

**MISSOURI DWD**  
**EQUAL OPPORTUNITY UNIT**

**Equal Opportunity Monitoring Guidance Tool**

**Equal Opportunity Compliance**

**Technical Assistance Booklet**



January 2018

Missouri Division of Workforce Development is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Missouri Relay Services at 711.

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## Introduction

The Governor of Missouri is responsible for the oversight and monitoring of all WIOA Title I-financially assisted State Programs. This responsibility includes:

- Ensuring compliance with the nondiscrimination and equal opportunity provisions of WIOA and this part, and negotiating, where appropriate, with a recipient to secure voluntary compliance when noncompliance is found under §38.91(b).
- Annually monitoring the compliance of recipients with WIOA section 188 and this part, including a determination as to whether each recipient is conducting its WIOA Title I-financially assisted program or activity in a nondiscriminatory way. At a minimum, each annual monitoring review required by this paragraph must include:
  - ✓ A statistical or other quantifiable analysis of records and data kept by the recipient under §38.41, including analyses by race/ethnicity, sex, limited English proficiency, preferred language, age, and disability status
  - ✓ An investigation of any significant differences identified in paragraph (b)(1) of this section in participation in the programs, activities, or employment provided by the recipient, to determine whether these differences appear to be caused by discrimination. This investigation must be conducted through review of the recipient's records and any other appropriate means; and
  - ✓ An assessment to determine whether the recipient has fulfilled its administrative obligations under Section 188 of WIOA or this part (for example, recordkeeping, notice and communication) and any duties assigned to it under the Nondiscrimination Plan.

## **WIOA Section 188 Monitoring Requirements**

Each Local Workforce Development Board will be monitored annually for compliance with Missouri's Nondiscrimination Plan and WIOA Section 188. Each Local Workforce Development Board will be monitored for compliance on the following components:

- Sections 38.25 through 38.27 (Assurances);
- Sections 38.28 through 38.33 (Equal Opportunity Officers);
- Sections 38.34 through 38.39 (Notice and Communication);
- Sections 38.41 through 38.45 (Data and Information Collection and Maintenance);
- Section 38.40 (Affirmative Outreach);
- Section 38:53 (Governor's Oversight Responsibility Regarding Recipients' Recordkeeping);
- Sections 38.72 and 38.73 (Complaint Processing Procedures); and
- Sections 38.51 and 38.53 (Governor's Oversight and Monitoring Responsibilities for State Programs).

### **Other elements include:**

- Eligible Training Providers Compliance
- Compliance with Federal Disability Nondiscrimination Laws
- Recipient Language Assistance Plan (LEP Plan): Promising Practices
- Training for Compliance under WIOA Section 188
- Corrective Actions and Sanctions (policy)

## **Requirements Sections 38.25 through 38.27: Assurances**

- Each grant applicant, and each training provider seeking eligibility, includes in its application for financial assistance under Title I of WIOA the required EO assurance.
- The required assurance is incorporated into each grant, cooperative agreement, contract, or other arrangement whereby Federal financial assistance under Title I of WIOA is made available.
- Each grant applicant, and each training provider seeking eligibility, is able to provide programmatic and architectural accessibility for individuals with disabilities. (See subpart C of 29 CFR Part 32.)
- Job training plans, contracts, assurances, and other similar agreements entered into by recipients are both nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity.
- State and local level policy issuances, or issuances of other recipients, are not discriminatory either in intent or effect.
- WIOA Title I nondiscrimination and equal opportunity policies are developed and implemented in a timely manner.

### **Sample of Documents that Support Compliance with WIOA Section 188:**

- ✓ A copy of each directive that instructs individuals at the local level who are responsible for reviewing assurances, job training plans, contracts, and policies and procedures as to the requirements of, and their duties under WIOA Section 188 and 29 CFR Part 38.
- ✓ Copies of assurance pages of plans, contracts, and other agreements.
- ✓ Copies of memos or directives to contract managers advising them to include the required assurance in the appropriate documents.
- ✓ Copies of checklists or other guidelines used by contract specialists, attorneys, or others who review contracts and agreements that indicate that nondiscrimination and equal opportunity are considered in the evaluation of such documents.
- ✓ A copy of procedures developed to review the ability of grant applicants, and training providers seeking eligibility, to comply with the nondiscrimination and equal opportunity provisions of WIOA and 29 CFR Part 38.
- ✓ A copy of each WIOA EO issuance (e.g., the general EO policy statement, the policy statement on sexual harassment and the policy statement on religious accommodation).

## **Requirements of Sections 38.28 through 38.33: Designation of Equal Opportunity Officers**

- Each individual designated as a State-level Equal Opportunity Officer and each individual designated as a local level Equal Opportunity Officer are identified by name, position title, business address (including e-mail address if applicable) and telephone number (including 711 Relay Services/TDD/TTY number).
- The level within the organization of the position occupied by the EO Officer(s) is described in terms of the individual's authority and reporting level to the top official (e.g. senior level, etc.).
- The EO Officer's duties/responsibilities do not appear to constitute a conflict of interest or the appearance of such. The EO Officer reports to the top official of the organization.
- The duties of the EO Officer(s) are described sufficiently including the manner in which those duties are carried out. The individual to whom the EO Officer reports on EO matters by name, job title, and organization is included.

### **The Equal Opportunity Officer:**

- Serves as the recipients' liaison with the State Level Equal Opportunity Officer and the CRC;
- Monitors and investigates the recipient's activities, and the activities of the entities that receive WIOA Title I funds from the recipient, to make sure that the recipient and its sub-recipients are not violating their nondiscrimination and equal opportunity obligations under WIOA Title I;
- Reviews the recipient's written policies to ensure that those policies are nondiscriminatory;
- Develops and publishes the recipient's procedures for processing discrimination and program complaints, and makes sure that those procedures are followed;
- Reports directly to the appropriate top level official about equal opportunity matters;
- Undergoes training (at the recipient's expense) to maintain competency, if the Director requires him or her, and/or his or her staff, to do so; and
- If applicable, oversees the development and implementation of the recipient's Nondiscrimination Plan

- Oversees the manner in which the recipient makes known the identity of the EO Officer(s) to applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment, as well as interested members of the public.
- Describes the EO duties, responsibilities and activities associated with the implementation of 29 CFR Part 38, (i.e. handling complaints, monitoring, data collection and analysis, etc.) and all other duties, responsibilities and activities.
- Ensures adequate staffing and other resources are available to ensure that WIOA Title I; financially assisted programs and activities operate in a nondiscriminatory manner way are identified and deemed to be adequate.
- Ensuring that both EO Officer(s) and their staffs are sufficiently trained to maintain competency.

**Sample of Documents that Support Compliance with WIOA Section 188:**

- ✓ Examples of such document include (notices, directives, memoranda, letters to community groups, flyers, and relevant pages of handbooks and manuals) that communicates, either internally or externally, the EO Officer's name and other required information to registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employees, and interested members of the public.
- ✓ Local EO Officer job position descriptions.
- ✓ Copies of the official organization chart(s) showing the organizational location of each EO Officer and the reporting relationship on EO matters.
- ✓ The identity of any staff who perform duties that support WIOA EO activities (e.g., clerical, data analysis) along with a position description for each such staff member, and the average hours per week spent on EO related activities by each such staff member (if positions are not devoted to WIOA equal opportunity activities on a full-time basis).
- ✓ EO budget and source of funds for EO-related activities.
- ✓ Summary of EO related training that staff (EO staff and others) have received and a schedule of EO training delivered or to be delivered in the future. This may be training delivered by the State or level EO Officer to recipient staff, or training delivered to EO Officers or recipient staff by outside sources, such as CRC.

