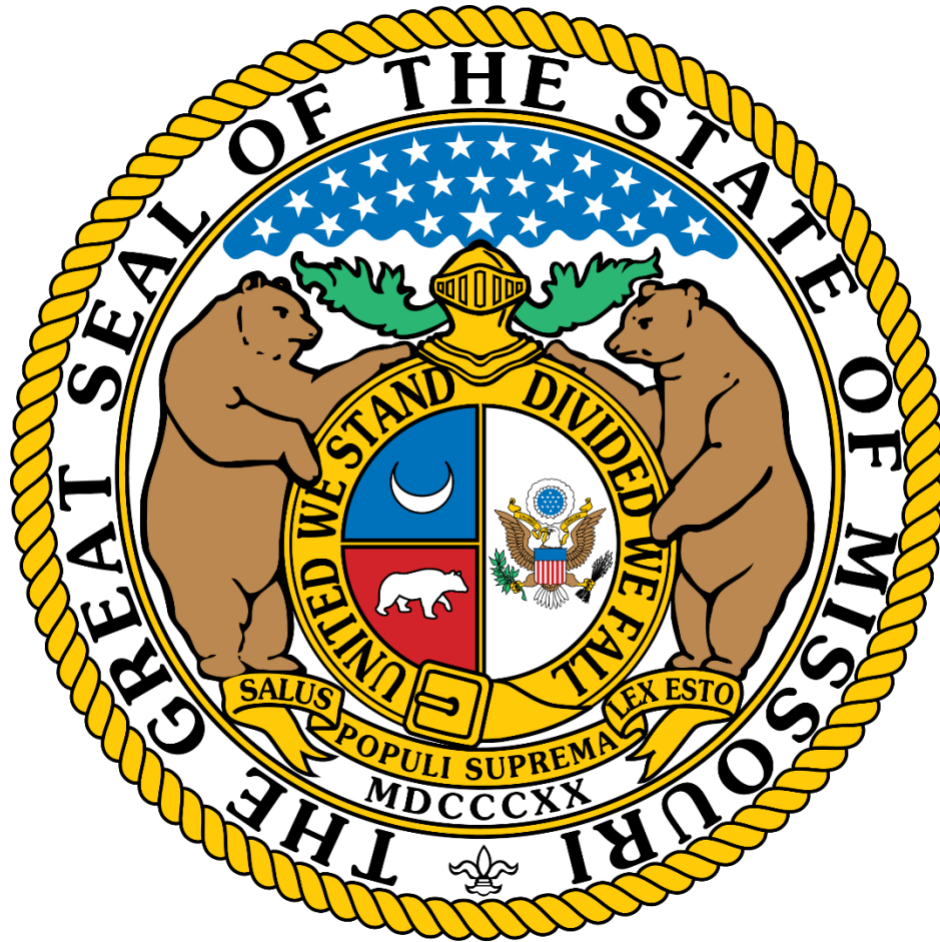


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# State of Missouri

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## Nondiscrimination Plan



In Compliance with the  
Workforce Innovation and Opportunity Act (WIOA)2014  
Concerning Nondiscrimination and Equal Opportunity

*January 3, 2019*



**Missouri Nondiscrimination Plan Table of Contents**

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**Section I: Assurances Sections 29 CFR Part 38.25 through 38.27**

**Purpose**

The State of Missouri Division of Workforce Development (DWD) ensures that nondiscrimination and equal opportunity provisions of WIOA are incorporated in all grants, agreements or other similar applications for Federal financial assistance under WIOA. Each application for WIOA funds includes the specified assurance committing the potential sub-recipient to comply fully with the nondiscrimination and equal opportunity provisions of WIOA Section 188 and 29 CFR Part 38. The assurance is deemed incorporated, whether or not it is physically incorporated in the resulting contract or other arrangement.

