion of the population in a particular area speaks a language other than English or Spanish the information will then be provided in that language.

To further ensure that persons with limited English proficiency will have access to programs and activities equal to those who are proficient in English, each PA CareerLink<sup>®</sup> that has been determined to have a significant Spanish speaking population has a bilingual employee, as well as, the use of the language line. In addition, PA CareerLinks<sup>®</sup> have agreements with community based organizations, schools, and local colleges, where an interpreter will translate other languages for applicants, claimants, registrants, etc. PA CareerLinks<sup>®</sup> will also use the services available through other Commonwealth agencies.

L&I and other Commonwealth agencies have a statewide contract for Interpreter services. The statewide contracts are for all language support services and can be acquired by issuing a Purchase Order against the contract. Use of a purchase order allows an agency to make use of the service if the need arises.

Communication of Civil Rights information to non-English speakers is accomplished through the following mechanisms:

- Department-wide Limited English Proficiency (LEP) Plan.
- State Contract for translator and interpreters.
- Ongoing training.
- Translation services through a statewide contract.
- UC Service Centers and CareerLinks® with significant Spanish population have front-end Spanish greeting on the phone system.
- The Commonwealth's career assistance website, PA CareerLink® - [www.pacareerlink.pa.gov](http://www.pacareerlink.pa.gov) offers an option to view the site in Spanish.

Individual program offices and the agency-wide workgroup will continue to work on ensuring delivery of services to individuals with limited English proficiency.

***The manner in which and extent to which orientation for registrants, applicants, eligible applicants/registrants, employees, applicants for employment, and members of the public include a discussion of the rights of such persons under WIOA section 188 and 29 CFR part 38.***

- In Pennsylvania's UCSCs, the applicant files for Unemployment Compensation benefits over the telephone. There is no face-to-face communication. The Unemployment Handbook is mailed to the applicant. When the applicant calls for the initial check, he/she must acknowledge that they received, read and understood the Civil Rights notice.

In PA CareerLinks®, if the applicant/claimant registers for work through the Internet only, he/she must acknowledge that they read and understood the Civil Rights notice before they can complete the registration process. If that individual requires core services, they must physically go to the PA CareerLink® and talk to staff. At that point, their rights are explained.

***The steps taken to ensure that communications with individuals with disabilities are as effective as communications with others.***

- PA CareerLinks® and UCSCs/SWA offices and LWDA's are monitored for their accessibility to individuals with disabilities. Each office has an Americans with Disabilities Act (ADA) self-evaluation document on file. (*Attachment D - NEOSEG*)
- Each office has TDD/TTY and Relay capabilities, and has a plan in place for serving individuals with disabilities, as well as a plan to provide services to applicants with limited English speaking proficiency skills

***The process the State has used and will continue using to develop and communicate policy and conduct training regarding nondiscrimination and equal opportunity.***

- OEO will conduct routine Equal Opportunity Compliance Reviews of UC Service Centers/PA CareerLinks® and LWDA's. Through the use of a self-assessment tool, written policies will be reviewed to ensure they are nondiscriminatory. Technical Assistance Training will also be provided to UC Service Center/PA CareerLink® Equal Opportunity Liaisons and LWDA EO Officers on non-discrimination policies and procedures. (In addition, Desk Audits will be conducted on UC Service Centers/PA CareerLinks® to ensure equal opportunity compliance.

Training will be provided to ensure that Equal Opportunity Officers and members of the recipient's staff (who have been assigned responsibilities for equal opportunity provisions of WIOA or this part are aware of and can effectively carry out these responsibilities. All information regarding federal EO conferences or training will be forwarded to local level EO Officers and PA CareerLink®. Training will be provided on a continuous basis, as it becomes available at the federal level. OEO has provided training for local level Equal Opportunity Liaisons.

**ELEMENT 3.**

***Review assurances, job training plans, contracts, and policies and procedures (29 CFR 38.54(c)(1)(i) and (c)(2)(iii) and (iv))***

The State should address how it and its recipients are complying and will continue to comply with requirements of 29 CFR 38.25 through 38.27 regarding the review of assurances, job training plans, contracts and policies and procedures. Additionally, this element should address 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 WIOA Section 188 and 29 CFR Part 38.

***Each grant applicant and training provider seeking eligibility includes in its application for financial assistance under Title 1 of WIOA the required EO assurance.***

- The Commonwealth of Pennsylvania assures that it will comply with Section 188 of the Workforce Innovation and Opportunity Act, Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and the Age Discrimination Act of 1972, as amended.
- The Commonwealth of Pennsylvania also assures that it will comply with 29 CFR Part 38 and all other regulations implementing the laws listed above.
- ***See Attachment A - WIOA Combined State Plan***

A copy of procedures was developed to review the ability of grant applicants to comply with the nondiscrimination and equal opportunity provisions of the WIOA and 29 CFR Part 38.

***The assurance is incorporated into each grant, cooperative agreement, contract or other arrangement whereby Federal financial assistance under Title 1 of the WIOA is made available.***

- ***See Attachment A - WIOA Combined State Plan***

***Each grant applicant and approved training provider can provide programmatic and architectural accessibility as required by subpart C of part 38.***

- Each grant applicant and training provider will be monitored through Equal Opportunity Compliance Reviews and Technical Assistance Training. The Equal Opportunity Review consists of assessing on-site structural accessibility, parking for individuals with disabilities, designated restrooms available for persons with disabilities, building accessibility to persons who are mobility impaired and use a wheelchair, furnishings, public telephone, drinking fountains, and elevators. Each office has an Americans with Disabilities Act (ADA) self-evaluation document on file.
- OEO conducts Technical Assistance and Equal Opportunity Compliance Reviews of all Workforce Investment Areas to assure compliance with all laws and regulations. Special emphasis is placed on the accessibility requirements to assure the program or activity, when viewed in its entirety, is readily accessible to qualified individuals with disabilities.

***Job training plans, contracts, assurances, and other similar agreements entered into by recipients are both nondiscriminatory and contain the required languages regarding nondiscrimination and equal opportunity.***

- OEO will conduct Equal Opportunity Compliance Reviews of PA CareerLinks<sup>®</sup>, UC Service Centers and LWDAs. The desk audit portion of the EO Review will concentrate on the job plans, assurances and agreements. For Unemployment Insurance, the Equal Opportunity Summary of Claims Non-Monetary Determination and Appeals Data is used to monitor Equal Opportunity for claimants.
- OEO reviews the WIOA's job training plans, contracts, and assurances every contract year to ensure that they are nondiscriminatory and contain the required components and language, regarding nondiscrimination and equal opportunity.

***State and local-level policy issuances, or issuances from other recipients, do not discriminate either in intent or effect.***

- The Commonwealth issues several policy statements including the "Equal Opportunity Policy Statement" and the "Sexual Harassment Policy Statement" and the "Disability-Related Employment Issues Statement" reaffirming L&I's position that the LWDAs, PA CareerLinks<sup>®</sup>, SWAs or other federally funded or assisted programs are prohibited from discriminating against applicants, eligible applicants, claimants, participants, applicants for employment, employees and members of the public. In addition, discrimination is prohibited against individuals with disabilities and individuals with limited or no English speaking proficiency in admission or access to, opportunity or treatment in employment, in the administration of or relating to any LWDA, PA CareerLink<sup>®</sup> or SWA program or activity.
- State and local level policy that prohibit discrimination are as follows: The Secretary's Policy on Sexual Harassment, Equal Opportunity Policy Statement, "Equal Opportunity is the Law" poster in Spanish & English, Equal Opportunity Guidebook, Handbooks and Civil Rights notices for registered applicants of SWA offices.

***Policies on WIOA Title I nondiscrimination and/or equal opportunity issues are developed and implemented in a timely manner.***

- Policies on WIOA Title I nondiscrimination and/or equal opportunity matters are issued and disseminated annually under the signature of the Secretary of L&I.



**ELEMENT 4.**

*Affirmative Outreach 29 CFR 38.54(c)(1)(v)*

In this element, the State should address how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 38.40 relating to the provision of providing equal access to programs and activities.

***The State has communicated the obligation of recipients (including the LWDA, One-Stops and other service providers) to make efforts (including outreach) to broaden the composition of the pool of those considered for participation or employment in their programs and activities to include members of both sexes, various racial and ethnic groups and various age groups, as well as individuals with disabilities.***

➤ “The LWDA/PA CareerLink® website provides access anywhere, anytime to employment and training opportunities in Pennsylvania through a unique system of individualized electronic portfolios for both job seekers and employers. As a result, targeted groups such as youth, dislocated workers, veterans, older workers, welfare recipients and persons with disabilities will have access to higher quality comprehensive services.” (*Attachment A - WIOA Combined State Plan*)

➤ Demand-Driven Approach

The Commonwealth seeks to invest state workforce dollars in Local Workforce Investment Areas for programs that target high-growth, high-demand industries and careers. To remain competitive in the global economy, Pennsylvania must connect workforce development more tightly to the demands of industry. By engaging businesses within the clusters, professionals can combine training needs for multiple firms with similar skill needs and help drive a market-based approach to talent development on a regional basis.