## **Requirements of Sections 38.34 through 38.39: Notices and Communication**

- A copy of the EO is The Law Notice that meets the wording requirements under 29 CFR part 38 is provided to all customers, applicants for employment, employees and the general public.
- The EO notice is made available to registrants/applicants/ and eligible applicants/registrants; participants, applicants for employment and employees/union or professional organization that hold collective bargaining agreements or professional agreements with the recipient; sub-recipients; and members of the public.
- The method and frequently for disseminating the EO Notice ensures nondiscrimination and equal opportunity based on:
  - Location (Posted is prominently in a reasonable number of places?)
  - Format (Is disseminated in internal memoranda and other written or electronic communication)
  - Is included in handbooks or manuals?
- A description of how the EO notice is provided for individuals with disabilities (both hearing and visually impaired) is sufficiently addressed in the Nondiscrimination Plan.
- A description of how the participants are provided Notice and the procedure for making the copy (signed) part of the participant's file is sufficiently addressed.
- Addresses where participant files are maintained electronically, a description of how the notice with participant signature is placed in participant's file.
- The State and Local Nondiscrimination Plans describes how each recipient ensures that WIOA system services and information are provided in languages other than English are provided. This should include:
  - A thorough annual assessment of the language needs of a significant number or proportion of the population to be served (documented results of analysis should be addressed in the NDP.)
  - An identification of reasonable steps, based on the results of the annual assessment, it has implemented and will implement for the provision of services and information in the appropriate language. This information includes the initial and continuing

notice required under WIOA Section 188 and all information that is communicated under 29 CFR Part 38.

- A description of the procedures that have been implemented to meet the particularized language needs of limited English speaking individuals who seek services/information from the recipient.
- Policy statement/guidance issued on the procedures for identifying and assessing the language needs of its LEP applicants/clients that provide for a range of interpreter assistance, notification to LEP persons, in appropriate language, of the right to free language assistance, etc.
- A description of how and the to what extent to registrants, applicants, eligible registrants/applicants, employees, applicants for employment, and members of the public are made aware of their rights to file a complaint under 29 CFR 38 is sufficiently addressed within orientations for each of these individuals.
- A description of how the Local Workforce Board disseminates the EO notice to its sub-recipients throughout the region.
- A description of how the Local Workforce Board ensure that sub-recipients post the EO notice as required.
- A description of how the State ensures that recruitment brochures and other materials routinely made available to the public include the statement equal opportunity employer/program and auxiliary aids and services are available upon request to individuals with disabilities. Also, where a telephone number is included on these materials, the 711 Relay services are provided.
- A description of the steps taken to ensure that communications with individuals with disabilities are as effective as communication with others.
- A description of the process the State has used and will continue to use to develop and communicate policy and conduct training regarding nondiscrimination and equal opportunity.

**Sample of Documents that Support Compliance with WIOA Section 188:**

- ✓ A copy of each communication that instructs the Local Workforce Development Board recipients on how they are to comply with the requirements of WIOA Section 188 and 29 CFR Part 38 regarding notice and communication.
- ✓ A copy of the posted EO notice.

- ✓ A copy of any checklist of the contents of participant and employee files, indicating that the notice requirement has been met.
- ✓ A copy of any orientation agendas that include a discussion of equal opportunity and nondiscrimination under WIOA section 188 and 29 CFR Part 38.
- ✓ A copy of each item of material, distributed at orientation sessions, which addresses the rights of individuals under WIOA section 188 and 29 CFR part 38.
- ✓ Copies of agendas (and a list of dates) of past and proposed EO policy briefings and EO training.
- ✓ A copy of each policy issuance or instruction that relates to WIOA Section 188 or 29 CFR Part 38.
- ✓ A copy of each recruitment brochure and other item of material distributed to the public by WIOA Title I financially assisted recipient, showing that each includes the statements "equal opportunity employer/program" and "auxiliary aids and services are available upon request to individuals with disabilities"; and the statewide telephone relay service Relay MO 711.

### **Requirements of Section 38.41 through 38.45: Data Collection and Maintenance**

- Each recipient must collect and maintain such data and records, as prescribed by the Director, as the Director comply with the nondiscrimination and equal opportunity provisions. The system and format in which the records and data are kept must be designed to allow the Governor and CRC to conduct statistical or other quantifiable data analyses to verify the recipient's compliance with section 188 of WIOA.
- Such records must include, but are not limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Each recipient must record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, participant, terminee, applicant for employment, and employee. **Beginning on January 3, 2019**, each recipient must also record the **limited English proficiency and preferred language** of each applicant, registrant, participant, and terminee. Such information must be stored in a manner that ensures confidentiality, and must be used only for the purposes of recordkeeping, reporting and determining eligibility.
- Any medical or disability-related information obtained about a particular individual, including information that could lead to the disclosure of a disability, must be collected on separate forms. All such information, whether in hard copy, electronic, or both, must be maintained in one or more separate files, apart from any other information about the individual, and treated as confidential. Whether these files are electronic or hard copy, they must be locked or otherwise secured (for example, through password protection).

**Sample of Documents that Support Compliance with WIOA Section 188:**

- ✓ Samples of each policy issuance that discusses ensuring the confidentiality of demographic information regarding individuals.
- ✓ Samples of reports regarding demographic information.
- ✓ Samples of complaint logs and instructions, in hard copy and electronic file forms, used by the State and its recipients to track complaints that allege a violation of 29 CFR Part 38.

**Requirements of Section 29 CFR §38.40: Affirmative Outreach**

Recipients must take appropriate steps to ensure that they are providing equal access to their WIOA Title I-financially assisted programs and activities. These steps should involve reasonable efforts to include members of the various groups protected by these regulations including but not limited to persons of different sexes, various racial and ethnic/national origin groups, various religions, individuals with limited English proficiency, individuals with disabilities, and individuals in different age groups. Such efforts may include, but are not limited to:

- Advertising the recipient's programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations;
- Sending notices about openings in the recipient's programs and/or activities to schools or community service groups that serve various populations; and
- Consulting with appropriate community service groups about ways in which the recipient may improve its outreach and service to various populations.

**Sample of Documents that Support Compliance with WIOA Section 188:**

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

## **Requirements of Section 38.53: Oversight Responsibilities Regarding Recipients' Recordkeeping**

- The Local Workforce Development Board must ensure that recipients collect and maintain records in a manner consistent with WIOA Section 188 and 29 CFR Part 38 using procedures prescribed by DWD and under 29 CFR Part §38.41(a). The Local Workforce Development Board must ensure that recipients are able to provide data and reports in the manner prescribed by the Director.

### **Sample Documents:**

- ✓ Schedules of reviews and criteria for review of recipients.
- ✓ EO Monitoring instrument(s) used by Local Workforce Development Board.
- ✓ Local Policy issuances and procedural guidance regarding monitoring reviews and evaluations.
- ✓ A representative sample of monitoring review reports, including findings and status of follow-up actions.

## **Requirements of Sections 38.72 and 38.73: Complaint Processing Procedures**

- Local Workforce Board are obligated under WIOA Section 188 to implement the State's complaint procedures. These procedures must be published for investigating complaints that allege discrimination on the basis of race, color, national origin, religion, sex, age, disability, political affiliation or belief, and for beneficiaries only, citizenship status for WIOA.
- Complaints may be filed alleging intimidation and retaliation in accordance with 29 CFR 38.19.
- Complaint may be filed with CRC or Recipient within 180 days and should include:
  - Information a complaint may contain.
  - How due process will be provided.
  - Right to notice of the charges.
  - Right of representation.
  - Right of the parties to provide evidence and question others who present evidence.
  - A decision based strictly on the recorded evidence.

