



Missouri Division of Workforce Development
DWD Issuance 16-2017

Issued: December 15, 2017
Effective: December 15, 2017

Subject: Disseminating Notices for Equal Opportunity Complaints and WIOA Complaints & Grievances

1. Purpose: This Issuance updates, supersedes, and rescinds previous guidance¹ identifying who must receive notification of the right to pursue complaints or grievances related to Equal Opportunity (EO) issues or programmatic delivery of programs and services. This Issuance identifies those persons from whom workforce staff must obtain and retain a signed acknowledgement of notification of those rights. It also incorporates changes in federal and State laws, regulations, and policies that have become effective since the previous guidance. At a future date, the final, adopted version of Missouri's *Nondiscrimination Plan*² (formerly known as the *Methods of Administration*) will incorporate the guidance in this Issuance.

2. Background: The regulations^{3,4} implementing the Section 181(c)⁵ [Grievance Procedure] and the Section 188⁶ [Nondiscrimination] provisions of the Workforce Innovation and Opportunity Act (WIOA)⁷ require recipients to provide initial and continuing notification of their rights to all parties to WIOA-funded Title I activities. This includes:⁸

- Registrants, applicants, and registrants and applicants for whom an eligibility determination has been made;
- Participants;
- Applicants for employment and employees;
- Unions or professional organizations that hold collective bargaining or professional agreements with the recipient;
- Recipients that receive WIOA Title I financial assistance; and
- Members of the public, including those with impaired vision or hearing and those with limited English proficiency.

¹ DWD Issuance 01-2014-C1, "Equal Opportunity and Complaint & Grievance, Notice and Dissemination, Change 1," July 22, 2014 [*herein rescinded*].

² [29 C.F.R. 38.54](#).

³ [20 CFR 683.600](#), "What local area, State, and direct recipient grievance procedures must be established?"

⁴ [29 CFR Part 38](#), "Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act."

⁵ [29 U.S.C. 3241\(c\)](#).

⁶ [29 U.S.C. 3248](#).

⁷ Pub. L. 113-128 [[29 U.S.C. 3101 et seq.](#)].

⁸ [29 CFR 38.34\(a\)](#). Per its authority under [20 CFR 683.600](#), the State of Missouri identifies these same parties as requiring notification of the right to file WIOA programmatic complaints or grievances.

The notifications must contain the regulation-prescribed language and requirements⁹ as shown in **Attachment 1**, and must include the contact information for the Local Workforce Development Area (LWDA) EO Officer as well as the State EO Officer. The Local and State EO Officers are responsible for ensuring compliance with the 20 CFR Part 683.600 and 29 CFR Part 38 regulations, and are the designated recipients for WIOA EO and programmatic complaints and grievances.

The scope of these rules is limited to programs and activities operated by a recipient, including a one-stop partner, to the extent that the employment is in the administration of, or in connection with, programs and activities financially assisted under WIOA Title I, including those that are part of the one-stop delivery system.¹⁰

Specifically applicable to EO complaints and grievances, no recipient may discriminate on the following bases:¹¹

“Against any individual in the United States, 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, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual’s citizenship status or participation in any WIOA Title I-financially assisted program or activity.

“The recipient must not discriminate in any of the following areas:

“Deciding who will be admitted, or have access, to any WIOA Title I-financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity.

“Recipients of federal financial assistance must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.”

Notification applies to each presentation by a recipient to orient new participants, new employees, and/or the public to its WIOA Title I-financially assisted program or activity. Whether in person, over the Internet, or using other technology, a recipient must include a discussion of rights and responsibilities under the nondiscrimination and EO provisions of WIOA and 29 CFR Part 38, including the right to file a complaint of discrimination.¹² The recipient must communicate this information in appropriate languages¹³ and in formats accessible for individuals with disabilities.¹⁴

⁹ [29 CFR 38.35](#) and [20 CFR 683.600](#).

¹⁰ [29 CFR 38.2](#), [29 CFR 38.4\(zz\)](#), [29 CFR 38.18](#).

¹¹ [29 CFR 38.35](#).

¹² [29 CFR 38.39](#).

¹³ [29 CFR 38.9](#).

¹⁴ [29 CFR 38.15](#).

3. Substance:

All employees (performing duties related to WIOA programs or services) of WIOA Title I-financially assisted employers, customers, non-customers,¹⁵ and WIOA-funded training employers must be made aware of their EO rights and responsibilities, as well as their programmatic complaint and grievance rights and responsibilities under WIOA. To ensure equal opportunity for customers within the Workforce System, the Missouri Division of Workforce Development (DWD) and its sub-recipients must provide initial and continuing notice that they do not discriminate on any prohibited grounds, and that there is a process to resolve any complaints or grievances.