The Commonwealth communicates its obligation to LWDA recipients through pamphlets, brochures, and outreach at Job Fairs. Equal Opportunity posters are sent to all PA CareerLinks®, UC Service Centers and LWDA, and Equal Opportunity Compliance Review packages are given to all EO Liaisons. Technical Assistance is provided to all EO Officers and Liaisons to ensure equity and availability of service to all SWAs and LWDA.

***Recipients have made efforts and will continue their efforts to broaden the composition of applicant, registrant and participant pools.***

As resources of all partners in the LWDA/PA CareerLink® system are coordinated and streamlined, the needs of dislocated workers, displaced homemakers, migrant and seasonal farm workers, welfare recipients, women, minorities, veterans, and individuals with multiple barriers (including older individuals, people with limited English speaking ability and individuals with disabilities) will be considered with the accessibility of intensive and training services. Special recruitment and outreach will be conducted to ensure that populations with special needs are informed of the services available in the PA CareerLink® system. Special recruitment and outreach will be done by a variety of means, including advertising in local newspapers, contacting minority organizations, and outreach through news media.

Recruitment advertisements for employment with various employers are frequently on radio. Approximately five job fairs a year are sponsored by local PA CareerLinks®. Newspaper advertisements are used for major employers. Employers can post jobs on the Internet any time of day, seven days a week. Similarly, applicants/claimants can access jobs on the Internet any time of day, seven days a week. In addition to the above-mentioned services, the WDA/CareerLink® offers:

- Assistance with career planning
- Counseling services
- Veteran services
- Internet exploration of occupations, careers and employment
- Referral to community based organizations
- State Civil Service announcements
- Federal Civil Service information
- Job search Workshops

***The State monitors and evaluates the success of recipient efforts to broaden the composition of applicant, registrant and participant pools.***

- Monitoring and statistical assessment procedure: OEO conducts routine Technical Assistance and Equal Opportunity Compliance Reviews on UC Service Centers/PA CareerLinks® throughout Pennsylvania. During an Equal Opportunity Compliance Review, a sampling of advertisements is reviewed to assure that outreach is done to all groups to be considered for participation and employment in WIOA Title - I federally funded programs and activities.

**ELEMENT 5.**

***Compliance with Section 504 of the Rehabilitation Act of 1973, as amended and 29 CFR 38.54 (c)(2)(v)***

In this element, the State should address how it and its recipients are complying and will continue to comply with the requirements of the disability nondiscrimination requirements of Section 188 of WIOA; Section 504 of the Rehabilitation Act of 1973, as amended; and their implementing regulations, including but not limited to 29 CFR 38.12.

***Meet their obligation not to discriminate based on disability. (29. CFR 38.12 (a), 38.26,***

The Commonwealth mandates through various Management Directives and the WIOA Policies and Procedures, that WIOA funded or assisted programs are prohibited from discriminating against individuals with disabilities and individuals with limited or no English speaking proficiency in admission or access to, opportunity or treatment in, employment in the administration of, or relating to the WIOA program or activity.

- Management Directive 205.26 The Americans With Disabilities Act of 1990, Title II, Subtitle A, Nondiscrimination in State and Local Government Services.
  - Management Directive 215.12 Provisions Concerning the Americans With Disabilities Act
  - PA Management Directive 410.10 Amended -Guidelines for Investigating and Resolving Internal Discrimination Complaints
  - PA Management Directive 410.11 -Commonwealth's Equal Employment, Outreach, and Employment Counseling Program
  - IT Accessibility Statement
- All individuals with disabilities are made aware of their rights, just as any other job seeker. The “Equal Opportunity is the Law” (English and Spanish versions) poster is posted in all UCSCs/PA CareerLinks® and LWDA, included in handouts for Unemployment and PA CareerLinks® Civil Rights notices on the Internet, and referenced in the Commonwealth policies on Equal Opportunity.

***Provide reasonable accommodation for individuals with disabilities and reasonable modification of policies, practices and procedures as required. 29 CFR 38.13 and 38.14.***

- Reasonable accommodations must be made for qualified applicants or employees with disabilities, unless it can be shown that the accommodation would impose an undue hardship on the operation of the program.
- Examples of some of the reasonable accommodations and modifications provided by the state are as follows:

Ensuring that all PA CareerLink®/UCSC and LWDA sites are following the Americans with Disabilities Act Accessibility Guidelines, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973. The Equal Opportunity Specialists have worked with PA CareerLinks® to ensure the provision of assistive technology and training for staff to make the delivery system accessible to individuals with disabilities.

All PA CareerLink® and LWDA sites have an awareness of appropriate community resources to address special needs of customers. Recipients are aware of their obligations to provide reasonable accommodations to qualified individuals with disabilities who are applicants, registrants, and/or eligible applicants unless the accommodation would cause undue hardship. PA CareerLink® sites also have telecommunication access for individuals who are deaf or hard of hearing.

The LWDA will provide a written statement of reasons for refusing to provide accommodations/modifications to the individual or individuals who requested the accommodations.

If a requested accommodation would result in undue hardship, the LWDA will take any other action that would not result in such a hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefits, services, training, or employment provided by the LWDA.

The LWDA provider will, within reason, modify its facility policies, practices or procedures to avoid discrimination against individuals with disabilities unless the modifications would primarily affect the basis of the service, program or activity.

***Provide architectural accessibility and programmatic accessibility***

- Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such a manner that the facility or part of the facility is readily accessible to and usable by qualified disabled individuals.
- Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient in a manner that affects or could affect the ability to use the facility or part of the facility shall, to the maximum extent feasible, be altered in such a manner that the altered portion of the facility is readily accessible to and usable by qualified individuals with disabilities.
- OEO conducts equal opportunity compliance reviews, which includes a review of the PA CareerLinks®/UC Service Center/LWDAs completed self-evaluation - ADA survey. This survey facilitates evaluation of the external and internal structural accessibility of facilities. Where inaccessibility is found, corrective action plans must be submitted to OEO, with timeframes for implementation. Follow-up is done to ensure that the problem is corrected.
- OEO utilizes standards for architectural accessibility, design, construction, or alteration standards for physical accessibility prescribed by Title III of the Americans with Disabilities Act (ADA) under the Americans with Disabilities Act Accessibility Guidelines (ADAAG) to assess accessibility during on-site reviews.
- Recipients must comply with the architectural accessibility standards whether an individual with a disability has requested a reasonable accommodation.
- An Equal Opportunity Policy Statement signed by the Secretary of Labor and Industry has been posted in PA CareerLinks®/UC Service Centers/LWDAs and reiterates the fact that equal opportunity, as enshrined in the United States Constitution, is available to all citizens of the Commonwealth.
- State Workforce Agencies and Local Workforce Development Areas are prohibited from discriminating on the grounds of race, color, religion, sex (sexual harassment is a form of discrimination), national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in any WIOA Title I – financially assisted program or activity.

OEO addresses programmatic accessibility during technical assistance visits conducted, during regional training events, and through policy statement issuances to recipients and Equal Opportunity Officers/Liaisons.

- LWDAAs will not deny the benefits of programs, activities or services to individuals with disabilities because of inaccessible facilities. OEO will assure that all aspects of WIOA programs or activities, when viewed in their entirety, are readily accessible to and usable by individuals with disabilities. Although PA CareerLinks<sup>®</sup>, UC Service Centers and LWDAAs are not required to make every facility or every part of an existing facility accessible, arrangements will be made, when necessary, to ensure full participation by qualified individuals with disabilities. However, if a program is available in only one location, that site will be made accessible or the program will be made available at an alternative accessible site or sites.

***Provide for and adhere to a schedule to evaluate job qualifications to ensure that the qualifications do not discriminate based on disability 29 CFR 38.12***

- The “Equal Opportunity is the Law” poster and the Equal Opportunity Policy Statement are posted in all PA CareerLinks<sup>®</sup>, UCSCs, and LWDAAs. These statements ensure that individuals because of race, color, religion, sex, national origin, age, disability, or political affiliation are not discriminated against. The Equal Opportunity Specialist will monitor Job Orders posted by employers, to evaluate all essential functions and skill requirements, and to ensure that language stated therein will not cause discrimination against individuals with disabilities and that they have equal opportunities for referrals.
- Employment practices and employment related training program participation must be evaluated and a schedule developed and adhered to for reviewing the appropriateness of all job qualifications. In instances where individuals with disabilities are excluded because of their disability, the job qualifications must be related to job performance and be consistent with business necessity and safe performance.
- Whenever a recipient applies job qualifications in the selection of applicants, employees or participants for employment or training or other change in employment status such as promotion, demotion or training, which could exclude individuals with disabilities because of their disability, the qualifications shall be related to the specific job or jobs for which the individual is being considered and shall be consistent with business necessity and safe performance.