**DWD**

DWD requires all grant applicants to include the EO assurance language verbatim, or its citation, in their grants, contracts and cooperative agreements. The assurance language commits the recipient to "comply fully with the nondiscrimination and equal opportunity provisions" of Section 188 of the Workforce Innovation and Opportunity Act (WIOA); Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; Title IX of the Education Amendments of 1972, as amended; and 29 CFR Part 38 and other regulations implementing these laws. The assurance acknowledges the government's right to seek judicial enforcement if these laws are not followed. The specific language for this assurance is found at 29 CFR §38.25-27. If a citation is used instead, it should read, "The nondiscrimination assurance at 29 CFR Part 38.25-27 applies to this [contract/agreement/etc.]." DWD issued guidance on EO assurances to Local Workforce Development Area (LWA) (See Exhibit I-C) in the State Plan. (See Exhibit I-D)

**Assurances**

Within the Fiscal, Quality Assurance and Performance and Research Units of DWD, all contracts and agreements prior to finalization and execution must ensure EO assurances are included. The agency requires all applications for federal financial assistance under WIOA to include EO assurances, thereby committing recipients to full compliance with the nondiscrimination provisions of the WIOA Section 188 and 29 CFR Part 38.

The agency's State EO Officer works with the Fiscal, Quality Assurance and Performance and Research Units to develop language that incorporates nondiscrimination clauses, EO assurances and sanctions in contracts, grant agreements, and job training plan and requests for proposal processes where state and federal funds are expended to provide services.

DWD and its recipients are expected to ensure their training plans, contracts and agreements are consistent with the EO and nondiscrimination provisions of WIOA. The State Equal Opportunity Officer monitors the Missouri workforce system using technical assistance, statistical data analysis, visits, complaints, desk audits and on-site reviews. Architectural accessibility, parking for individuals with disabilities, designated restrooms, program accessibility and effective communication with persons with disabilities are some of the elements monitored.

Local Equal Opportunity Officers are obligated to monitor their recipients for compliance with WIOA Section 188 and 29 CFR Part 38. The DWD Equal Opportunity Unit and Local Equal Opportunity Officers



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provides a Nondiscrimination Monitoring Guide that includes specific monitoring review guidance and instructions to ensure that all plans and contracts contain the required assurance language.

DWD and its state partner agencies have developed this Nondiscrimination Plan detailing the actions that have been and will be taken to ensure compliance with WIOA Section 188 and 29 CFR Part 38. This document will be reviewed and updated every two years and substantive changes will be forwarded to the United States, Department of Labor, Civil Rights Center (CRC).

DOLIR does not pass along any of its federal administrative grants for unemployment insurance to sub-grantees. DOLIR ensures that these grants are nondiscriminatory and contain required assurance by exclusively using grant agreement documents required and prepared by the Education and Training Administration of USDOL. The Department enters into numerous contracts to carry out the State Unemployment Insurance programs. In addition to applicable Federal requirements, State law and regulation require these contracts to be nondiscriminatory and to contain required assurances regarding nondiscrimination and equal opportunity. This required standardized language also serves as a policy directive and guideline used by the Department to ensure that the required assurances are included in all pertinent documents.

**Required Assurances Language in Job Training Plans, Contracts and Agreements**

Each application for financial assistance under Title I of WIOA, as defined in §38.4, must include the following assurance (Exhibit I-A, I-F, and I-G):

*As a condition to the award of financial assistance from the Department of Labor under Title I of WIOA, the grant applicant assures 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 of federal financial assistance:*

*(A) Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I-financially assisted program or activity;*

*(B) Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;*

*(C) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;*

*(D) The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and*

*(E) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.*

*The grant applicant also assures that, as a recipient of WIOA Title I financial assistance, it will comply with 29 CFR part 38 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I-financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.*



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*The grant applicant also understands that the State of Missouri has the right to seek judicial enforcement of this assurance.*

**§38.26 Duration and scope of the assurance.**

DWD and its recipients will comply where WIOA Title I financial assistance is intended to provide, or is in the form of, either personal property, real property, structures on real property, or interest in any such property or structures, the assurance will obligate the recipient, or (in the case of a subsequent transfer) the transferee, for the longer of:

(1) The period during which the property is used either:

- (i) For a purpose for which WIOA Title I financial assistance is extended; or
- (ii) For another purpose involving the provision of similar services or benefits; or

(2) The period during which either:

- (i) The recipient retains ownership or possession of the property; or
- (ii) The transferee retains ownership or possession of the property without compensating the Departmental grant making agency for the fair market value of that ownership or possession.

In all other cases, the assurance will obligate the recipient for the period during which WIOA Title I financial assistance is extended.