The complaint form includes:

- Include the name, title, address, telephone number and TDD/TTY number of the individual responsible for receiving the complaint.
- Provide for written notice of lack of jurisdiction of complaint, including reasons for the determination and notice of CP's right to file with CRC within 30 days of the CP's receipt of notice.
- Provide for initial written notice to the CP acknowledging that the recipient has received the complaint and notice that CP has right to representation.
- Provides a written statement to CP containing the issues raised in the complaint and for each issue, a statement whether the recipient will accept the issue for investigation or reject the issue, and the reason for rejection.
- A period for fact-finding or investigation of the circumstances.
- A period during which the recipient attempts to resolve the complaint. The methods available to resolve the complaint must include alternative dispute resolution (ADR) also known as a mediation.

**Sample of Documents that Support Compliance with WIOA Section 188:**

- ✓ The State's discrimination complaint procedures developed pursuant to 29 CFR 38.72 through 38.73.
- ✓ The instrument (e.g. policy directive, memorandum) used to inform recipients of the complaint procedures and directing recipients as to their use.
- ✓ The ADR procedures, if not included with complaint processing procedures.

**Requirements of Sections 38.51 and 38.53: Monitoring Responsibilities**

- The Local Workforce Board and its recipients are jointly and severally liable for all violations of the nondiscrimination and equal opportunity provisions of WIOA Section 188 and 29 CFR Part 38. Local Workforce Boards must:
  - Establish and implement a Nondiscrimination Plan, under §38.54, to give a reasonable guarantee of the recipient's compliance with such provisions;
  - Enter into a written contract with the recipient that clearly establishes the recipient's obligations regarding nondiscrimination and equal opportunity;
  - Act with due diligence to monitor the recipient's compliance with these provisions; and

- Take prompt and appropriate corrective action to effect compliance.

**Sample of Documents that Support Compliance with WIOA Section 188:**

- ✓ Schedules of reviews and criteria for selecting recipients for monitoring.
- ✓ Monitoring instrument(s) used by State and/or local-level staff to monitor recipients.
- ✓ Policy issuances and procedural guidance regarding monitoring reviews and recipient evaluations.
- ✓ A representative sample of reports of monitoring reviews, including findings and the status of follow-up actions.

## **Additional Elements**

**Ensuring Eligible Training Providers Compliance**

- Local Workforce Development Boards must have a system for determining whether a grant applicant, if financially assisted, and/or a training provider, if selected as eligible under Section 122 of WIOA, is likely to conduct its WIOA Title I-financially assisted programs or activities in a nondiscriminatory way, and to comply with the regulations.

**Sample of Documents that Support Compliance with WIOA Section 188:**

- ✓ A copy of each directive that instructs those at the State and local level who are responsible for reviewing assurances, job training plans, contracts, and policies and procedures under 29 CFR 38.
- ✓ Copies of assurances in plans, contracts, and other agreements.
- ✓ Copies of memos or directives to contract managers advising them to include the required assurances in appropriate documents.
- ✓ Copies of checklists or other guidelines used by contract specialists, attorneys, or others who review contracts and agreements indicating that nondiscrimination and equal opportunity are considered in the evaluation of such documents.
- ✓ A copy of the procedures developed to review grant applicants and training providers seeking eligibility on their ability to comply with the nondiscrimination and equal opportunity provisions of WIOA and 29 CFR Part 38.
- ✓ A copy of each WIOA EO issuance (e.g., EO policy, sexual harassment and religious accommodation policies).

## **Compliance with Federal Disability Nondiscrimination Laws**

- The Local Workforce Development Board must develop and implement procedures for ensuring that recipients comply with the requirements of applicable Federal disability nondiscrimination law, including Section 504; Title II of the Americans with Disabilities Act as Amended in 2008 (ADA Amendments Act of 2008); WIOA Section 188, and 29 CFR Part 38 with regard to individuals with disabilities.

### **Sample of Documents that Support Compliance with WIOA Section 188:**

- ✓ The procedures by which persons with disabilities are assured participation in programs and activities in a setting that is as integrated as possible.
- ✓ The procedure(s) for making the availability of reasonable accommodations and modifications known, as well as the request and resolution procedures.
- ✓ The Local Workforce Development Board procedures for ensuring that communication with persons with disabilities is as effective as communication with others.
- ✓ The Local Workforce Development Board procedures for ensuring that the programs and activities operated by its WIOA Title I recipients are programmatically and architecturally accessible to individuals with disabilities.
- ✓ Any evaluation conducted to determine the programmatic or architectural accessibility of a WIOA Title I-financially assisted program or activity and the status of any corrective actions taken.
- ✓ Copies of materials and/or agendas for any disability awareness training conducted for recipient staff.

## **Recipient Language Assistance Plan (LEP Plan): Promising Practices**

- Recipients that develop, implement, and periodically revise a written language assistance plan are more likely to fulfill their obligation of taking reasonable steps to ensure access to programs and activities by LEP individuals. The guidelines set forth below provide a clear framework for developing a written plan that will ensure meaningful access to LEP individuals. Developing and implementing a written plan helps to establish and documenting compliance with nondiscrimination obligations and helps ensure that LEP beneficiaries receive the necessary assistance to participate in the recipient's programs and activities.

- The elements of a successful LEP plan are not fixed. Written LEP plans must be tailored to the recipient's specific programs and activities. Plans will need to be revised to reflect new recommendations, changes in the recipient's operations, as well as the recipient's experiences and lessons learned, changing demographics, and stakeholder and beneficiary feedback.

**Sample of Documents that Support Compliance with WIOA Section 188:**

1. The recipient's process for determining the language needs of individuals who may seek to participate in the recipient's program or activities (needs-assessment).
2. The results of the assessment, *e.g.*, identifying the LEP populations to be served by the recipient.
3. Timelines for implementing the written LEP plan.
4. All language services to be provided to LEP individuals.
5. The manner in which LEP individuals will be advised of available services.
6. Steps individuals would take to request language assistance.
7. Staff procedures and the manner in which staff will provide language assistance services.
8. What steps must be taken to implement the LEP plan, *e.g.*, creating or modifying policy, employee manuals, employee training material, posters, websites, outreach materials, contracts, electronic and information technologies, applications, or adaptations.
9. The method for staff training.
10. Steps the recipient will take to ensure quality control, including monitoring implementation, establishing a complaint process, addressing complaints in a timely manner, and obtaining feedback from stakeholders and employees.
11. The method that the recipient will use to document the provision of language assistance services.
12. The schedule for revising the LEP plan.
13. The individual(s) assigned to oversee implementation of the plan (*e.g.*, LEP Coordinator or Program Manager).

14. Allocation of resources to implement the plan.

### **Training for Compliance under WIOA Section 188**

A system of policy communication and training to ensure that EO Officers and members of the recipients' staffs with responsibilities under the nondiscrimination and equal opportunity provisions of WIOA or this part are aware of and can effectively carry out these responsibilities.

#### **Sample of Documents that Support Compliance with WIOA Section 188:**

- ✓ Summary of EO-related training that staff have received and a schedule of EO training delivered or planned.

### **Corrective Actions and Sanctions**

Local Workforce Development Board must implement and enforce procedures for obtaining prompt corrective action or, as necessary, applying sanctions when noncompliance is found.

#### **Sample Documents:**

- ✓ A copy of any policy memo/directive explaining this element and its distribution.
- ✓ A copy of each instrument (e.g. directives, memoranda) used to inform recipients of the State's procedures regarding corrective actions and sanctions.

*Monitoring for  
WIOA Section 188 Compliance  
Instructions and Guidance  
Statistical Data Analysis*



## Monitoring for WIOA Section 188 Compliance

### Instructions and Guidance Statistical Data Analysis

DWD is committed to ensuring compliance with the nondiscrimination and equal opportunity provisions of WIOA Section 1888 and 29 CFR Part 38. DWD will negotiate where appropriate with a recipient to secure voluntary compliance when noncompliance is found under 38.91(b). This requires a statistical or other quantifiable analysis of records and data kept by the recipient to include analysis by race/ethnicity, sex, limited English proficiency, preferred language, age and disability status. The Local Workforce Board and its recipients are responsible for investigating any significant differences with programs, services, activities and employment practices.