***Limit pre-employment/employment medical inquiries to those permitted by and in accordance with WIOA Section 188, Section 504 and the Americans with Disabilities Act of 1990 and their implementing regulations.***

- OEO will provide technical assistance training to EO Liaisons of UCSCs and PA CareerLinks<sup>®</sup> and LWDA EO Officers. The liaisons will be made aware that recipients may not conduct pre-employment medical examinations or make pre-employment inquiries of an applicant for employment or training regarding a disability or the nature or severity of a disability. A recipient may make pre-employment inquiry into an applicant’s ability to perform job-related functions.
- Pre-employment medical examinations may not be required, but may be a condition of a job offer based on the results of a medical examination conducted prior to an individual’s entrance on duty if:

- All entering employees in the same job category, regardless of disability status, are required to take the same medical examination;
- The results of the medical examination are not used to discriminate based on disability; and
- All information about the individuals' medical condition and medical history is maintained and treated as confidential medical information.

PA CareerLinks® are aware that disclosure of disability status is voluntary and that information is for record keeping purposes only. Otherwise, such data must be maintained as confidential.

***Ensure the confidentiality of medical information provided by registrants, applicants, eligible applicants/registrants, participants, employees, and applicants for employment.***

- EO Liaisons and Officers of UC Service Centers/PA CareerLinks® and LWDAs will be made aware that results of medical examinations shall be transmitted to the employing official, only after a conditional decision to make a job offer has been made. Information obtained regarding the applicant's medical condition or history are collected and maintained on separate forms that shall be afforded confidentiality as medical records and must be locked or otherwise secured.. The only individuals in the PA CareerLink® that may access to confidential medical information are employees who are responsible for documenting eligibility, where disability is an eligibility criterion for a program or activity and first aid and safety personnel who need access in an emergency.. Pennsylvania's WIOA Combined State Plan assures that the Commonwealth of Pennsylvania will comply with the confidentiality requirements of WIOA.

***Administer the WIOA Title I- financially assisted programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities 29 CFR 38.12.***

- L&I assures that qualified individuals with disabilities are provided an equally effective opportunity to participate in or benefit from the aid, benefit, service, employment or training provided by recipients of federal financial assistance under WIOA Title I. Equal participation of qualified individuals with disabilities through inclusion or integration is one of the primary objectives of program accessibility.

L&I assures that appropriate steps are taken to ensure that communications with beneficiaries, registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employees, and members of the public who are individuals with disabilities, are as effective as communications with others.

- Auxiliary aids and services to ensure effective communications, where necessary, will be made available by WIOA - Title I federally assisted programs.
- Pa CareerLink® has developed the document, "Accessibility Guidelines for Effective Communication for People with Disabilities."
- UCSCs provide accessible telephone usage, TDD & TTY. Individuals who do not have a telephone or individuals with disabilities that will not permit phone usage, may mail claims, or receive assistance from nearby PA CareerLinks®. Appropriate auxiliary aids or services, where necessary,



will afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of WIOA Title I financially assisted programs or activities. The Office of Vocational Rehabilitation, the Bureau of Blindness and Visual Services will be maintained as PA CareerLink® partners at all primary sites. Individuals with disabilities will be placed in training environments in the most integrated setting possible and will not be referred to programs that provide services exclusively to persons with disabilities if the person can perform in the program or on the job.

***Can communicate with persons with disabilities as effectively as with others.***

- When an auxiliary aid or service is required, the individual with the disability must be given the opportunity to request the aid(s) and service(s) of his or her choice and that choice must be given “primary consideration.” Consulting with the individual with the disability is important because that individual is in the best position to determine an effective aid or service.
- PA CareerLinks® provide auxiliary aids or services for individuals with hearing impairments to include qualified interpreters, note takers, computer assisted services, telephone headset amplifiers, and telecommunication devices for deaf persons (TDD/TTYs).
- Individuals who are deaf or hard of hearing may use videophone service to file claims for unemployment benefits, ask questions about their claims or get information about Unemployment Insurance (UI) programs.

➤ **How it Works**

A stand-alone highspeed Internet connection, a personal computer with “Purple” (software similar to Skype-type of communication) and a camera, a UI Interviewer and a state-registered interpreter are housed in a private cubicle in a low-traffic area in a service center.

A claimant who uses ASL calls the videophone number. The ASL interpreter and UI Interviewer answer the incoming call from the claimant. The interpreter will interpret between the claimant using ASL and the Interviewer using English. As a result, the Interviewer can effectively communicate with the claimant and provide immediate UI services. Also, the process can be reversed with the Interviewer calling the claimant.

Claims taking and UI services provided to the claimant via videophone are easily and quickly completed. This real-time, three-way communication enables the participants to be visual; they can refer to forms and show specific places on forms; they can write notes on a large pad if they have problems communicating; they can visually stop the communication if it becomes difficult to understand. The Interviewer can ask any necessary questions and answer questions from the claimant, thus, saving time.

The videophone has the capability of “sign mail” or “voicemail.” Claimants can leave sign mail on this phone, and the Interviewer returns calls during times when not receiving inbound calls. When not manned, the videophone has an ASL sign mail message on it, alerting claimants of the hours of operation, to leave a message for a call back, or to call the toll-free service center number using Video Relay Services (VRS) for immediate needs.

- Auxiliary aids or services for individuals with vision impairments include readers, audio recordings, Brailled materials and large print materials.

- The international symbol for accessibility will be used at each primary entrance of an accessible facility and appropriate signage must also direct individuals with disabilities to accessible secondary facilities, i.e. restrooms, lunchrooms, water fountains and telephones.

WIOA Title I financially assisted programs will not deny the benefits of programs, activities or services to individuals with disabilities because of inaccessible facilities. Local Workforce Development Areas/PA CareerLinks®/UC Service Centers must assure that all aspects of the program or activity, when viewed in its entirety, are readily accessible to and usable by individuals with disabilities. While every facility or every part of an existing facility may not be accessible, arrangements will be made to ensure full participation by individuals with disabilities.

**ELEMENT 6.**

***Data and Information Collection Maintenance 29 CFR 38.54(c)(1)(iv)***

The State should address how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 38.41 – 38.45, related to data and information collection and maintenance. The State must ensure that a data and information collection and maintenance system for its State programs is established and maintained.

***Recipients collect and maintain for a minimum of three years, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees and applicants for employment.***

PA CareerLinks<sup>®</sup>/UC Service Centers/LWDAs will collect data and maintain records necessary to determine compliance with the equal opportunity provisions of 29 CFR Part 38. Records maintained will include, but are not necessarily limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. All EO data on applicants, registrants, participants, terminees, etc., will be maintained for at least three (3) years. Personal data regarding complaints and grievances must be kept in a locked file.

***Recipients record the race/ethnicity, sex, age, and, where known, disability status of each applicant, registrant, eligible applicant/registrant, participant, terminee, employee, and applicant for employment.***

- Recipients will collect various data at the intake stage. Applications, whether in UC Service Centers, PA CareerLinks<sup>®</sup> or LWDAs, will ask for Social Security number, birth date, race, sex, and disability.
- In addition, the race/ethnicity, sex, age, and where known, disability status of every applicant, registrant, eligible applicant/registrant, participant, terminee, applicant for employment, and employee will also be collected.

***Recipients treat records in a manner that ensures their confidentiality, particularly as it relates to medical information.***

- All information collected, including records containing medical information, will be stored in a manner that ensures confidentiality, and will be used for record keeping and reporting, and determining eligibility, when appropriate for WIOA Title I-financially assisted programs or activities.
- Technical Assistance Training for all SWA Equal Opportunity Liaisons and LWDAs will explain proper procedures for maintaining records on complaints, applicants, confidentiality, and when to ask for medical information.

***Recipients maintain a log of complaints filed that allege discrimination on one or more of the bases listed in Section 188 of WIOA.***

- PA CareerLinks<sup>®</sup>/UC Service Centers will maintain and submit to DOL's Civil Rights Center (CRC), upon request, a complaint log containing pertinent information about discrimination complaints. The log will include:
  - Name and address of the complainant
  - A description of the complaint
  - The date the complaint was filed

- The disposition and date of disposition of the complaint
- Other pertinent information

All information that could lead to the identification of an individual who filed a complaint will be kept confidential.