**§38.27 Covenants.**

DWD and its recipients ensures when WIOA Title I financial assistance is provided in the form of a transfer of real property, structures, or improvements on real property or structures, or interests in real property or structures, the instrument effecting or recording the transfer must contain a covenant assuring nondiscrimination and equal opportunity for the period described in §38.25(a)(1). Where no Federal transfer of real property or interest therein from the Federal Government or DWD is involved, but real property or an interest therein is acquired or improved under a program of WIOA Title I financial assistance, the recipient must include the covenant described in this section in the instrument effecting or recording any subsequent transfer of such property. When the property is obtained from the Federal Government or through DWD, the covenant described in this section also may include a condition coupled with a right of reverter to the Department in the event of a breach of the covenant.

**Accessibility for Individuals with Disabilities**

Contracts between DWD and any contracting agency accepting WIOA funds also contain a provision that:

“The Contracting Agency assures that it and its sub-recipients will comply with Section 504 of the Rehabilitation Act of 1973, as amended (including the Americans with Disabilities Amendments Act of 2008), and U.S. Department of Labor’s implementing regulations at 29 CFR Part 32, which prohibit



discrimination and require provision of equal opportunity on the basis of disability.” (See Exhibit I-A, Assurances)

### **Programmatic and Architectural Accessibility**

The State EO Officer will enforce Section 504 of the Rehabilitation Act of 1973 with local workforce regions, including programmatic and architectural accessibility (See Exhibit I-B).

Additionally, Missouri’s Strategic Plan for implementation of WIOA, Title I ensures that all One-Stop services are available and accessible to individuals with disabilities through assistive technologies and the availability of brochures and other materials in multiple formats ([Missouri Workforce Board State Plan Exhibit I-D](#)). The State EO Officer also reviews and approves each Local Workforce Investment Areas (LWA) Local Plan for implementing WIOA, Title I, monitoring for assurances of full programmatic and architectural accessibility (Exhibit I-C).

### **State and Local-Level Policies and Issuances**

A comprehensive Accommodation Policy and Harassment and Discrimination Policies ([DWD Issuance 33-2017](#)) remain in full force and effect for all DWD employees (Exhibits I-E). The State EO Officer has reviewed these policies, as well as all others applying to DWD staff or registrants, and found that they are not discriminatory in intent or effect.

To ensure that all LWA and subcontractor policies are also not discriminatory in intent or effect, DWD has required all recipients of WIOA Title I funds to have their own Accommodation and Harassment policies that are reviewed through monitoring reviews by the DWD Equal Opportunity Unit.

DOLIR also has comprehensive Equal Employment Opportunity policies that prohibit unlawful discrimination and harassment (See Exhibits I-I – I-J). DOLIR’s EO Officer has reviewed these policies and believes they are not discriminatory in intent or effect.



**Attachments for Contracts, Assurances and Other Agreements**

- I -A Contract Agreement Template and Assurances
- I-B [Assuring Equal Access to Job Seekers with Disabilities in Missouri's One-Stops](#)  
[Missouri DWD Equal Opportunity Monitoring Guidance – Section ADA Self-Assessment Checklist](#)
- I-C [Local Workforce Development Board Areas Plans](#)
- I-D [The State of Missouri's Workforce Plan for Title I of the WIOA Program Year 2016-2020](#)
- I-E [DWD Issuance 33-2017 Harassment, Discrimination, and Retaliation Policy; Accommodation Policy](#)
- I-G [DWD On-the-Job Training Contracts and Policy](#)
- I-H [DWD Eligible Training Provider Policy](#)
- I-I [DOLIR Equal Employment Opportunity Policy](#)
- I-J [DOLIR Equal Employment Opportunity Policy \(B07-22000\)](#)



**Section II: Designation of State and Local Level Equal Opportunity (EO) Officers 29 CFR Part 38.28 through 38.33**

**Purpose**

The Governor of Missouri has designated the Department of Economic Development, Division of Workforce Development (DWD) to administer implementation of the nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act 2014 (WIOA), as they relate to workforce development activities. The Director of the Division of Workforce Development has ultimate responsibility for administration of the workforce development components of the WIOA Nondiscrimination and Equal Opportunity program in the state and, on behalf of the Governor, ensures that Local Workforce Boards (LWBs) and all sub-recipients, comply with all federal regulations. Serving in an associated role, the Department of Labor and Industrial Relations (DOLIR), Division of Employment Security (DES), is the agency that administers unemployment insurance.