Monitoring for compliance using statistical analysis will provide the following:

1. **Who** used your programs, services and activities?
2. **What** programs, services and activities were utilized?
3. **When** were programs, services and activities utilized?
4. **Where** were programs, services and activities utilized?
5. **How** were programs, services and activities utilized?

## **Missouri DWD Nondiscrimination Equal Opportunity Programs**

### **Equal Opportunity Data Analysis Report Guide and Instructions**

#### **Program, Services and Activities**

#### **Step One: Summary of Organization and Programs, Services and Activities**

Provide a description of your organization. The description should summarize all services, activities and programs your organization provides to the public. The description should include eligibility requirements for each program, service and activity along with goals and performance outcomes set by the grantee. The summary should identify the entity that has funded the program, service and activity.

Summary must include the following:

- ✓ All program(s), service(s) and activity(ies) offered through the organization
- ✓ Eligibility requirements for each program, service and activity
- ✓ Entity that funds the program, service and activity and the amount of funds obligated
- ✓ Performance goals for the program, service, activity
- ✓ Responsible position that provides oversight for the program, service and activity

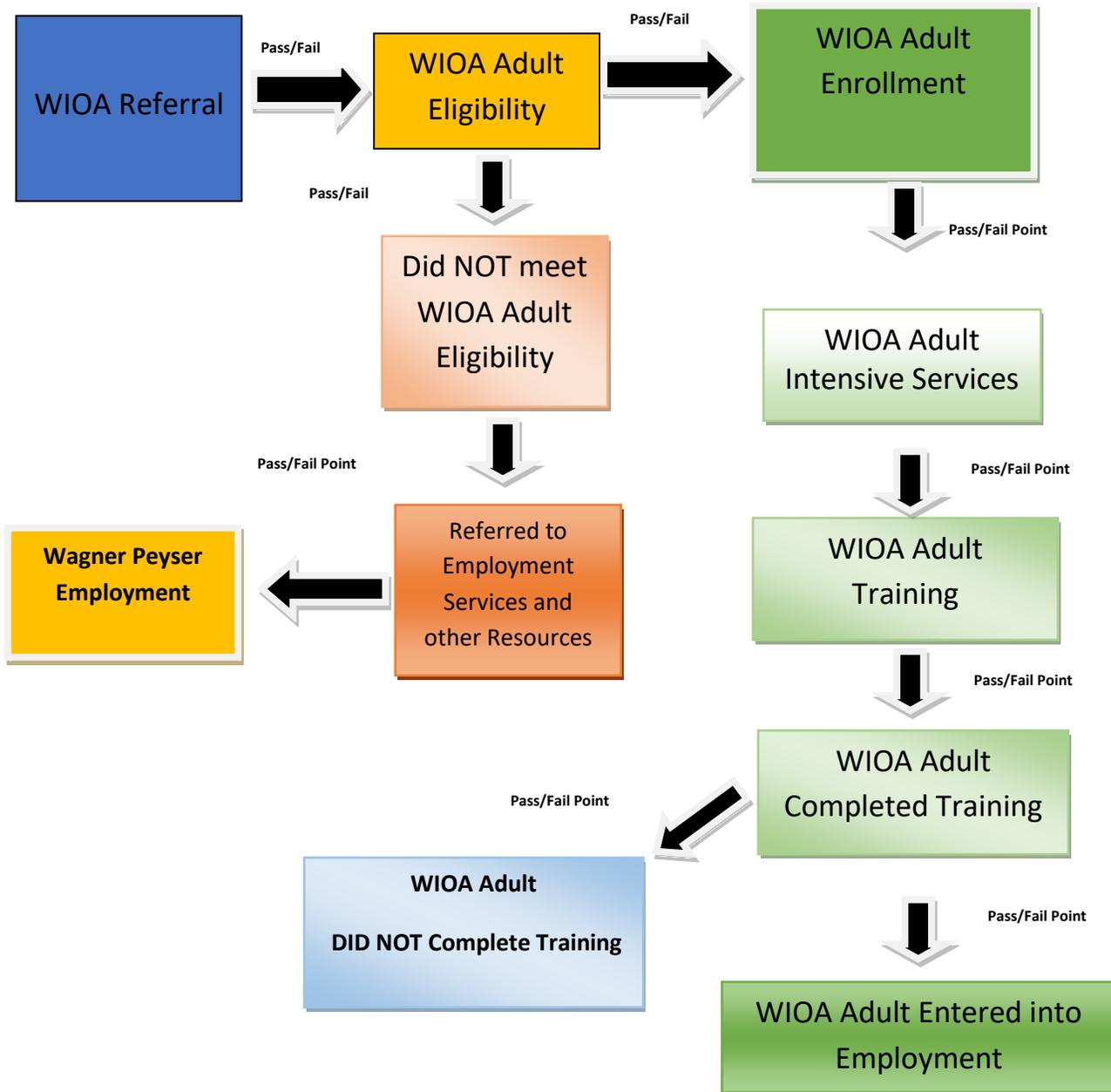
As a reminder, monitoring for compliance under WIOA Section 188 includes but is not limited to the following:

- ⦿ WIOA Core Partners
- ⦿ Partner Agencies
- ⦿ Workforce Development Boards
- ⦿ Subcontractor/Service Providers
- ⦿ Eligible Training Providers (ETPs)
- ⦿ On-the-Job Training(OJT) Contractors (15 participants and 15 employers)

## Step Two: Mapping out Pass and Fail Points

Each program, service and activity identified in the summary must include a chart of mapping out the pass and fail points for programs, services and activities offered through the organization.

Example- WIOA Adult Enrollment Pass/Fail Points



### **Step Three: Comparing Civilian Labor Force Information**

According to the [Bureau of Labor Statistics \(BLS\)](#), the civilian labor force is made up of two components. The first is civilian workers, a category that includes all private sector, state and local government workers. Workers – or "employed persons," in the language of the [Current Population Survey](#) – are defined as people who are 16 years old or older and did at least one hour of paid work (or unpaid work in their own business) in the survey's reference week, or who did at least 15 hours of unpaid work in a family business. Active-duty military personnel, institutionalized individuals, agricultural workers and federal government employees are excluded.

The second component of the labor force is unemployed people. This category does not simply include anyone who lacks a job: an unemployed person must have been available for work during the survey's reference week (discounting temporary illness) and made "specific efforts" to find a job during the previous four weeks. People who would like to work but have given up due to lack of opportunities, an injury or illness are considered to be outside the labor force.

Read more: [Civilian Labor Force https://www.investopedia.com/terms/c/civilian-labor-force.asp#ixzz551LBQ09W](https://www.investopedia.com/terms/c/civilian-labor-force.asp#ixzz551LBQ09W)

Each Local Workforce Development Board must compare their current workforce data to the Civilian Labor Force information to get an awareness of civilian workers that are working or prepared to work in their area.

Civilian Labor Information may be accessed through

1. [American Fact Finder](#) or you may utilize information through
2. [Missouri Economic Research and Information Center \(MERIC\)](#) or
3. Local community organizations that collect equal opportunity data.