***Grant applicants and recipients notify the Director of CRC of administrative enforcement and lawsuits.***

- L&I assures that information about any administrative enforcement actions or lawsuits that allege discrimination on any protected basis filed against WIOA grant applicants or recipients within the Commonwealth of PA will be promptly reported to the Director of CRC.

**ELEMENT 7.**

***Monitor recipients for compliance with 29 CFR 38.53(c)(1)(viii)***

The State should address how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 29 CFR 38.53(c)(1)(viii). The State is required to establish procedures to annually monitor all aspects of the recipient's compliance with Section 188 of WIOA and 29 CFR Part 38.

### ***Assurances (See 29 CFR 38.20 through 38.22.)***

- The Commonwealth of Pennsylvania assures full compliance with the nondiscrimination and equal opportunity provisions of the following laws:
  - Section 188 of the Workforce Innovation and Opportunity Act
  - Title VI of the Civil Rights Act of 1964, as amended
  - Section 504 of the Rehabilitation Act of 1973, as amended
  - Age Discrimination Act of 1975, as amended
  - Title IX of the Education Amendments of 1972, as amended

### ***Equal Opportunity Officers***

- The Commonwealth of Pennsylvania assures that an Equal Opportunity Officer has been appointed/designated for all service providers. The Equal Opportunity Officer is a senior-level employee of the LWDA.

### ***Notice and Communication 29 CFR 38.34 through 38.40***

The LWDA/PA CareerLinks®/UC Service Centers will provide initial and continuing notice that it does not discriminate on any prohibited ground. This notice will be provided to registrants, applicants, and eligible applicants/registrants, participants, applicants for employment and employees' unions or professional organizations that hold collective bargaining or professional agreements with the recipients, sub-recipients that receive WIOA Title I funds from the recipient, and members of the public, including those with impaired vision or hearing.

The "Equal Opportunity is the Law" poster will be distributed to all LWDA Title I federally assisted programs and will be posted in highly visible areas throughout the LWDA. The "Equal Opportunity is the Law" language will be disseminated in internal memoranda and distributed to participants/applicants in written and/or electronic communications. It will be included in handbooks and/or manuals and in alternate formats to individuals with disabilities.

- Recruitment brochures and other materials that are distributed or communicated in written and/or oral form will indicate that the LWDA is an "Equal Opportunity Employer/ Program and auxiliary aids and services are available upon request to individuals with disabilities." Materials will include the TDD/TTY telephone number or relay service used by the recipient.
- All LWDA Title I financially assisted programs in Pennsylvania have a system in place where participants/applicants can receive services in languages other than English. This also includes the "Equal Opportunity is the Law" posters, handbooks, brochures, and other written or electronic communications.
- During all presentations to orient new participants, new employees and/or the public, civil rights requirements will be discussed, including the right to file a complaint of discrimination with the recipient or the Director of the Civil Rights Center. (See NDP ELEMENT #2)

***Data and Information Collection and Maintenance 29 CFR Section 38.41 through 38.45***

- WIOA recipients, including PA CareerLinks®/UC Service Centers are required to collect data and maintain records necessary to determine compliance with the equal opportunity provisions of WIOA. Such records must include data on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment.
- Each recipient records the race/ethnicity, sex, age, and, where known, disability status, of every applicant, registrant, eligible applicant/registrator, participant, terminee, applicant for employment, and employee.
- WIOA recipients also maintain a log of complaints filed with it that allege discrimination on the ground(s) of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship and/or participation in a WIOA Title I federally assisted program or activity. The log includes the name and address of the complainant; the grounds for the complaint; a description of the complaint; the date the complaint was filed; the disposition of the complaint; and other pertinent information. Information that could lead to identification of an individual who filed a complaint will be kept confidential.
- In addition, each grant applicant and recipient will notify the Director of the Civil Rights Center when administrative enforcement actions or lawsuits are filed against it alleging discrimination. This notification will include the names of the parties to the action or lawsuit, the forum in which each case was filed, and the relevant case numbers.

Each recipient will maintain the following records for a period of three years from the close of the applicable program year: The records of applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Records regarding complaints and actions taken will be kept for three years from the date of resolution of the complaint.

- The identity of any individual who furnishes information relating to, or assisting in an investigation or compliance review including the identity of any individual, who files a complaint will be kept confidential. An individual whose identity is disclosed must be protected from retaliation.

***Universal Access (29 CFR Section 38.40)***

Recipients will take appropriate steps to ensure they are providing universal access to their WIOA Title I-federally funded program and activities. Such efforts include, but are not limited to advertising programs and/or activities in media that specifically target various populations, sending notices of openings to community-based organizations that serve various populations and extending outreach efforts to include schools or community service groups serving individuals with disabilities (29 CFR 38.40).

***Complaint Processing Procedures (29 CFR Section 38.69 through 38.85)***

- The Commonwealth of PA assures that its WIOA programs will operate in a manner that prohibits discrimination against all individuals in the United States based on race, color, religion, sex,



national origin, age, disability, political affiliation or belief, and against beneficiaries based on either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I - financially assisted program or activity. In addition, LWDA/PA CareerLinks® and UC Service Centers are aware of their obligation to comply with Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, as amended, Title IX of the Education Amendments of 1972, as amended, and 29 CFR Part 38.

Additionally, a copy of 29 CFR Part 38, “Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act” has been issued to all LWDA staff contacts to be disseminated to their designated EO Officers/Liaisons.

***EO evaluation/monitoring of applicants for and recipients of WIOA Title I financial assistance (including monitoring assurances and programmatic and architectural accessibility).***

- OEO will conduct regularly scheduled Equal Opportunity Compliance Reviews of each PA CareerLink®/UC Service Center. The Compliance Review will assess the adequacy of the following:
  1. Designation of the Equal Opportunity Liaison
  2. Posters, Notices and Communication
  3. Data, and Information Collection and Maintenance
  4. Accessibility of Services, Universal Access and Structural Accessibility
  5. Complaint Processing Procedures
- Monitoring is a review process used to track program performance, evaluate placement and training systems, and ensure compliance with civil rights laws. It is also a means by which training needs, technical assistance needs, as well as the need for new or revised policies and procedures, or guidelines, can be determined.
- When assessing the EO compliance status of WIOA Title I-federally funded programs or activities, the following areas will be reviewed at the LWDA level:
  - Adequacy of EO/non-discrimination and sexual harassment policy dissemination;
  - Adequacy of EO Record Keeping procedures;
  - Adequacy of complaint procedures;
  - Accessibility of program and structure, to individuals with disabilities and persons of limited English speaking ability;
  - Participant and staff advisement of their civil rights under federal law and;
  - Prominent display of EO posters in English and Spanish wherever applicant/participant services are provided, including training facilities and worksite locations, where feasible.
- When a LWDA is selected for an EO Compliance Review, the following occurs:

1. A notification of review is sent out along with an Information Request Form and self-assessment guide to be completed and returned to OEO within 30 days. Any supporting documentation required must be included.
  2. The most recent quarterly EO report is requested for the program selected for review and a desk review is conducted of the services being provided.
  3. The appropriateness and adequacy of each component is determined by phone interviews and a review of the information received in the and supporting documentation.
  4. Findings are communicated in writing, which include suggested corrective actions and time frames for implementation.
  5. When OEO receives the required corrective action plan, a letter of compliance is issued if actions are acceptable. If actions are not acceptable, a letter of non-compliance is issued and further corrective action is recommended.
- OEO and the Equal Opportunity Officer have responsibility for conducting EO Compliance Reviews within LWDA's. The narrative report will provide the names, title and organization of the person/persons conducting the review.
  - LWDA's are selected for EO compliance reviews annually or if there are complaints against the LWDA, or if disparities are noted on the EEO quarterly reports.

***Sanctions and corrective actions for violations noted by a recipient during its monitoring reviews.***

- When an Equal Opportunity Compliance review results in deficiencies or noncompliance that cannot be resolved or corrected on a voluntary basis, the Equal Opportunity Specialist at the State level provides technical assistance.
- After all attempts to provide assistance and correction of deficiencies fail, the imposition of sanctions will be considered.

***Policy development, communication, and training.***

- Training for LWDA's on the NDP has been conducted and technical assistance will be offered on an on-going basis, or as requested.