**Designations**

In compliance with all applicable nondiscrimination requirements, DWD has designated a State Equal Opportunity (EO) officer and each of the fourteen (14) Local Workforce Development Boards (LWBs) has designated a Local Level EO Officer, representing their LWB. Danielle L. Smith is designated as Missouri's State EO officer and reports directly to Division of Workforce Development Director Mardy Leathers regarding all matters related to equal opportunity and nondiscrimination. Ms. Smith is assisted by two administrative professionals, Kristin Funk, Disability Coordinator and Isaac Hagan, Equal Opportunity Investigator, to ensure that she has the necessary staff and resources to effectively ensure compliance with nondiscrimination provisions. Ms. Smith attends numerous trainings throughout the year which include but is not limited to EEOC training, NASWA EO Committee Training and Civil Rights Center training. Her position includes oversight responsibility for coordinating, implementing, maintaining and monitoring the nondiscrimination and equal opportunity requirements of the U.S. Department of Labor federal regulations, 29 CFR Part 38.

**Business address for EO Officer:**

Danielle Smith  
State WIOA EO Officer  
Missouri Department of Economic Development  
Division of Workforce Development  
421 East Dunklin Street  
Jefferson City, Missouri 65102  
573-751-2428 (Voice)  
573-751-4088 (Fax)  
800-735-2966 or 711 (Relay Missouri)  
E-mail: [danielle.smith@ded.mo.gov](mailto:danielle.smith@ded.mo.gov)





www.ded.mo.gov

### **EO Officer Duties**

Ms. Smith's position description reflects duties that ensure Missouri's compliance with Section 188 of WIOA and 29 CFR Part 38. While she has intermittent duties additional to the ones listed below, none of these present a conflict of interest, or the appearance of a conflict, with the responsibilities of an EO Officer. Ms. Smith's duties include, but are not limited to the following:

- Coordinating the State EO responsibilities under 29 CFR Part 38;
- Functioning as the state's liaison with the Civil Rights Center;
- Monitoring and investigating the recipient's activities, and the activities of the entities that receive WIOA Title I financial assistance 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 and 29 CFR Part 38.
- Reviewing the recipient's written policies to make sure that those policies are nondiscriminatory;
- Reporting directly to the appropriate official about equal opportunity matters;
- Providing technical assistance and guidance to the local level EO officers statewide to ensure compliance with federal regulations and other applicable regulations, policies, procedures and directives;
- Developing and publishing the recipient's procedures for processing discrimination complaints and making sure those procedures are followed;
- Overseeing the development and implementation of the state's Nondiscrimination Plan; and
- Undergoing training to maintain competency; Reporting conflicts or apparent conflicts of interest to appropriate parties.

All equal opportunity matters within the fourteen (14) LWA regions are referred directly to the individual Local EO officer. The Local EO officers are responsible for:

- Serving as the recipient's liaison with and the State EO Officer and CRC;
- Developing and publishing the recipient's procedures for processing discrimination complaints and making sure those procedures are followed;
- Reporting to the appropriate official about equal opportunity matters;
- Ensuring that the roles and duties of the Local EO Officers are given top priority to adequately accomplish all of his/her responsibilities under WIOA Section 188 and 29 CFR 38.
- Undergoing training to maintain competency,
- Monitoring and investigating the recipient's activities, and the activities of the entities that receive WIOA Title I financial assistance 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 and 29 CFR Part 38.
- Reviewing written policies to ensure they are nondiscriminatory; and
- Coordinating all local-level, WIOA EO activities, thus ensuring compliance with the nondiscrimination and equal opportunity provisions of WIOA are implemented and enforced.



### **Designating a Local-Level Equal Opportunity Officer**

The LWBs must submit new Local-level EO information requested above anytime there has been a change with the Local-level Equal Opportunity Officer position. This notice should be sent within 48 hours from when the change occurred to the DWD Equal Opportunity Unit, Attention: Danielle Smith, State EO Officer, 421 East Dunklin Street, Jefferson City, Missouri 65101, danielle.smith@ded.mo.gov. LWBs have a continuing duty to notify the State EO Officer of any changes to the local-level EO Officer's contact information or position description.

### **Reporting Relationships**

The State and Local EO Officers are required to report directly to an appropriate official within his/her organization (such as the State WIOA Director, and Local Workforce Board Directors) about equal opportunity matters.

This means that EO Officers must report directly to the highest-ranking official in their organization. He or she, must have access to that person without undue delay or obstructions, to ensure that the necessary flow of information between the EO Officer and the top official is not hindered.

