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Henry McMaster
Governor

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Executive Director

STATE INSTRUCTION NUMBER 16-13

TO: Local Workforce Development Board Chairs
Local Workforce Area Signatory Officials
Local Workforce Area Administrators

SUBJECT: Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Innovation and Opportunity Act

ISSUANCE DATE: May 26, 2017

EFFECTIVE DATE: Immediately

Purpose: To transmit the nondiscrimination and equal opportunity requirements of the Workforce Innovation and Opportunity Act (WIOA).

Background: The regulations found within 29 CFR 38 implement Section 188 of WIOA, which prohibits discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, or (against any beneficiary, applicant, or participant in programs financially assisted under Title I of WIOA) on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

29 CFR Subpart B covers certain affirmative obligations of recipients of WIOA funds.

Policy: The recipients/subrecipients must:

1. Designate an Equal Opportunity Officer who reports directly to the individual in the highest-level position of authority for the recipient entity, per 29 CFR 38.28(b). such as the Chair of the Local Workforce Board, Chief Executive Officer, the Chief Operating Officer, or an equivalent individual. [Exceptions: small recipients/service providers, as defined in § 38.4(hhh) and (ggg), are not required to appoint an Equal Opportunity Officer.]

The recipient-/subrecipient-level EO Officer must have staff and resources to coordinate local workforce development area level compliance with the equal opportunity and nondiscrimination requirement in WIOA, including, but not limited to those in § 38.51, § 38.53, § 38.54, Section 181 of WIOA, as well as the requirements of § 38.31.

2. Disseminate the nondiscrimination policy in accordance with the notice requirement in § 38.34 and State Instruction Number 16-10 'Equal Opportunity Is The Law' Notice. The initial supply of posters containing the prescribed language in § 38.35 are provided by the state in the following languages in addition to English: Spanish, Arabic, Chinese Traditional, French, French Creole, Korean, Portuguese, Russian, Tagalog, and Vietnamese.

The posters are available in PDF format for additional print runs on the SCDEW (<https://www.dew.sc.gov/legal>) and SC Works (<https://www.scworks.org/legal.asp>) websites. Audio files of the notices in various languages (such as Spanish, French, French Creole, Russian, etc.) are being added.

3. As a condition to the award of financial assistance from the Department of Labor under Title I of WIOA (29 CFR 38.25), assure that it has the ability to comply with the nondiscrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the award:
 - a. Section 188 of WIOA;
 - b. Title VI of the Civil Rights Act of 1964, as amended;
 - c. Section 504 of the Rehabilitation Act of 1973, as amended;
 - d. The Age Discrimination Act of 1975, as amended;
 - e. Title IX of the Education Amendments Act of 1972, as amended; and
 - f. 29 CFR 38 and all other regulations implementing the laws listed above.
4. Comply with 29 CFR subpart B, § 38.27 relating to the transfer of real property, structures, or improvement on real property or structures;
5. Recipients must indicate that a WIOA Title I-financially assisted program or activity is an *"equal opportunity employer/program,"* and that *"auxiliary aids and services are available upon request to individuals with disabilities,"* in all publications, recruitment brochures, and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper (to staff, clients, or the public at large) when describing programs financially assisted under Title I of WIOA or the requirements for participation. This includes signature lines of e-mails used by WIOA, LWDA, and SC Works Center staff.

Where such materials indicate that the recipient may be reached by voice telephone, the materials must also prominently provide the telephone number of the text telephone (TTY) or equally effective telecommunications system, such as a relay service, videophone, or captioned telephone, as required by § 38.15(b).

6. During each orientation for applicants, new participants, and/or new employees to its WIOA-funded program or activity, include a discussion of participants' and/or employees' rights under the nondiscrimination and equal opportunity provisions of WIOA, including the right to file a complaint of discrimination with: the Office of Equal Opportunity, State EO Officer, SCDEW, Post Office Box 908, Columbia, SC 29202, or with the Director, Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 29210 or electronically, as directed on the CRC website at www.dol.gov/crc.
7. The Local EO Coordinator/Officer shall annually monitor the recipient/local administrative entity and its contractors/subrecipients/service providers for compliance with the equal opportunity provisions of 29 CFR 38, including a determination as to whether the recipient is conducting its WIOA-funded programs or activities in a nondiscriminatory way, for accessibility to individuals with disabilities, policy dissemination, and staff training needs.
8. The Local EO Coordinator/Monitor shall maintain a grievance/complaint log in a confidential and secure location and maintain a hearing procedure for resolving programmatic issues and grievances arising in connection with programs and activities under WIOA and the SC Works Centers.

Action: Ensure that appropriate staff and service providers receive and understand this policy guidance.

Inquiries: Questions may be directed to Stephani Frese at sfrese@dew.sc.gov or 803-737-2381.



Patricia Sherlock, Director
Policies and Procedures