***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.***

- The Equal Opportunity Compliance Review consists partly of desk audits, this tool does include the Four-Fifths rule -Department of Labor Regulations 41 CFR 60 Employee Selection Guidelines. A selection rate for any racial, ethnic, or sex group that is less than four-fifths (or 80 percent) of the rate for the group with the highest rate will generally be regarded as evidence of adverse impact. This tool is used during Equal Opportunity Compliance Reviews.
- The EO Compliance Review also addresses Data & Information Collection and Maintenance -
- The EO Compliance Review addresses monitoring assurances and program and physical accessibility in PA CareerLinks®/UC Service Centers.
- The Physical and Program Access Self-Assessment portion of the Compliance Review looks at assurances and inspects program and physical accessibility.

***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.***

- When disparities exist or areas in question are deficient in some manner, an on-site compliance review is conducted to further determine cause for the differences that exist and corrective measures are promulgated.

***The procedure for reviewing the recipient's policies and procedures to ensure they do not violate the prohibitions contained in 29 CFR section 38.5 through 38.12***

- The Non-Discrimination and Equal Opportunity Self-Assessment Guide for LWDA's, CareerLinks®/UC Service Centers is a tool used to review the recipient's policies and procedures to ensure they do not violate the prohibitions contained in 29 CFR sections 38.5 through 38.12.

***The written reports prepared for each review, which, among other things, provide that results will be made available to the recipient(s) for review.***

- A report of findings after each review is forwarded to the Recipient, UC Service Center, PA CareerLink®/LWDA, as applicable.

***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 names, titles, and organizations of those persons are provided.***

- The State, with the assistance of the LWDA EO Officer, is responsible for conducting reviews.
- All PA CareerLinks®/UC Service Centers have been provided with a synopsis of all applicable and referenced laws necessary to ensure EO Compliance. In addition, technical assistance was provided to each office prior to conducting compliance reviews. During those visits, the

compliance review process was explained to the EO Liaison, Manager and Complaint Officer. The Compliance Review instrument was developed to assess all nine (9) elements of the NDP.

***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.***

- LWDAAs will be reviewed annually. Eleven (11) LWDAAs will be selected yearly for technical assistance.

## ELEMENT # 8

### **ELEMENT 8**

#### ***Complaint Processing Procedures 29 CFR Section 38.54 (c) (1) (vii)***

The State should address how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 38.72 and 38.73 regarding complaint-processing procedures.

## *Narrative*

OEO is responsible for the development and implementation of procedures for processing complaints alleging violations of the nondiscrimination and equal opportunity provisions in Section 188 of the WIOA and its regulations, 29 CFR Part 38. Section 188 of WIOA prohibits discrimination based on race, color, religion, sex, national origin, age, disability, political affiliation or belief in both participation and employment; and against any beneficiary of programs financially assisted under Title I of WIOA on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIOA Title I-financially assisted program or activity. The nondiscrimination regulations of WIOA prohibited discrimination in all aspects of the administration, management and operation of WIOA Title I financially assisted programs or activities.

OEO has developed and adopted procedures for processing complaints alleging violations of the equal opportunity and nondiscrimination provisions of WIOA Title I assisted programs and/or activities. All recipients of WIOA Title I financially assisted programs or activities will be required to comply with this procedure as provided.

For purposes of WIOA, the term recipient is defined, to include the Governor, as well as:

- (1) State level agencies that administer, or are financed in whole or in part, with WIOA Title I funds;
- (2) State Workforce Agencies;
- (3) State and Local Workforce Development Boards;
- (4) LWDA Grant recipients;
- (5) One-Stop Operators;
- (6) Service providers, including eligible training providers;
- (7) On-the-Job Training (OJT) employers;
- (8) Job Corps Contractors and Center Operators, excluding the operators of federally operated Job Corps Centers;
- (9) Job Corps national training contractors;
- (10) Outreach and admissions agencies, including Job Corps contractors that perform these functions;
- (11) Placement agencies, including Job Corps contractors that perform these functions; and
- (12) Other National Program recipients; and
- (13) One Stop Partners, to the extent that they participate in the One Stop system.

Complaints may be filed by:

- ✓ Applicants/registrants for aid, benefits, services or training
- ✓ Eligible applicants/registrants
- ✓ Participants
- ✓ Employees
- ✓ Applicants for employment
- ✓ Service providers (the organization involved is one, which may be attributed a racial, national origin or other characteristic entitled to protection under WIOA).
- ✓ Eligible service providers

Complaint forms for filing allegations of discrimination at the local, state and federal levels can be obtained from the EO Liaison in the PA CareerLinks<sup>®</sup>, the Local WIOA EO Officer, OEO, or directly from CRC. Complaints must be filed within 180 days from the date of the alleged occurrence of discrimination. Complaints filed after the 180-day period will be forwarded to CRC. The Director of CRC, for good cause shown, may extend the filing time beyond 180 days.

Individuals, specific classes of individuals, or authorized representatives may file complaints/allegations of discrimination regarding PA CareerLink<sup>®</sup> issues with the Equal Opportunity Liaison in the PA CareerLink<sup>®</sup> who forwards them directly to the State Equal Opportunity Officer.

Individuals, specific classes of individuals, or authorized representatives may file complaints/allegations of discrimination about LWDA programs or services with the Local Workforce Development Area's Equal Opportunity Officer, or directly with the State Equal Opportunity Officer. Complainants are also made aware of their right to file allegations directly with the USDOL Civil Rights Center (CRC).

**NOTE: Complaints/allegations do not have to be submitted on the prescribed complaint form to be considered valid complaints or allegations. Discrimination complaints may be submitted to:**

Local Workforce Development Area Equal Opportunity Officer

or

Director, Office of Equal Opportunity

Department of Labor & Industry

Room 1402, Labor & Industry Building

651 Boas St

Harrisburg, PA 17121

Toll Free 1-800-622-5422

TDD/TTY 1-800-654-5984 or PA Relay 711

or

Director, Civil Rights Center  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Room N-4123  
Washington, DC 20210  
(202) 219-7026  
TDD (202) 219-7003

Complaints filed by the complainant or his/her authorized representative must be filed in writing and must contain the complainant's and respondent's name and address, date alleged incident of discrimination occurred, a description of the allegations with enough detail to allow a determination by the Civil Rights Center (CRC) or Department of Labor & Industry about jurisdiction over the complaint, whether or not the complaint was filed in a timely manner, apparent merit, and, if true, whether the allegations would violate any of the nondiscrimination and equal opportunity provisions of WIOA, and the complainant's or his/her authorized representative's signature.

*Procedures for Complaint Processing at the Local Workforce Development Area Equal Opportunity Officer Level*

Upon notification of a discrimination complaint, the LWDA EO Officer must inform the complainant of their right to file a complaint and have it investigated at the local, state or federal level. All complaints filed with the LWDA Equal Opportunity Officer must be immediately reported to the EO Officer in L&I.

If the complainant elects to attempt resolution at the local level, the LWDA EO Officer, based on consultation with the State OEO, will conduct fact-finding/investigation at the local level in consonance with procedures outlined in the WIOA.

The LWDA Equal Opportunity Officer shall meet with the complainant or his/her authorized representative within ten (10) business days from the date of receipt of the written allegations, to conduct a fact finding or investigation of the circumstances underlying the allegations and attempt to informally resolve the issue(s). The LWDA EO Officer's findings will be submitted in writing to the complainant not later than ten (10) business days following the fact-finding/investigation. The written notification shall include notice of the complainant's right to request a formal investigation by the EO Officer at the state level if a satisfactory resolution is not accomplished at the local level.

If the Complainant is dissatisfied with the attempted informal resolution, he/she must inform the LWDA EO Officer and the EO Officer at the State level within five (5) business days of receipt of the unsatisfactory decision and request a formal investigation by the State Equal Opportunity Office.

All complaints filed at the local level must be documented on the WIOA/SWA local complaint log that is submitted to the State Equal Opportunity Office on a quarterly basis.

*Procedures for Complaint Processing at the Local Workforce Development Area State Equal Opportunity Officer Level.*



## Acceptance of Complaint

If it is determined that the OEO has jurisdiction over the complaint/allegation filed, within ten (10) days of receipt, the Equal Opportunity Officer will send an acknowledgment of receipt of the letter to the complainant and advise him/her of the following:

- (1) Their right to be represented in the complaint process;
- (2) A list of the issues raised in the complaint;
- (3) A statement of whether the issue will be accepted for investigation or rejected by the OEO; if rejected, the reason for the rejection; and,
- (4) The right to seek resolution through the Mediation/Alternate Dispute Resolution (ADR) process. NOTE: If the complainant elects resolution through ADR, the complaint will be forwarded to a Mediator.

The Respondent will be notified that a complaint alleging discrimination has been filed and is being processed. He/she will also be advised if the complainant elects mediation as the means of resolution.