If you are utilizing information from American Fact Finder you must access the following reports:

1. Go to the advance search

- Plug in the reports:
  - **S2301: Race**
  - **C18120: Disability**
  - **B23001: SEX BY AGE**
- You can view a city or county
- If you have more than one county in your region, you will need to combine your data

If you are monitoring for compliance you will need to compare your workforce labor force to the civilian labor force. (See chart on next page)

**Example: of Staffing Analysis Civilian Labor Force- Comparison**

**Programs, Services and Activities Civilian Labor Force Analysis**

WIOA PY15	CLF	Percent of CLF	Percent of Total Exited	Total Exited	Staff Assisted	Intensive	Training	% of Staff Assisted to Total
<b>All Gender</b>	3,033,249	100%	100%	312,200	239,259	1,881	6,374	76.64%
Male	1,562,707	52%	54%	168,766	132,678	844	3,179	42.50%
Female	1,470,542	48%	46%	143,423	106,579	1,037	3,194	34.14%
n/a		0%	0%	11	2		1	0.00%
<b>All Age</b>				312,200	239,259	1,881	6,374	76.64%
14-21	145,738	5%	11%	34,173	23,433	78	1,352	7.51%
22-29	126,621	4%	23%	71,544	52,090	425	1,152	16.68%
30-54	522,515	17%	54%	167,192	131,187	1,063	3,348	42.02%
55+	1,562,707	52%	13%	39,289	32,549	315	522	10.43%
<b>All Race</b>				312,200	239,259	1,881	6,374	76.64%
American Indian	8,892	0%	1%	2,312	1,793	7	32	0.57%
Asian	47,641	2%	1%	2,197	1,630	26	38	0.52%
Black	320,321	11%	25%	76,853	63,962	574	1,447	20.49%
Pacific Islander	-	0%	0%	700	532	3	10	0.17%
White	2,631,090	87%	67%	208,280	156,783	1,166	4,492	50.22%
Other		0%	7%	21,858	14,559	105	355	4.66%
<b>All Hispanic</b>				312,200	239,259	1,881	6,374	76.64%
Hispanic	94,154	3%	2%	7,671	5,599	44	143	1.79%
n/a	3,007,943	99%	98%	304,529	233,660	1,837	6,231	74.84%
<b>All Disability</b>				312,200	239,259	1,881	6,374	76.64%
Disabled	190,765	6%	1%	4,665	3,720	27	149	1.19%
Not Disabled	2,666,624	88%	99%	307,535	235,539	1,854	6,225	75.44%

\*CLF= Civilian Labor Force

## Step Four: Analyze EO Data – 80% Rule and 2- Standard Deviation Test

Collect EO demographics (race, age, gender, disability status, and ethnicity) and apply the formulas (80% and 2-standard deviation) for each program, service and activity. (See Examples Tables)

WIOA Adult PY15	Total Exited	Employed 1st Quarter after exit	Employed 3rd Quarter after exit (Retention)	% of Total Participants	Employed 1st Quarter Rate	Adverse Impact	Retention Rate	Adverse Impact
All Gender	6,734	3,703	1,044	100.00%	54.99%		15.50%	
Male	3,538	1,919	508	52.54%	54.24%	97.10%	14.36%	85.51%
Female	3,192	1,783	536	47.40%	55.86%	Best	16.79%	Best
All Age	6,734	3,703	1,044	100.00%	54.99%		15.50%	
14-21	307	191	53	4.56%	62.21%	Best	17.26%	Best
22-29	1,128	655	165	16.75%	58.07%	93.33%	14.63%	84.73%
30-54	3,746	2,108	624	55.63%	56.27%	90.45%	16.66%	96.49%
55+	1,552	748	202	23.05%	48.20%	77.47%	13.02%	75.39%
All Race	6,734	3,703	1,044	100.00%	54.99%		15.50%	
American Indian	42	25	5	0.62%	Insuf Data	N/A	Insuf Data	N/A
Asian	76	38	13	1.13%	Insuf Data	N/A	Insuf Data	N/A
Black	197	122	29	2.93%	61.93%	Best	14.72%	94.48%
Pacific Islander	10	6	2	0.15%	Insuf Data	N/A	Insuf Data	N/A
White	6,187	3,391	964	91.88%	54.81%	88.50%	15.58%	Best
Other	222	121	31	3.30%	54.50%	88.01%	13.96%	89.62%
All Hispanic	6,734	3,703	1,044	100.00%	54.99%		15.50%	
Hispanic	117	73	21	1.74%	Insuf Data	N/A	Insuf Data	N/A
n/a	5	5	3	0.07%	Insuf Data	N/A	Insuf Data	N/A
All Disability	6,734	3,703	1,044	100.00%	54.99%		15.50%	
Disabled	310	115	33	4.60%	37.10%	66.29%	10.65%	67.50%
Not Disabled	6,328	3,541	998	93.97%	55.96%	Best	15.77%	Best

Sample Output of 80% Rule

WIOA Adult PY15	Total Exited	Employed 1st Quarter after exit	Employed 3rd Quarter after exit (Retention)	% of Total Participants	Employed 1st Quarter Rate	Difference in Rates	Standard Deviation	Number of Standard Deviations	Retention Rate	Difference in Rates	Standard Deviation	Number of Standard Deviations
All Gender	6,734	3,703	1,044	100.00%	0.5499				0.1550			
Male	3,538	1,919	508	52.54%	0.5424	1.62%	1.1829%	1.37	0.1436	2.43%	0.8605%	2.83
Female	3,192	1,783	536	47.40%	0.5586	0.00%	1.2145%	0.00	0.1679	0.00%	0.8835%	0.00
All Age	6,734	3,703	1,044	100.00%	0.5499				0.1550			
14-21	307	191	53	4.56%	0.6221	0.00%	2.9535%	0.00	0.1726	0.00%	2.1487%	0.00
22-29	1,128	655	165	16.75%	0.5807	4.15%	1.6897%	2.45	0.1463	2.64%	1.2292%	2.14
30-54	3,746	2,108	624	55.63%	0.5627	5.94%	1.1495%	5.17	0.1666	0.61%	0.8363%	0.72
55+	1,552	748	202	23.05%	0.4820	14.02%	1.5018%	9.33	0.1302	4.25%	1.0926%	3.89
All Race	6,734	3,703	1,044	100.00%	0.5499				0.1550			
American Indian	42	25	5	0.62%	Insuf Data	N/A	N/A	N/A	Insuf Data	N/A	N/A	N/A
Asian	76	38	13	1.13%	Insuf Data	N/A	N/A	N/A	Insuf Data	N/A	N/A	N/A
Black	197	122	29	2.93%	0.6193	0.00%	3.6006%	0.00	0.1472	0.86%	2.6194%	0.33
Pacific Islander	10	6	2	0.15%	Insuf Data	N/A	N/A	N/A	Insuf Data	N/A	N/A	N/A
White	6,187	3,391	964	91.88%	0.5481	7.12%	0.8945%	7.96	0.1558	0.00%	0.6507%	0.00
All Hispanic	6,734	3,703	1,044	100.00%	0.5499				0.1550			
Hispanic	117	73	21	1.74%	Insuf Data	N/A	N/A	N/A	Insuf Data	N/A	N/A	N/A
n/a	5	5	3	0.07%	Insuf Data	N/A	N/A	N/A	Insuf Data	N/A	N/A	N/A
All Disability	6,734	3,703	1,044	100.00%	0.5499				0.1550			
Disabled	310	115	33	4.60%	0.3710	18.86%	2.8940%	6.52	0.1065	5.13%	2.1054%	2.43
Not Disabled	6,328	3,541	998	93.97%	0.5596	0.00%	0.8845%	0.00	0.1577	0.00%	0.6435%	0.00

Sample Output of 2-standard Deviation

## **Step Six: Identify Adverse Impact**

- ❖ **Practical significance** (80% rule/adverse impact rule): If a substantially different rate of selection, in hiring, promotion, or other employment decision works to the disadvantage of members of a race, sex, or ethnic group, etc.; and if a group's rate of selection is less than 80% of the most favored group, the non-favored group(s) is experiencing adverse impact (US DOL CRC

<https://www.dol.gov/oasam/programs/crc/addres.htm>)

- Example of the four-fifths (or 80%) rule

In the following illustration, there are 135 applicants: 72 non-minorities compared to 63 minority and 84 male compared to 51 female. Seven of the 72 non-minority applicants were hired, which is a 9.7% hire rate compared to the hire rate for minorities of 4.8%. The 80% rule states that the selection rate of the protected group should be at least 80% of the selection rate of the non-protected group.