### **Priority of Responsibilities**

An EO Officer may be assigned other duties, but he or she must be able to give top priority to, and to adequately accomplish all of, his /her responsibilities under WIOA Section 188 and the WIOA nondiscrimination regulations. Additionally, s/he must not have other responsibilities or activities that create a conflict, or the appearance of a conflict, with his or her duties as an EO Officer.

### **Nondiscrimination Plan**

DWD and DOLIR develop and submit to the CRC every two years the Missouri's Nondiscrimination Plan. This document outlines the equal opportunity policies, procedures, and system established by our Governor to give a reasonable commitment that the State and its recipients will comply with the US DOL equal opportunity and nondiscrimination requirements. The State EO Officer is responsible for overseeing the development and implementation of Missouri's Nondiscrimination Plan.

The State Equal Opportunity Officer is responsible for developing and publishing the procedures for processing discrimination complaints that will be used within his or her area of jurisdiction. The State EO Officer is responsible for the discrimination complaint procedures to be used at the State and local levels. The WIOA nondiscrimination regulations provide that "any person who believes that either he or she, or any specific class of individuals, has been or is being subjected to discrimination prohibited by WIOA or 29 CFR Part 38, may file a written complaint, either by him/herself or through a representative." This language means that anyone may file a complaint if s/he believes that discrimination is taking place within the Missouri workforce system.

### **Monitoring for Compliance**

DWD has established a system to monitor compliance by the State and its recipients with the nondiscrimination provisions of WIOA and their implementing regulations. The system contains specific elements that include:



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- Statistical or quantifiable analysis of records and data, including analyses by race/ethnicity, sex, age, and disability status;
- An investigation of any significant differences identified by the statistical or quantifiable analysis, to determine whether these differences appear to be caused by discrimination;
- An assessment to determine whether the State and/ or its recipient have fulfilled their administrative obligations under WIOA Section 188 and 29 CFR Part 28 (such recordkeeping and providing notice and communication). The assessment includes a review of the State's or recipient's compliance with its obligations related to the designation of and support for, its EO Officer;
- Policy communication and training to ensure that EO Officers and other relevant staff members are aware of and can effectively carry out their regulatory responsibilities, review of the State's and its recipient's job training plans, contracts assurances and other similar documents and agreements to ensure that they are both nondiscriminatory and contain required language regarding nondiscrimination and equal opportunity.

DWD communicates monitoring requirements to their recipients. DWD ensures that the required monitoring is occurring and that follow-up action is taken where necessary. The WIOA nondiscrimination regulations place responsibility on each recipient's EO Officer for ensuring that monitoring takes place.

### **Notice and Communication Requirements**

The EO Officer's overall monitoring responsibilities under WIOA nondiscrimination regulations, is to ensure that the recipients for whom s/he is responsible for are complying with their legal obligations related to notice and communication. DWD and its recipients must notify specified groups of individuals and entities that it is covered by the nondiscrimination provisions of WIOA, and that those provisions grant specific rights. DWD and its recipients must use two distinct types of notification in particular circumstances specified in the WIOA nondiscrimination regulations:

- the "[Equal Opportunity is the Law](#)" Notice/Poster
- "tag lines"

The "Equal Opportunity is the Law" Notice must have the exact text of the Notice that is provided in 29 CFR 38.30. The text explains:

- That discrimination on specific listed bases (race, sex, disability, etc.) is against the law
- Where and when to file a discrimination complaint

There is a specific list of categories of individuals and entities that must receive the EO Notice/Poster (See Exhibit II-A). Examples include:

- Applicants/registrants for program and services
- Participants
- Applicants for employment/employees
- Unions and professional organizations
- Sub-recipients



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- Members of the public

DWD requires that the Notice be distributed in specified ways, including, at a minimum:

- Prominent posting of the recipient's premises
- Through internal memoranda and other communication methods
- Inclusion in handbooks(participant/employee) and manuals
- Making the Notice available to each participant/employee, and making it apart of the participant/employee's file.

DWD has specific requirements for providing Notice as to persons with disabilities, and provide the Notice in alternate format to a participant with a visual impairment, a record of that fact will be included in the participant's file. DWD requires the Notice be communicated effectively to person with limited English proficient.