Otherwise, the Equal Opportunity Officer will meet with the complainant and/or his/her authorized representative and the respondent, within 15 days from the date of receipt of the written allegations, to initiate a fact finding or investigation of the circumstances underlying the allegations, and attempt to informally resolve the issue(s). If the complaint is resolved informally, the resolution will be documented and maintained in the OEO files.

If the Complainant is dissatisfied with the attempted informal resolution or prefers a formal investigation, an investigator will be assigned to the case. The investigator will interview the complainant, respondent and witnesses for both parties as identified by the parties. After the investigation, a *Notice of Final Determination* will be issued. *The Notice of Final Determination* will be strictly based on the evidence obtained during the investigation. The notice will be issued within 90 days of filing the complaint. The written notice will include, for each issue raised, a decision on the issue(s), an explanation of the reasons underlying the decision, or a description of the way the parties resolved the issue(s) and notification of recourse.

If by the end of the 90 days, the OEO has not completed processing the complaint or fails to issue a notice of Final Determination, the complainant or his/her representative may, within 30 days of the expiration of the 90-day period, file a complaint with the Director, Civil Rights Center (CRC) who may extend the 30-day period for good cause shown.

If the Notice of Final Determination is issued during the 90-day period and the Complainant is dissatisfied with the decision, the complainant is advised of his/her right to file a complaint with the CRC within 30 days of the date on which the complainant received the *Notice of Final Determination*.

## **Non-Acceptance of Complaint**

If a complaint is not within the jurisdiction of the OEO or CRC, is not timely filed, or does not have apparent merit, the complainant will be immediately notified in writing stating the reason for the lack of jurisdiction, i.e.,

- ✓ the basis for the complaint is not covered by the prohibitions set forth by 29 CFR Part 38;
- ✓ the complaint was not filed within the prescribed 180-day time-frame or;
- ✓ the complaint is against an entity that is not a recipient of WIOA Title I financial assistance as defined by 29 CFR Part 38.

If the complaint is not within the jurisdiction of OEO or the Civil Rights Center, but within the jurisdiction of another federal grant making agency, the complaint will be returned to the complainant, stating the reason(s) for the lack of jurisdiction. The complainant will be advised of the appropriate agency that handles the complaint.

If a complaint alleges discrimination by an entity that operates a program or activity financially assisted by a federal grant agency other than DOL but participates as a partner in a PA CareerLink<sup>®</sup>, the following will apply:

- ✓ If the complaint alleges discrimination on a basis prohibited by Section 188 or Civil Rights laws, the OEO and the grant-making agency will have dual jurisdiction over the complaint.
- ✓ If the complaint alleges discrimination on a basis that is prohibited by Section 188 of WIOA but not by any Civil Rights laws enforced by the federal grant-maker, the complaint will be referred to CRC who has sole jurisdiction over the complaint.

## **Alternate Dispute Resolution**

As an alternative to the formal complaint process, complainants may choose to have their complaints processed through the Mediation/Alternate Dispute Resolution Process. This means that there will not be a formal investigation, but that a mediator will attempt to bring the complainant and the respondent together to work out an amicable solution to their problem(s). According to regulations, this option for processing a discrimination complaint must be offered to every complainant.

To fulfill requirements of WIOA, OEO, in conjunction with L&I's Bureau of Mediation, developed the ADR process that stipulates utilization of state mediators to mediate complaints filed by either clients or employees of grantees in Pennsylvania's administration of the WIOA to ensure a highly professional and cost-effective method of dispute resolution instead of the traditional complaint resolution process. If mediation is chosen, OEO will inform the Bureau of Mediation and a mediator will be assigned. The complaint will immediately be forwarded to the mediator. The complainant must allow 30 days for the mediation to take place. The choice of mediation rests solely with the complainant. If chosen, the respondent in the case will be notified of the selection. Any party to the settlement agreement reached in mediation may file a complaint with CRC if the agreement is breached. The complaint must be filed within 30 days from the date the non-breaching party learns of the breach. If CRC determines that the respondent breached the agreement, the complainant may file allegations based on his/her original charges with CRC.

The following are procedural guidelines to facilitate implementation:

- ✓ Equal Opportunity (EO) Officers in Pennsylvania's 23 Local Workforce Development Areas will be responsible for referring complaints and/or allegations of discrimination for mediation to OEO, Department of Labor & Industry.
- ✓ The Equal Opportunity Specialist (EOS), in consultation with the complainant, will refer the complaint to mediation.
- ✓ If a complainant signs an Agreement to Mediate Form, the complaint will be referred to one of three mediators from one of the three regions of the state. (This can be done by fax or mail. Mediators do not need to have a face-to-face meeting between the complainant and the EOS.)
- ✓ The OEO – L&I will coordinate the meeting date, time, and place with the complainant, the respondent, and the Mediator.
- ✓ The Mediator will assume jurisdiction of the complaint for 30 days, beginning with the initial referral, in writing, from the EOS.
- ✓ Within the 30-day period, the mediator will conduct Mediation session(s) and submit a Settlement Agreement to the referring EOS in Harrisburg, as well as the Bureau of Mediation.

## ***Interface Between OEO and the Bureau of Mediation (L&I) To Implement Mediation Component of WIOA.***

Utilization of state mediators in the mediation of complaints filed by either clients or employees of grantees in Pennsylvania's administration of the WIOA should result in a highly professional and cost-effective method of dispute resolution.

The following are procedural guidelines to facilitate implementation:

1. Equal Opportunity (EO) Officers in Pennsylvania's 23 Local Workforce Development Areas will be responsible for referring complaints and/or potentially troublesome situations to OEO staff in Harrisburg.
2. The Equal Opportunity Specialist (EOS) in the OEO Harrisburg office, in consultation with the complainant, will refer the complaint either to investigation (not addressed in this document) or to mediation.
3. If a complainant signs an Agreement to Mediate Form, the complaint will be referred to one of three mediators from three different regions of the state. (This can be done by fax or hard mail. A face-to-face meeting between the complainant and the EOS is not required.)
4. The EOS will coordinate the meeting date, time, and place with the complainant, the respondent, and the mediator.
5. The mediator will assume jurisdiction of the complaint for 30 days, beginning with the initial referral, in writing, from the EOS.
6. Within the 30-day period the mediator will conduct mediation session(s) and submit a Settlement Agreement to the referring EOS in Harrisburg, as well as the Bureau of Mediation.
7. In the event no agreement is reached the mediator will duly notify the EOS when mediation is terminated. In either event, the entire case file will be returned to the OEO.
8. Mediators will be held to the highest standards of ethical conduct and agree to recuse themselves if there is a potential conflict of interest or even the appearance of a potential conflict of interest.

***Alternate Dispute Resolution (ADR)  
Notification and Consent Form***

The Office of Equal Opportunity (OEO) has adopted Mediation as an Alternate Dispute Resolution (ADR) process, in addition to the state level complaint process. The option to use mediation or the traditional state level investigative process rests with the Complainant. If the Complainant chooses mediation, the Respondent in the complaint will be so notified. An assigned Mediator will conduct the mediation and submit a Settlement Agreement, signed by both parties, to the OEO no later than thirty (30) days from the date of receipt of the mediation request form. In the event an agreement is not reached, the Mediator will duly notify OEO when mediation is terminated and the case will be immediately referred for investigation.

-----

I have read the above notification of my right to request Mediation as a means for Alternate Dispute Resolution (ADR). My signature below indicates my selection/or rejection of the offer.

✓ Check one

Consent is hereby given for the Office of Equal Opportunity to schedule mediation to resolve my allegation(s) of discrimination. In so doing, I retain my right to a formal investigation if a settlement cannot be reached.

I do not consent to have my complaint mediated. I request that the Office of Equal Opportunity conduct an investigation of my allegation(s).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Pennsylvania Department of Labor & Industry  
Office of Equal Opportunity

*Agreement to Mediate*

Case I.D. \_\_\_\_\_ Date \_\_\_\_\_

The complainant, \_\_\_\_\_, and the respondent \_\_\_\_\_  
both agree to the following:

1. Both parties agree to voluntarily mediate their dispute currently pending before the PA Department of Labor & Industry - L&I Office of Equal Opportunity.
2. Each party agrees to make a good faith effort to resolve the dispute. It is understood that mediation is independent of and does not supplant external equal opportunity complaint procedures, existing grievance procedures and/or governing collective bargaining agreements.
3. The mediator will not act as a judge, lawyer, arbitrator or advocate in this process, but will function as a neutral third party to facilitate an acceptable agreement between the parties.
4. The complainant, the respondent, the mediator, and any other parties present during the mediation session agree that all discussions taking place during the mediation are confidential. No information divulged during the mediation session(s) may be used in court or in any legal or administrative proceedings.
5. If no agreement or settlement of the dispute is reached, all parties agree that the mediator will not be subpoenaed or called as a witness in any subsequent legal or administrative proceeding.
6. The mediation may terminate if:
  - ✓ either party desires to end the mediation;
  - ✓ the mediator determines the parties are deadlocked and are unlikely to resolve the dispute;
  - ✓ the parties reach an agreement.