To ensure that certain affected parties to WIOA Title I-financially assisted programs and services have been properly notified and provided with a copy of their rights and responsibilities, DWD requires a signed attestation. This marked and signed form (**Attachment 1**) is to be retained in the individual's or recipient's file. It must be obtained from **applicants for employment, employees** (of recipients), **participants**, and **recipients** (including employers), as defined below:

- An **“applicant for employment”** means a person or persons who make(s) an application for employment with a recipient of federal financial assistance under WIOA Title I.¹⁶
- An **“employee”** means a covered employee, of a recipient, included in the Unemployment Insurance (UI) wage records of that recipient.
- A **“participant”** means an individual who has been determined to be eligible to participate in, and who is receiving any aid, benefit, service, or training under, a program or activity financially assisted in whole or in part under Title I of WIOA.¹⁷ This includes participants in WIOA Adult, Dislocated Worker, and Youth programs, National Dislocated Worker Grant participants, Trade Adjustment Assistance participants, and any other program for which a hard-copy participant file is required.
- A **“recipient”** means an entity that receives financial assistance under Title I of WIOA. “Recipient” includes, but is not limited to:¹⁸
 - State-level agencies that administer, or are financed in whole or in part with, WIOA Title I funds;
 - State Workforce Agencies;
 - State and Local Workforce Development Boards;
 - Local Workforce Development Areas (LWDA) grant recipients;
 - One-stop operators;
 - Service providers, including eligible training providers;
 - On-the-Job Training (OJT) employers;
 - Other National Program recipients.

4. Action:

This Issuance is effective immediately. Please distribute this Issuance to appropriate individuals.

5. Contact:

Please direct questions or comments regarding this Issuance to the State Equal Opportunity Officer, at (573) 751-2428 or email danielle.smith@ded.mo.gov.

¹⁵ [29 CFR 38.15](#), [29 CFR 38.34](#), [29 CFR 38.39](#) and others. Many of the Part 38 regulations include and affect the “general public” as well as persons directly interacting with WIOA programs and services. Therefore, complaints could involve actions or behaviors involving non-participants present at a training location or a Job Center, for example.

¹⁶ [29 CFR 38.4\(d\)](#).

¹⁷ [29 CFR 38.4\(oo\)](#).

¹⁸ [29 CFR 38.4\(zz\)](#).

6. References:
- WIOA, Pub. L. 113-128 [[29 U.S.C. 3101 et seq.](#)].
 - [20 CFR 683.600](#), “What local area, State, and direct recipient grievance procedures must be established?”
 - [29 CFR Part 38](#), “Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act.”
7. Rescissions: This Issuance supersedes and rescinds DWD Issuance 01-2014-C1, “Equal Opportunity and Complaint & Grievance, Notice and Dissemination, Change 1,” July 22, 2014.
8. Attachments: Attachment 1: WIOA EO Notice and Programmatic Complaint Notice and acknowledgement form.

The Missouri Division of Workforce Development is an equal opportunity employer/program.
Auxiliary aids and services are available upon request to individuals with disabilities.
Missouri TTY Users can call (800) 735-2966 or dial 7-1-1.



Mardy L. Leathers
Director
Missouri Division of Workforce Development

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases: Against any individual in the United States, 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, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas

- ✓ Deciding who will be admitted, or have access, to any WIOA Title I-financially assisted program or activity;
- ✓ Providing opportunities in, or treating any person with regard to, such a program or activity; or
- ✓ Making employment decisions in the administration of, or in connection with, such a program or activity.

Recipients of federal financial assistance must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

What To Do If You Believe You Have Experienced Discrimination

If you think that you have been subjected to discrimination under a WIOA Title I-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either:

Danielle Smith
State WIOA Equal Opportunity Officer
421 E. Dunklin P.O Box 1087
Jefferson City, MO 65101
Telephone: (573) 751-2428 or Fax: (573)751-4088
Email: danielle.Smith@ded.mo.gov
Email: DWDComplaintsandgrievances@ded.mo.gov

or

The Director, Civil Rights Center (CRC),
U.S. Department of Labor,
200 Constitution Avenue NW.,
Room N-4123, Washington, DC 20210

or

electronically as directed on the CRC Web site at www.dol.gov/crc.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above). If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you may file a complaint with the CRC before receiving that Notice. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient). If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with the CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

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Auxiliary aids and services are available upon request to individuals with disabilities.
Missouri Relay Services are available at 711.