DWD requires the "Tag lines" and other related information be included in any materials, publications, or broadcasts (including a recipient's website) that:

- Describes any program or activities that receive financial assistance under WIOA Title I, or
- Explain the requirements for participation in such programs or activities.
- This category includes materials and information that are distributed by any method, including:
  - Orally
  - In writing
  - Electronically
- It also includes materials and information that are distributed to:
  - Staff
  - Clients/participants
  - The public at large

Materials and information in this category must include two types of notice: "tag line" and Relay Service for persons who are Deaf wherever a contact phone number is listed. The "tag line" must be included on the websites of the recipients and the service provider. The "tag line" must include the exact text of the following two tag lines:

- "Equal Opportunity employer/program"
- "Auxiliary aids and service available upon request to individuals with disabilities"

The only exception to the requirement that the exact text be used is in cases in which the information is being published or broadcast by the news media, such as newspaper or television or radio station. In those cases, the exact text of the tag lines need not be used, as long as the essential information in each of the tag lines is accurately conveyed.



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DWD requires their recipients and their sub-recipients to utilize Relay Missouri 711 or other alternative contact numbers if the materials, publications, or broadcasts in the category described above include a telephone number for voice contact with the recipient.

DWD requires their recipients and their sub-recipients to provide persons with limited English Proficiency the EO Poster/Notice in appropriate languages for persons with limited English proficiency. DWD has provided additional resources to their local workforce regions that include, but are not limited to, the CRC's website which contains the "[Equal Opportunity is the Law](#)" Notice/Posters into various other languages.

### **State EO Officer's Support and Training**

The Division Director is in full support of the nondiscrimination and equal opportunity program. The Division has provided staff support to the State EO Officer that includes a Disability Coordinator, EO Investigator and clerical support staff. In addition to the State EO Officer, the Disability Coordinator and EO Investigator provide support and technical assistance to the regions and assist with monitoring the workforce areas for nondiscrimination and equal opportunity compliance.

The State EO officer, with the support of the Division Director, is proactive in providing local EO officers with non-discrimination and equal opportunity information and identifying and meeting training needs. These efforts help ensure that all local service delivery staff members, including subrecipient staff, maintain a clear understanding of nondiscrimination and equal opportunity requirements, thus ensuring compliance with applicable laws and regulations. The State EO Officer will hold mandatory training every two-years reviewing the Nondiscrimination Plan updates. This training will be required of DWD leadership staff, Workforce Board Directors, Local EO Officers and any local Management staff operating programs, services and activities in the job centers. Local EO Officers are responsible for local EO training for all job center staff. This training should focus on ensuring that those staff with the critical role of ensuring nondiscrimination in the provision of services are knowledgeable and understand the requirements in the equal opportunity regulations. To ensure that local level EO officers are sufficiently trained regarding their roles and responsibilities, we have revised the EO Officer's Quarterly Professional Development curriculum and placed more emphasis on requirements of the Nondiscrimination Plan and WIOA Section 188 training for all staff including Local WB Directors, training providers, and subcontractors.

DWD also supports development and implementation of EO topic webinars. The State EO officer has equal opportunity seminars available to all staff. These training are mandatory for new employees. The following are samples of the EO topics available online through DWD's training unit:

- The Discrimination Complaint Process for the One-Stop System
- Ensuring Nondiscrimination and Equal Opportunity for Individuals with Hidden Disabilities
- Disability Related Information: Asking, Telling, Using and Storing
- Pregnancy Discrimination
- Guidance for American Job Centers Serving Transgender Customers
- Program Benefits for Limited English Proficient Individuals
- Employment Screening and Criminal Records: Pitfalls
- Religious Discrimination Accommodation for Religious Beliefs and Religion Practices
- Criminal History



The Division of Workforce Development issued a recent memorandum to Local Workforce Board (LWB) Directors reinforcing existing policy and procedures for re-designating individuals to serve as equal opportunity (EO) officers at the local level. The current directory of State and local-level EO Officers may be found on the jobs.mo.gov website under the Equal Opportunity section (See Exhibit I-B).

### **Department of Labor and Industrial Relations**

Anna Hui was appointed Director of the Department of Labor and Industrial Relations (DOLIR) in March of 2017, with her senate confirmation following in January 2018.

Chris Slinkard was appointed Director of DOLIR's Division of Employment Security (DES) in September of 2017. He has also been confirmed by the Missouri senate. DES supports DOLIR by administering the state's Unemployment Insurance (UI) program.