Pennsylvania Department of Labor & Industry  
Office of Equal Opportunity

***Mediation/Alternate Dispute Resolution  
Settlement Agreement***

Case I.D. \_\_\_\_\_

A mediation session was held on \_\_\_\_\_ (date) between \_\_\_\_\_, the complainant, and \_\_\_\_\_, the respondent. The agreement represents a voluntary resolution of the dispute reached by the aforementioned parties that is currently pending before the Pennsylvania Department of Labor and Industry's Office of Equal Opportunity. All parties agree to the following:

1. \_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_

All the parties agree that this Agreement is binding upon them and that the Agreement represents the full and complete resolution of their dispute. Further, the parties affirm that all discussions taking place during the mediation session(s), as well as the terms of settlement, are governed by the confidentiality guidelines.

\_\_\_\_\_  
Complainant

\_\_\_\_\_  
Respondent

(if applicable)

\_\_\_\_\_  
Attorney/Witness for Complainant

\_\_\_\_\_  
Attorney/Witness for Respondent

Mediator \_\_\_\_\_

Date \_\_\_\_\_

Pennsylvania Department of Labor & Industry  
Office of Equal Opportunity

*Mediation Sign-in Sheet*

Pennsylvania OEO Case ID: \_\_\_\_\_

Complainant: \_\_\_\_\_

Respondent: \_\_\_\_\_

Location: \_\_\_\_\_

Date: \_\_\_\_\_

By their signature the parties acknowledge:

1. The entire mediation process is privileged and confidential.
2. The settlement negotiations and all offers, promises, conduct and statements, whether written or oral, made in the course of the proceedings are not admissible in any subsequent investigation, arbitration, or litigation of this dispute.
3. ONLY signed copies of the negotiated agreement will be taken from the mediation site. Personal notes or other documentation created during the course of mediation will be destroyed prior to leaving the mediation site.

\_\_\_\_\_  
Complainant

\_\_\_\_\_  
Attorney/Witness (if applicable)

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Attorney/Witness (if applicable)

\_\_\_\_\_  
Mediator



Complainant

Respondent

Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone Home \_\_\_\_\_

Home \_\_\_\_\_

Work \_\_\_\_\_

Work \_\_\_\_\_

Fax \_\_\_\_\_

Fax \_\_\_\_\_

Print Name \_\_\_\_\_

\_\_\_\_\_

Signature \_\_\_\_\_

\_\_\_\_\_

Attorney Signature \_\_\_\_\_  
(If applicable)

\_\_\_\_\_

## ELEMENT # 9

### **ELEMENT 9.**

#### *Corrective actions/sanctions 29 CFR 38.54(c)(2)(vii)*

The State should address how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 38.54(c)(2)(vii).

***Corrective and remedial actions must be designed to completely correct each violation. For each corrective action, a time frame should be established that sets the minimum time necessary to completely correct the violation. In the case of a finding of discrimination, the procedures must provide, where appropriate, for retroactive 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.***

- Corrective action may take place whenever a SWA or LWDA is cited as the result of an Equal Opportunity Compliance Review or a complaint investigation. When there are findings of discrimination, a conciliation agreement and/or corrective action plan is required. The corrective action must address the act of discrimination and must include timetables by which the corrective action will be implemented. Corrective action may include recoupment of lost earnings the victim may have suffered. A written assurance must accompany a corrective action (to help ensure that the discrimination does not recur) stating that the SWA/LWDA Office will cease in its discriminatory practices.

Technical deficiencies may require a different time frame for corrections than findings of discrimination. The EO Specialist will notify the SWA or LWDA in writing of the deficiencies found during EO Compliance Reviews along with a suggested corrective action plan. The SWA or LWDA will be required to provide a corrective action plan that includes written assurances to certify that a deficiency has been corrected – including the timeframe for correction. The assurance will attest that the SWA or LWDA office will continue to take steps to ensure that the deficiency(s) do not recur. The SWA Office Manager or LWDA Director must sign the assurance.

When an Equal Opportunity Compliance Review results in identification of deficiencies or noncompliance that cannot be resolved or corrected on a voluntary basis, the Equal Opportunity Specialist at the State level provides technical assistance. A follow-up visit is conducted, where necessary, to evaluate the degree of progress made toward resolving existing noncompliance factors.

***The procedures for follow-up monitoring to ensure that commitments to take corrective action and remedial action are fulfilled.***

- The SWA or LWDA is made aware at the Equal Opportunity Review and Exit Conference or Technical Assistance Training, that follow-up monitoring can occur at any time. In instances where deficiencies are identified and Corrective Action Plans are submitted, on-site follow-up may occur within 30 days from receipt of the corrective action plan, to assess the adequacy of the corrective action.

***Reports required from the violating recipient regarding actions to correct the violations.***

- Training rosters, written assurances, along with documentation of on-site inspections or other appropriate documentation may be required to confirm correction of deficiencies/violations.

***Sanction procedures to be followed where voluntary compliance cannot be achieved – SWAs.***

- Sanctions are imposed when a SWA office will not agree to or take voluntary corrective action. A report of findings, listing all deficiencies along with a suggested Corrective Action Plan is sent to the SWA office. Time frames to implement corrective action are given. Failure to meet corrective action deadlines will initiate the writing of a stronger letter stating that the SWA office must provide a plan documenting the deficiencies and corrective action taken. Additionally, they are told that if they do not take steps for an appropriate corrective action, further action may be initiated which could affect program funding. Technical assistance is offered to the SWA office to provide assistance in the attempt to take corrective action. Once OEO receives a corrective action plan, a conciliation agreement will be written and signed by all parties. Time frames are set for corrective action. Sanctions are tailored to fit the deficiency and the ultimate plan must correct all deficiencies or steps will be taken to involve the Civil Rights Center (CRC). If after all avenues for resolution at the State level are exhausted, and deficiencies are not effectively corrected, the SWA office will be notified that the information will be or has been referred to the Civil Rights Center for further action at the Federal level.

***Sanction procedures to be followed where voluntary compliance cannot be achieved – LWDA's.***

After all attempts to provide assistance and correction of deficiencies fail, the imposition of sanctions will be considered. The sanctions imposed for noncompliance will be on a case-by-case basis, and may include any or all of the following:

1. Make whole remedies for discriminatory practices.
2. Establishment and issuance of policies as applicable to the violation.
3. Placement into a training program or hire into a vacant position for which one may have been qualified but denied.
4. Discontinue referral of participants to sites against which discrimination allegations have been alleged and proven.
5. Removal of participants from sites refusing to implement corrective actions.

The ultimate sanction will be the referral to the U.S. Department of Labor, Civil Rights Center for enforcement or recommendation for suspension of funds until compliance is met.

When a LWDA is given an Equal Opportunity Compliance Review, the LWDA is advised that an EO Compliance Review Report will be sent to the LWDA listing all deficiencies found during the review as well as suggested corrective actions to correct those deficiencies. The LWDA is given time frames to complete and implement the corrective action, and to assure that the corrections are made by submitting documentation or a proposed Corrective Action Plan.

The EO Specialist reviews the Corrective Action Plan. If the Plan assures and states that the corrective action has been implemented, OEO sends a letter of compliance and notifies the LWDA that a follow-up review could occur at any time to verify the corrective action.

If all attempts to provide assistance and correction of deficiencies fail, sanctions will be imposed as noted above.