<b>Group 1</b>	<b>Applicant Pool</b>	<b>Hires</b>	<b>Hire Rate</b>	<b>Adverse Impact</b>
<b>Non-minority</b>	72	7	9.7%	<b>49.5%</b>
<b>Minority</b>	63	3	4.8%	<b>YES</b>

<b>Group 2</b>	<b>Applicant Pool</b>	<b>Hires</b>	<b>Hire Rate</b>	<b>Adverse Impact</b>
<b>Male</b>	84	6	7.1%	<b>91.0%</b>
<b>Female</b>	51	4	7.8%	<b>NO</b>

<https://www.prevuehr.com/resources/insights/adverse-impact-analysis-four-fifths-rule/>

- ❖ **Statistical significance** (Two (2) standard deviation test): Standard deviation is a statistic used to measure dispersion in a distribution; a measure of the typical distance between the average (mean) and any given value. It measures the "width" of the distribution of values. If the difference between the expected value and the observed number is greater than two deviations, then the hypothesis would not be statistically significant. In practice, the calculation of the number of standard deviations is performed using generally accepted mathematical formulas (US DOL CRC <https://www.dol.gov/oasam/programs/crc/addres.htm>).

***(Refer to Appendix 2 for sample calculation of 2-Standard Deviation)***

Example of 2-Standard deviation test:

### **Step Seven: Follow-up Investigation on Practical or Statistical Significance**

- ❖ When the analysis discloses that differences have practical or statistical significance, a follow-up investigation must be conducted to determine whether the differences are due to intentional discriminatory conduct, conduct that has a disparate impact on a protected group, or some other factors (US DOL CRC).
- ❖ Investigating Adverse Impact

**Adverse impact does not necessarily indicate discrimination has occurred**

- Theories of discrimination:
  - ⊙ **Disparate treatment**
    - ⊙ intentional discrimination
    - ⊙ most allegations are disparate treatment cases
  - ⊙ **Disparate impact**
    - ⊙ a showing of intent is not necessary to prove discrimination

- ⦿ caused by a neutral policy, procedure or practice with no intent to discriminate

- ❖ Investigating Course of Action:

- Investigate possible reasons for the significant differences

**Anecdotal evidence could occur:**

- When a member of a demographic group comes forward to talk about how he or she met the requirements but didn't get to participate in a program or activity.
- When a member of a group provides first-hand knowledge that a service provider acted in a manner that could negatively impact his or her group.

***Anecdotal evidence should be considered as evidence of possible adverse impact and it should be investigated in conjunction with quantifiable analysis.***

- Rumors or word of mouth incidents.
- Social Media including blogs, news articles, internet postings, tweets, etc.
- If justification (business necessity) is found, document the justification; no further action necessary for that demographic in that step.
- If justification is not found, take mitigating actions.

- ❖ Follow-up to see if the mitigating actions made a difference

### **Step Eight: Gathering Quantifiable Evidence**

Schedule a meeting with appropriate staff to discuss the issue

- ❖ Review the records with the appropriate staff or inform them of what was found
- ❖ Let the group know you are finding adverse impact for specific groups and that it is incumbent upon the organization to investigate the issues

- ❖ Ask the group what they think are the reasons that the demographic groups in question are unsuccessful in advancing through particular steps in the program/activity or service.
- ❖ Review participant(s) files when needed.
- ❖ If the reasons given from program staff are justifiable, note them in your analysis file.
- ❖ If a policy, procedure or practice is causing the impact and there is no reason it can't be modified, recommend the modification.
- ❖ If justifiable reasons cannot be determined, ask the group to strategize or brainstorm to determine mitigating actions that can be taken.
- ❖ This could take the form of increased **outreach** to the affected group(s), greater encouragement to complete the step or process, or asking members of the group during counseling whether there are additional barriers that haven't been discussed.
- ❖ Document the mitigating action that is being taken.

### **Step Nine: Implementation of a Follow-up Strategy**

- ❖ Conduct follow-up analysis within a reasonable time period (three months, six months, nine months or a year) to see if the mitigating actions are helping; increase participation rate in services and activities. Recommend further action as needed.

### **Data Analysis Reporting Format Guide**

*Provide a clear format outline for your recipients.*

1. Cover Page
  - Identify Region and the EO Officer
2. Overview Section
  - Summary of Region's Civilian labor force by EO demographics and comparison to WIOA workforce system

- Provide a description of each organization contracted in your workforce region including programs/activities the organization operates for the program year being reviewed
3. Data Analysis Section:
- Include the service delivery and identify pass/fail points for each program offered in the job centers/location
  - Identify any adverse impact with each program/service/activity
  - Summarize the anecdotal evidence
  - Provide proof that the evidence was examined and investigated
4. Describe what actions your region took to investigate the issue
- Reviewing records
  - Reviewing policies
  - Describe any justifiable reasons for the adverse impact
  - Describe your **affirmative outreach plan** and how your organization will take reasonable steps with implementation of the **affirmative outreach plan**
5. Follow Up Section:
- Identify any consistent adverse impact occurring with a particular group(s) from the previous program year.
  - Provide any updates of the impact of your **affirmative outreach plan** from the previous year in your report.

***\*Local Workforce Development Boards are obligated to track adverse impact with various groups with programs, services, and activities. The Local Workforce Development Board is also obligated to provide technical assistance and take the appropriate actions with goals and outcomes if there is a consistent issue.***

### **Corrective Actions and Sanctions**

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

# MONITORING REQUIREMENTS FOR ELIGIBLE TRAINING PROVIDERS



## Monitoring Requirements for Eligible Training Providers

Monitoring requirements for eligible training providers include all of the provisions under WIOA Section 188 and 29 CFR Part 28. The information below provides a format/guide for conducting an analysis on programs, services, and activities offered through the training institution. A statistical or other quantifiable analysis of records and data kept by the recipient (employment and programs) under Section 188 of WIOA and 29 CFR Part 38 including analyses by race/ethnicity, sex, **limited English proficiency, preferred language assessment**, age, and disability status must be conducted annually:

### **Example:**

Number of participants referred to training:

- By program (Example: WIOA, Trade Act, and other programs if known)
- By Industry (Example: Healthcare)
- By Credential (Example: C.N.A , R.N.A, HVAC)

Number of applicants that applied to training:

- By program (Example: WIOA, Trade Act, and other programs if known)
- By Industry (example: Healthcare)
- By Credential (Example: C.N.A , R.N.A, HVAC)

Number of participants participating in the training:

- By program (Example: WIOA, Trade Act, and other programs if known)
- By Industry (Example: Healthcare)
- By Credential (Example: C.N.A , R.N.A, HVAC)

Number of participants completed training:

- By program (Example: WIOA, Trade Act, and other programs if known)
- By Industry (Example: Healthcare)

- By Credential (Example: C.N.A , R.N.A, HVAC)

Number of participants **not completing** training:

- By program (Example: WIOA, Trade Act, and other programs if known)
- By Industry (Example: Healthcare)
- By Credential (Example: C.N.A , R.N.A, HVAC)

Number of participants that **completed** training **and entered employment** in the field trained in:

- By program (Example: WIOA, Trade Act, and other programs if known)
- By Industry (Example: Healthcare)
- By Credential (Example: C.N.A , R.N.A, HVAC)

Number of participants that **did not complete** training, **but entered employment**:

- By program (Example: WIOA, Trade Act, and other programs if known)
- By Industry (Example: Healthcare, Construction)
- By Credential (Example: C.N.A , R.N.A, HVAC)

Number of participants that **did not complete** training **but entered employment in field** trained in:

- By program (Example: WIOA, Trade Act, and other programs if known)
- By Industry (Example: Healthcare, Construction)
- By Credential (Example: C.N.A , R.N.A, HVAC)

Number of participants that **completed** training **but did not** enter employment in the field trained in:

- By program (Example: WIOA, Trade Act, and other programs if known)
- By Industry (Example: Healthcare, Construction)
- By Credential (Example: C.N.A , R.N.A, HVAC)

**WIOA SECTION 188**  
**EMPLOYMENT PRACTICES**  
**MONITORING REQUIREMENTS**  
**FOR WIOA RECIPIENTS**



## **Employment Practices Monitoring Requirements for WIOA Recipients**

**Employment practices are a recipient's practices related to employment, including but not limited to:**

- 1) Recruitment or recruitment advertising;
- (2) Selection, placement, layoff or termination of employees;
- (3) Upgrading, promotion, demotion or transfer of employees;
- (4) Training, including employment-related training;
- (5) Participation in upward mobility programs;
- (6) Deciding rates of pay or other forms of compensation;
- (7) Use of facilities; or
- (8) Deciding other terms, conditions, benefits and/or privileges of employment.