WIOA regulations require each state to establish a procedure for grievances and program complaints received from participants being served by the workforce system. To seek a formal resolution, you must first file your complaint locally. This process is intended to allow for a resolution of the issue at the most local level. You must start the process by submitting your complaint within your local workforce system, either through your local One-Stop Job Center or local workforce development board. You have up to one year to file a grievance. DWD encourages informal resolution prior to the filing of a written complaint. If the complainant is not satisfied with the attempt at informal resolution, he or she should be encouraged to complete a General WIOA Complaint Form.

The complainant should be allowed sufficient time and technical assistance to provide a complete and clearly written explanation on his or her complaint form. If the complainant is unable to write, staff may transcribe his or her words onto the form; staff shall take care not to alter the language of the complainant. When a written complaint is received, the employee taking the complaint should review it immediately to ensure completeness. Care should be taken to assure the following information has been provided, especially if the complaint is not received on the General WIOA Complaint Form.

The grievance should include the following:

1. Full name, telephone number and address of the person making the complaint;
2. Full name and address of the respondent; and
3. Statement of the facts (including dates) that constitutes the alleged violation(s)
4. A statement of how you would like the matter to be resolved (e.g. if the agency finds in your favor what you would like to see happen or to receive);
5. Any applicant, employee, participant, service provider, program recipient, or other interested party may file a complaint alleging a violation of local WIOA programs, agreements or Local Workforce Development Board policies and activities.

You may file your grievance with the Local Workforce Board Grievance Officer at

NAME/TITLE

ADDRESS 1

ADDRESS 2

PHONE/FAX

EMAIL

Within 60 calendar days of filing your grievance, WIOA requires the local area to provide a formal hearing, if the issue is not resolved informally prior to the hearing. If you find the local hearing decision unsatisfactory, or if the local area does not respond to you in the allotted 60 days, you will have the opportunity to file a request for review by the State. At the State level, WIOA requires an opportunity for an informal resolution and hearing to be completed within 60 calendar days of the filing. If the State does not respond within the 60 days, or either party wants to appeal, WIOA allows for a formal appeal to the U.S. Department of Labor (DOL). Federal appeals must be made within 60 calendar days of the receipt of the decision being appealed. DOL will make a final decision no later than 120 days after receiving a formal appeal. DOL will only investigate grievances and complaints arising through the established procedures. WIOA does not allow for federal intervention until the formal procedure has been followed.

Retaliation: No DWD employee, recipient or sub-recipient may discharge, intimidate, retaliate, threaten, coerce or discriminate against any individual because the individual has filed a discrimination complaint or otherwise participated in the investigation of a discrimination complaint.

I acknowledge receipt of copies of the following Notice of Rights:

1. Equal Opportunity Is the Law Notice

2. WIOA Grievance Procedure Notice

_____ Date

I have read these Equal Opportunity and WIOA Programs Notices and understand that I have a right to file discrimination or programmatic complaints if I feel that my rights were violated by a WIOA Title I financially assisted program or activity.

This information was provided in the following language/format

English

Spanish

Other Language (Specify) _____

Alternate Format (Specify) _____

*[Staff instruction: Indicate the correct line by checking **one box** below, appropriate to the individual, before presenting for a signature]*

Participant means an individual who has been determined to be eligible to participate in, and who is receiving any aid, benefit, service, or training under, a program or activity financially assisted in whole or in part under Title I of WIOA. This includes participants in WIOA Adult, Dislocated Worker, and Youth programs, National Dislocated Worker Grant participants, Trade Adjustment Assistance participants, and any other program for which a hard-copy participant file is required. The individual or individuals intended by Congress to receive aid, benefits, services, or training from a recipient.

Participant Name _____
Print Name Signature

Recipient means an entity that receives financial assistance under Title I of WIOA. “Recipient” includes, but is not limited to: State-level agencies that administer, or are financed in whole or in part with, WIOA Title I funds; State Workforce Agencies; State and Local Workforce Development Boards; Local Workforce Development Area grant recipients; One-stop operators; Service providers, including **eligible training providers**; On-the-Job Training **employers**; and other National Program recipients.

Recipient _____
Organization Name Print Name/Title Signature

Applicant for employment means a person or persons who make(s) an application for employment with a recipient of federal financial assistance under WIOA Title I.

Applicant for Employment _____
Print Name Signature

Employee means a covered employee, of a recipient, included in the Unemployment Insurance (UI) wage records of that recipient.

Employee _____
Print Name Signature

For additional information about Missouri Division of Workforce Development services, contact a Missouri Job Center near you. Locations and additional information are available at jobs.mo.gov or (888) 728-JOBS (5627).



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