## **LOCAL WORKFORCE DEVELOPMENT AREAS**

### **BERKS COUNTY WDA (SE015)**

Pat Adamczk, Director of Workforce Development/Chief Operating Officer  
1920 Kutztown Road, Suite F  
Reading, PA 19604  
Phone (610) 988-1357  
Fax (610) 988-1301  
Email [padamczk@pa.gov](mailto:padamczk@pa.gov)

John Moser, EO Officer  
1920 Kutztown Road, Suite G  
Reading, PA 19604  
Phone (610) 988-1358  
Email [jwmoser@bccl.org](mailto:jwmoser@bccl.org)

### **BUCKS COUNTY WDA (SE020)**

Brian Cummings, Executive Director  
1268 Veterans Highway  
Bristol, PA 19007  
Phone (215) 781-1073 (ext. 2220)  
Fax (215) 874-2804  
Email [Bcummings@buckscareerlink.org](mailto:Bcummings@buckscareerlink.org)

Dianna Kralle, EO Officer  
Bucks County Workforce Development Board  
1268 Veterans Highway  
Bristol, PA 19007  
Phone (215) 874-2800 ext. 102  
Fax (215) 874-2804  
Email [dkralle@bucksworks.org](mailto:dkralle@bucksworks.org)

### **CENTRAL PENNSYLVANIA WDA (CE175)**

*(Centre, Clinton, Columbia, Lycoming, Mifflin, Montour, Northumberland, Snyder, Union)*

Sandra Fairman, EO Officer  
130 Kelly Square, Suite 1  
Lewisburg, PA 17837  
Phone (570) 568-6868 ext. 228  
Fax (570) 568-6861  
Email [sfairman@cpwdc.org](mailto:sfairman@cpwdc.org)

**CHESTER COUNTY WDA (SE030)**

Lila Singleton, EO Officer  
601 Westtown Road, Suite 365  
P.O. Box 2747  
West Chester, PA 19380-0990  
Phone (610) 344-6900  
Email [lsingleton@chesco.org](mailto:lsingleton@chesco.org)

**DELAWARE COUNTY WDA (SE035)**

Deborah Callahan, Contracts Manager/EO Officer  
Office of Workforce Development  
Barclay Center  
1570 Garrett Road, Suite A  
Upper Darby, PA 19082  
Phone (610) 713-2202  
Fax (610) 713-2224  
Email [callahand@co.delaware.pa.us](mailto:callahand@co.delaware.pa.us)

**LACKAWANNA COUNTY WDA (NE055)**

Cathy Gerard, EO Officer Scranton Enterprise Center  
201 Lackawanna Ave., Suite 215  
Scranton, PA 18503  
Phone (570) 342-3649  
Fax (570) 342-3653  
Email [c-cgerard@pa.gov](mailto:c-cgerard@pa.gov)

**LANCASTER COUNTY WDA (SE060)**

Cathy Rychalsky, Interim Executive Director/EO Officer  
313 W. Liberty Street, Suite 114  
Lancaster, PA 17603  
Phone (717) 735-0333  
Fax (717) 735-0335  
Email [crychalsky@lancastercountywib.com](mailto:crychalsky@lancastercountywib.com)

Cathy Rychalsky, Interim Executive Director/EO Officer  
313 W. Liberty Street, Suite 114  
Lancaster, PA 17603  
Phone (717) 735-0333  
Fax (717) 735-0335  
Email [crychalsky@lancastercountywib.com](mailto:crychalsky@lancastercountywib.com)

**LEHIGH VALLEY WDA (LV070)**

*(Lehigh, Northampton)*

Carol Morgan, EO Officer/Employment & Training Specialist  
555 Union Boulevard  
Allentown, PA 18109  
Phone (610) 625-1121 ext. 224  
Fax (610) 437-4392  
Email [cmorgan@lvwib.org](mailto:cmorgan@lvwib.org)

**LUZERNE/SCHUYLKILL WDA, INC. (NE075)**

Marla Doddo, EO Officer  
22 East Union Street, Suite 115  
Wilkes-Barre, PA 18701-2793  
Phone (570) 822-1101 ext. 296  
Fax (570) 970-4050  
Email: [marladoddo@lswib.org](mailto:marladoddo@lswib.org)

**MONTGOMERY COUNTY WDA (SE080)**

Athan Maragoudakis, EO Officer Monitoring  
Montgomery County Department of Economic and Workforce Development  
Human Services Center  
1430 DeKalb Street, 5<sup>th</sup> Floor  
P.O. Box 311  
Norristown, PA 19404-0311  
Phone (610) 278-1106  
Fax (610) 278-1100  
Email [amaragou@montcopa.org](mailto:amaragou@montcopa.org)

**NORTH CENTRAL PA WDA (NC125)**

*(Cameron, Clearfield, DuBois Area, Elk, Jefferson, McKean, Potter)*

Linda Franco LWDA Equal Opportunity Officer  
49 Ridgmont Drive  
Ridgway, PA 15853-9700  
Phone: (814) 773-3162, Extension 3014  
Fax: (814) 772-7045  
Email:

**NORTHWEST PA WDA (NW170)**

*(Clarion, Crawford, Erie, Forest, Oil Region, Venango, Warren)*

Brian Nottingham, EO Officer  
210 Chestnut Street, 2<sup>nd</sup> Floor  
Meadville, PA 16335  
Phone (814) 333-1286 Ext. 107  
Fax (814) 333-1754  
Email [bnottingham@nwpawib.org](mailto:bnottingham@nwpawib.org)

**NORTHERN TIER WORKFORCE INVESTMENT BOARD (NT130)**

*(Bradford, Sullivan, Susquehanna, Tioga, Wyoming)*

Cynthia Fay, EO Officer  
Northern Tier Region Planning and Development Commission  
312 Main Street  
Towanda, PA 18848  
Phone (570) 265-9103  
Fax (570) 265-1533  
Email [fay@northerntier.org](mailto:fay@northerntier.org)

**PHILADELPHIA WORKFORCE INVESTMENT BOARD (SE090)**

Sharon Riley, EO Officer  
1617 John F. Kennedy Boulevard, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
Phone (215) 963-2118  
Fax (215) 557-2633  
Email [sriley@philaworks.org](mailto:sriley@philaworks.org)

**POCONO COUNTIES WDA (NE135)**

*(Carbon, Monroe, Pike, Wayne)*

Will Coombs, EO Officer  
76 Susquehanna Street, Suite 1  
Jim Thorpe, PA 18229  
Phone (570) 325-2462  
Fax (570) 325-8547  
Email [wilco401@comcast.net](mailto:wilco401@comcast.net)

**SOUTH CENTRAL WDA (SC180)**

*(Adams, Cumberland, Dauphin, Franklin, Juniata, Lebanon, Perry, York)*

Doran Condon, EO Officer  
4201 Crumsmill Road, Suite 200  
Harrisburg, PA 17112  
Phone Office 717-920-2848  
Fax (717)-236-4426  
Email [dcondon@scpaworks.org](mailto:dcondon@scpaworks.org)

**SOUTHERN ALLEGHENIES WDA (SA100)**

*(Bedford, Blair, Cambria, Fulton, Huntingdon, Somerset)*

Deborah Shaffer, EO Officer/HR Administrative Officer  
3 Sheraton Drive  
Altoona, PA 16601  
Phone (814) 949-6513  
Fax (814) 949-6582  
Email [dshaffer@sapdc.org](mailto:dshaffer@sapdc.org)



**SOUTHWEST CORNER WDA (SW165)**

*(Beaver, Greene, Washington)*

Amy Gatts  
351 West Beau Street, Suite 300  
Washington, PA 15301  
Phone (724) 229-5083  
Fax (724) 229-5086  
Email [amygatts@wahingtongreene.org](mailto:amygatts@wahingtongreene.org)

**THREE RIVERS WDA (OVERSEES ALLEGHENY WIA & PITTSBURGH WIA)**

Carolyn Ford  
Three Rivers Workforce Investment Board  
Center City Tower, Suite 2600  
650 Smithfield St.  
Pittsburgh, PA 15222  
Phone: (412) 552-7090  
Fax: (412) 552-7091  
Email: [cford@trwib.org](mailto:cford@trwib.org)

**TRI-COUNTY WORKFORCE INVESTMENT BOARD (SW110)**

*(Armstrong, Butler, Indiana)*

Mary Salony, EO Officer  
Pullman Commerce Center  
112 Hollywood Drive, Suite 201  
Butler, PA 16001  
Phone (724) 282-9341 ext.105  
Fax (724) 282-4896  
Email [msalony@tricitywib.org](mailto:msalony@tricitywib.org)

**WEST CENTRAL WDA (NW145)**

*(Lawrence, Mercer)*

Mr. Gregg K. Dogan, Chief Financial Officer  
44 South Beaver Street  
New Castle, PA 16101  
Phone (724) 658-2501 ext. 213  
Fax (724) 658-4252  
Email [gdogan@wcjp.org](mailto:gdogan@wcjp.org)

Cynthia Myers, EO Officer  
217 West State Street, Third Floor  
New Castle, Pa 16146  
Phone (724) 347-7855 ext. 308  
Fax (724) 658-4252  
Email [cmyers@wcjp.org](mailto:cmyers@wcjp.org)

**WESTMORELAND-FAYETTE WDA (SW045)**  
*(Alle-Kiski, Fayette, Westmoreland)*

Melissa Keys, Compliance Officer/Accountant/ EO Officer  
Westmoreland County Community College  
Business & Industry Center  
145 Pavilion Lane  
Youngwood, Pa 15697  
Phone (724) 755-0914  
Fax (724) 755-0914  
Email [mkeys@westfaywib.org](mailto:mkeys@westfaywib.org)