**Employee selection procedures - A recipient must comply with the Uniform Guidelines on Employee Selection Procedures, 41- CFR part 60-3.**

Each recipient of WIOA funds must include the appropriate language in their assurances:

Assurances ensure: all job training plans, contracts, and other similar agreements entered into by recipients are nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity.

(Subpart B-29 CFR Part 38.20)

- ❖ For staffing statistical analyses purposes, the recipient must keep records of:
  - ▶ Applicants of employment
  - ▶ Employees

- ❖ Each recipient must record the race/ethnicity, sex, age, and where known, disability status, of every applicant for employment and employee.
- ❖ This information must be stored in a manner that ensures confidentiality, and must be used only for the purposes of recordkeeping and reporting.
- ❖ Each recipient must promptly notify the State EO Officer when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the “basis” of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIOA Title I program or activity.
- ❖ **The notification must include:**

*The names of the parties to the action or lawsuit; the relevant case numbers, and any negative monitoring reviews by other agencies must be submitted to the State EO Officer.*

**Each recipient must maintain the following records for a period of not less than three years from the close of the appropriate program year:**

- ✓ The records of applicants for employment and employees;
- ✓ Other records as are required Section 188 of WIOA and 29 CFR Part 38.
- ✓ Records regarding complaints must be maintained for a period of not less than three years from the date of resolution of the complaint.
- ✓ All Workforce Development Boards and their recipients must conduct staffing analysis on employment related practices annually.
- ✓ The staffing analysis report for all regions is due to the DWD EO Unit **October 30th of every program year.**
- ✓ Staffing analysis is conducted for employment activities from **July 1<sup>st</sup> –June 30<sup>th</sup> for each program year.**

## EO Staffing Analysis Guidance and Requirements

- ❖ All recipients staffing analysis reports will include the following:
  - Summary of the makeup of your workforce region (civilian labor force data)
  - Background description of the organization
  - Organization chart
  - Description of your current hiring practices, describing how your organization:
    - Advertises job openings
    - Accepts applications for employment,
      - ▶ Selects candidates for interviews, and
      - ▶ Selects candidates for hire
  - Description of how often your organization analyzes and updates job descriptions
  - Description of how performance evaluations are conducted
  - Description of how employees are selected for training (internal/external)
- ❖ **Utilization Analysis which would include:**
  - The number of open positions from the last program year (i.e. PY15-PY16)
  - The number of incumbent workers within the organization for the last program year (i.e. PY15-PY16)
  - A comparison of the incumbent workers to the available positions
  - You will analyze the employment data by utilizing the 80% or 4/5<sup>th</sup> rule by categories (Gender, Race, Disability Status if known)
    - Applicant Pool
    - Interviews
    - Promotions
    - Demotions

- Terminations

### **Organization Structure (Small Organizations)**

Organizations with fewer than 50 employees

- The organization can provide a list of all of the employees and identify each location where the employees work and categorize the employment data by race, gender, and disability status and job category.

OR

- The organization can provide employment data for each location where it must be categorized by race, gender, and disability status and job category.

### **Organization Structure (Large Organizations)**

Organizations with more than 50 employees must report by location.

- Employment data must be categorized by race, gender, disability status (if known) and job category.
- The report should identify if there is a headquarters office and the employees working at this office.

### **Analyzing the Data - Large Organizations**

- ▶ Large organizations will need to analyze their organizations by workforce units. Workforce Unit (i.e. Divisions, Units, Departments, Sections etc...)
- ▶ Large organizations will need to analyze the employee data by each location and by job category

### **Analyzing the Data in Large and Small Organizations**

- ▶ Large and Small organizations will analyze the data by race, gender and disability status (if known) by:
- ▶ Comparing the Civilian Labor Force to the Organizations employment make up (*Resource: American Fact Finder*)
- ▶ Comparing the applicants (Applicants Pool) to the number of candidates who were interviewed,
- ▶ Comparing those Promoted to all eligible candidates or applicants, and
- ▶ Comparing those Demoted and Terminated to the entire organization

### **Investigation Summary**

- ▶ Your investigation results should indicate the specific actions(s) your organization is taking in regards to the nondiscrimination and equal opportunity provisions of WIOA.
- ▶ This includes: hiring, promotion, demotion, transfer, or recruitment as well as advertising, layoff, termination, rates of pay or other forms of compensation and selection for training.
- ▶ Your investigation summary should include how your employment practices have been reviewed to determine whether members of the various groups are receiving fair consideration for job opportunities.
- ▶ Your investigation should include proof that attention has been directed toward executive and middle management levels.

## Outreach Plan

- ▶ Your outreach plan should include how the public and your current employees are informed at least annually of your organization's commitment to nondiscrimination and equal employment opportunity provisions under WIOA for all persons.
- ▶ Your outreach plan should identify recruiting sources that have been informed of your organization's commitment to provide equal opportunity employment.
- ▶ Your outreach plan should include how employment records of all employees are reviewed to determine the availability of promotable and transferable employees within your organization.

## Supporting Documentation

- ▶ Supporting documents include:
  - Data Reporting Template completed by recipients
  - EEOC-1 Report (if your organizations meets the EEOC requirements)
  - Organizations own spreadsheets (if it meets the WIOA requirements)

OVERALL WORKFORCE COMPARISON ANALYSIS						
Name of Region:					Company Name/Location:	
Date of Workforce Information:					Address:	
DEMOGRAPHIC ANALYSIS	LOCAL CIVILIAN LABOR	PERCENT OF CLF	PERCENT OF TOTAL	TOTAL EMPLOYEES		
<b>ALL RACE</b>	120,000	100.00%	100.00%	110		
White	80,000	66.67%	65.45%	72		
American Indian or Alaskan Native	2,500	2.08%	3.64%	4		
Asian	5000	4.17%	3.64%	4		
Black or African American	25,000	20.83%	16.36%	18		
Native Hawaiian or Other Pacific Islander	1800	1.50%	3.64%	4		
Hispanic or Latino (White race only)	1500	1.25%	1.82%	2		
Hispanic or Latino (all other races)	4200	3.50%	5.45%	6		
<b>TOTAL</b>	120000	100%	100%	110		
<b>ALL GENDER</b>	120,000	100%	100%	110		
Males	56,800	47%	68%	75		
Females	63200	53%	32%	35		
<b>TOTAL</b>	120000	100%	100%	110		
<b>DISABILITY STATUS</b>	120,000	100%	100%	110		
Disability	20500	17%	36%	40		
Non Disability	99,500	83%	64%	70		
<b>TOTAL</b>	120000	100%	100%	110		

Analysing your overall workforce in your organization.

