



MO Div. of Workforce Development
DWD Issuance 11-2012

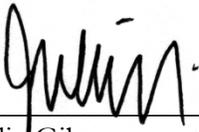
Issued: January 3, 2013
Effective: Immediately

Subject: Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended, with regard to Pre-Employment Inquiries

1. Purpose: This Issuance is written to ensure that all recipients of the Workforce Investment Act (WIA), Title I funds are aware of requirements to refrain from making pre-employment medical or disability inquiries prohibited by law.
2. Background: The nondiscrimination and equal opportunity (EO) provisions of the WIA prohibit discrimination against applicants, beneficiaries, and employees on the basis of race, color, national origin, age, disability, sex, religion, and political affiliation or belief; and for beneficiaries only, citizenship or participation in a WIA Title I-Financially assisted program or activity. The regulations that implement these provisions require that all WIA Title I-financially assisted entities comply with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations, including 29 CFR Part 32.15, relating to pre-employment inquiries. Any entity to which financial assistance under WIA Title I is extended, either directly through the Department of Economic Development or through another recipient, is required to comply with this Issuance and the regulations referenced herein.
3. Substance: The implementing regulations of Section 504 of the Rehabilitation Act, 29 CFR Part 32.15, provides that, with limited exception, recipients may not conduct pre-employment medical examinations or make pre-employment inquiry as to whether an applicant for employment or training is a handicapped person or as to the nature or the severity of a handicap. A recipient may, however, make pre-employment inquiry into an applicant's ability to perform job-related functions. Exceptions to this prohibition can be found at 29 CFR Part 32.15 (b) and (c).

Information obtained in accordance with this requirement, as to the medical condition or history of an applicant, shall be collected and maintained in accordance with the Division of Workforce Development's (DWD) medical confidentiality policy, described in the current DWD Issuance regarding Workforce Development System Confidentiality and Information Security Plan, Breach of Toolbox Data Confidentiality Update.

4. Action: This Issuance should be distributed to all appropriate staff.
5. Contact: Please direct questions or comments regarding this Issuance to Danielle Smith, State WIA EO Officer, by telephone at (573) 751-2428 or email at danielle.smith@ded.mo.gov.
6. Reference: U.S. Department of Labor 29 CFR Part 37, Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998, Final Rule.
7. Rescissions: This Issuance rescinds and supersedes DWD Issuance 10-2010 dated February 1, 2011.
8. Attachments: None



Julie Gibson
Director
MO Div. of Workforce Development