**NOTE!!!**  
 Here you are only **COMPARING** your overall workforce to your Local Civilian Labor Force. No further analysis are done utilizing either the 4/5ths Rule or the 2-Standard Deviation Test

**WIOA SECTION 188**  
**MONITORING REQUIREMENTS**  
**for**  
**UNEMPLOYMENT INSURANCE BENEFITS CLAIM**



## WIOA Section 188 Monitoring Requirements for Unemployment Insurance

- ❖ Profile of each location: describe the organization's makeup for each location
- ❖ Language Assessment:
  - Example:

<b><u>DWD Equal Opportunity County Total</u></b>	<b><u>8,645</u></b>
▪ Speak Spanish or Spanish Creole	<b>5,030</b>
▪ Speak other Indo European Language	<b>2,320</b>
▪ Speak Asian or Pacific Island Language	<b>1,015</b>
▪ Speak other Language	<b>20</b>

- ❖ Compare Civilian Labor Force to each County.
- ❖ Analyze the following by EO demographics.
  - Total number of **claims** by demographics and by location.
  - Total number of **initial claims** by demographic and location.
  - Total number of **single-claimant monetary determinations** by demographic and location
  - Total number of **non-monetary** Determinations by demographic and location.
  - Total number of **separation** determinations issued by location by demographic.
  - Total number of claimants by demographic with **voluntary leave** non-monetary determinations.
  - Total number of claimants **discharged** with non-monetary determinations by demographic and location.

- Total number of **non-separation determinations** issued by demographic and location
- Total number of claimants of payment to nonpayment by demographic and location.
- Total number of claimants by demographics for each of the following nonpayment reasons:
  - Alleged misconduct
  - Job refusal
  - Not able to or available for work
  - Reporting requirements not met
  - Denials by adjudicator
  - Results of appeal
  - Profiling

## APPENDIX 1

### Example List of Missouri DWD Programs, Services and Activities

Missouri DWD Programs and Activities	WIOA Adult, DW, & Youth Programs	Wagner Peyser Programs	Workforce Investment Boards	Employment Insurance Programs	WIOA National Emergency Grants	H-1B Training Grants	Trade Act Assistance	Work Opportunity Credit (WOTC)	WIOA Pilots, DEMO & Research Projects	Veteran Programs	Temporary Labor Certification for Foreign Workers	WIOA DW Formula Grants	Show ME Heroes	Troops to Teachers	State Parks Youth Corps	MO Work Assistance (MWA/TANF)	YouthBuild Programs	Labor Force Statistics	Other Programs and Activities
State MO DWD Programs	X	X	X	X	X	X	X	X	X	X	X	X	X	X				X	
Central Region	X	X	X	X	X		X			X			X		X				
East Jackson County Region	X	X	X	X	X	X	X		X	X			X		X	X	X		X
Jefferson/Franklin Region	X	X	X	X	X		X			X			X		X				
Kansas City and Vicinity Region	X	X	X	X	X	X	X		X	X			X		X	X	X		X
Northeast Region	X	X	X	X	X		X			X			X		X				
Northwest Region	X	X	X	X	X		X			X			X		X				
Ozark Region	X	X	X	X			X			X			X		X				
St. Charles Region	X	X	X	X			X			X			X		X				
St. Louis City Region	X	X	X	X	X		X		X	X			X		X	X	X		X
St. Louis County Region	X	X	X	X	X		X			X			X		X				
Southeast Region	X	X	X	X	X		X			X			X		X				
Southwest Region	X	X	X	X	X		X			X			X		X				
South Central	X	X	X	X			X			X			X		X				
West Central Region	X	X	X	X	X		X			X			X		X				

## APPENDIX 2

### Two Standard Deviation Sample Calculations

One important concept you need to know regarding the application of the 2-standard deviations is the comparison of one group to all the others. Therefore, when race/ethnicity is the basis of the analysis, data must be tabulated so that there are two groups; the group under consideration and ALL others.

#### Sample calculation using 2-Standard Deviations for applicants' participation in a WIOA program

Race Category	Eligible Applicants			Enrollments	
	Total Number	Percentage (%)		Number	Percentage (%)
<b>White</b>	285	35.0		204	40.6
<b>Black</b>	371	45.6		180	35.9
<b>Hispanic</b>	130	16		101	20.1
<b>Asian</b>	8	1.0		5	1.0
<b>American Indian</b>	20	2.5		12	2.3
<b>Total</b>	814	100.0		502	100.0

$$SD = \frac{SRG - SRO}{\sqrt{(OAR * ODR) * (\frac{1}{TG} + \frac{1}{TO})}}$$

Where:

**SRG** = the selection rate for the group under consideration

**SRO** = the selection rate of others

**OAR** = the overall acceptance rate.

**ODR** = the overall denial rate.

**TG** = the number of applicants for the group under consideration.

**TO** = the number of other applicants.

The next step is to identify the Race category you will consider to determine if there is significant difference and thus warrant further (onsite) investigation. In this case the group under consideration is **Blacks**.

Race under consideration	Eligible Applicants	Enrollments	Rate of Enrollment
<b>Black</b>	371	180	180/371 = 0.485
<b>Others</b>	443	322	
<b>Total</b>	814	502	502/814 = 0.617

**Key Notes:**

- *The rate of enrollment is the number of enrollments divided by the number of eligible applicants.*
- *Typically, if the selection rate for the group under consideration is higher than the rate of others, there is no need to continue with further calculations.*
- *For Blacks, Other means Whites, Hispanics, Asians, and Native Americans, not just Whites.*

**Determining values to be used for calculations:**

The selection rate of the group under consideration (**SRG**) = 0.485

The selection rate of Others (**SRO**) = 0.727

The overall acceptance rate (**OAR**) = 0.617

The overall denial rate (**ODR**) = (simply subtract the overall acceptance rate from 1) i.e 1 - 0.617 = 0.383

The Number of Group applicants under consideration (**TG**) = 371

The number of other applicants (**TO**) = 443

$$SD = \frac{SRG - SRO}{\sqrt{(OAR * ODR) * (\frac{1}{TG} + \frac{1}{TO})}}$$

$$\begin{aligned}
&= \frac{0.485 - 0.727}{\sqrt{(0.617 * 0.383) * (\frac{1}{371} + \frac{1}{443})}} \\
&= \frac{-0.242}{\sqrt{(0.236) * (0.005)}} \\
&= \frac{-0.242}{\sqrt{(0.0118)}} \\
&= \frac{-0.242}{0.0344} \\
&= -7.03
\end{aligned}$$

**Interpreting the Result:**

The resultant figure **-7.03**, indicates that the difference between the rate of enrollment for Black applicants and the placement rate of other applicants is 7.03 standard deviations. Since this exceeds the two standard deviation bench mark, this difference is significant and warrants further (onsite) investigation.



**WIOA Section 188 Onsite  
Equal Opportunity Monitoring Reviews**

## **Onsite Equal Opportunity Monitoring Reviews**

DWD Equal Opportunity Unit will monitor for compliance utilizing the provisions of WIOA Section 188 and 29 CFR Part 38. The onsite review will include but is not limited to the following:

- ✓ Review of records, reports, and data
- ✓ Notices, (posters, flyers, signs, brochures, etc...)
- ✓ Customer Interviews
- ✓ Employee Interviews
- ✓ Assistive Technology Observation
- ✓ Any other items that fall under Section 188 of WIOA

Technical Assistance

Technical assistance is available upon request. Please contact the DWD EO Unity at:

Danielle Smith, WIOA State Equal Opportunity Officer

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(573)751-2428

Kristin Funk, Disability Coordinator

Email: [kristin.funk@ded.mo.gov](mailto:kristin.funk@ded.mo.gov)

(573)751-1098

Isaac Hagan, WIOA Equal Opportunity Investigator

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**Missouri Division of Workforce Development is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Missouri Relay Services at 711.**