### **Designation of Agency EO Officer**

Andrea Follett is designated as the agency's EO Officer and has served in this capacity since December 2016. Ms. Follett has oversight responsibility for coordinating, implementing, maintaining, and monitoring the nondiscrimination and EO requirements under the U.S. Department of Labor's (USDOL) federal regulations, 29 CFR Part 38, relative to services provided by DOLIR. She meets regularly with and has direct access to the Division Director, Mr. Slinkard, regarding all related EO matters, complaints, and investigations.

Ms. Follett's business address is as follows:

Andrea Follett  
Equal Opportunity Officer  
Missouri Department of Labor and Industrial Relations  
421 East Dunklin Street  
Jefferson City, Missouri 65102  
(573) 751-1339  
[Andrea.follett@labor.mo.gov](mailto:Andrea.follett@labor.mo.gov)

Ms. Follett's current position description does not include duties and responsibilities that would constitute or appear to constitute a conflict of interest.

### **DOLIR EO Officer Duties and Responsibilities**

Ms. Follett works with department management and staff to ensure that the services, benefits, and other programs receiving federal financial assistance from the USDOL are provided in an equitable manner, and that the programs are operated in compliance with applicable federal and state nondiscrimination laws and regulations. Ms. Follett's duties include but are not limited to:



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- Directing and managing a comprehensive statewide Workforce Innovation and Opportunity Act (WIOA) Equal Opportunity (EO) program in accordance with provisions of 29 CFR Part 38 Monitoring and investigating-DOLIR activities to ensure that the Department is not violating non-discrimination and equal opportunity obligations under 29 CFR Part 38;
- Reviewing and revising DOLIR and recipient's written policies to ensure they are non-discriminatory;
- Providing technical assistance to DOLIR offices to ensure compliance with federal regulations and other applicable regulations, policies, procedures and directives;
- Developing and publishing the Department's procedures for processing discrimination complaints and ensuring those procedures are followed under Sections 38.76 through 38.79;
- Overseeing and implementing the state's Nondiscrimination Plan Administration (NDP) for compliance with WIOA nondiscrimination and equal opportunity regulations (29 CFR Part 38);
- Coordinating the investigation and resolution of formal discrimination complaints and grievances; coordinating alternative dispute resolution, where appropriate;
- Referring programmatic complaints to the appropriate parties for resolution;
- Serving as liaison between the U.S. Department of Labor's Civil Rights Center (CRC) and the Department;
- Updating department's website and applicable internal and external documents with EO information;
- Managing a complaint tracking system and provide required information to the CRC within required timeframes;
- Reporting directly to the (DES) Director about equal opportunity matters relating to DES employees and UI recipients and reporting directly to the Department Director for equal opportunity matters relating to non-DES employees;
- Drafting and reviewing equal opportunity and non-discrimination related correspondence and issuances;
- Providing yearly training for department staff on related equal opportunity matters;
- Assisting in the development of a Department Workforce Diversity Plan;
- Undergoing training at department expense to maintain competency; and
- Completing other duties as assigned.

Mrs. Follett is a licensed attorney, and her professional career has allowed her to provide training and assistance to a wide variety of constituents, including state employees, law students, and the workforce of one of Missouri's largest public school districts. She is currently pursuing certification through the Society for Human Resource Management (SHRM) and holds a certificate in labor relations-collective bargaining from Cornell University's School of Labor and Industrial Relations.

**Professional and Administrative Support Staff Available to the DOLIR EO Officer**

The DOLIR EO Officer receives support from staff in DES, DOLIR's Office of General Counsel, and the DOLIR Director's Office.



**Attachments for Designation of State and Local Level Equal Opportunity (EO) Officers**

II-A [Equal Opportunity Website](#)

II-B [Local EO Officers/Workforce Board Directors](#)

II-C State DWD Equal Opportunity Officer Organization Charts





### **Section III: Notice and Communication 29 CFR Part 38.34 through 38.40**

#### **Purpose**

Statewide notification and communication of equal opportunity policy ensures DWD and DOLIR's commitment to nondiscrimination and equal opportunity regulations. Notices and other forms of communication are distributed to all appropriate parties.

This Section details how DWD, LWBs and DOLIR comply with 29 CFR 38.34 through 38.40 in ensuring individuals are informed of the state's and the recipient's obligation to operate its programs and activities in a nondiscriminatory manner, and the extent of the rights to file a complaint.

#### **DWD**

DWD, LWBs and subcontractors have created a notice and communication system that makes all registrants, applicants, eligible applicants/registrants, applicants for employment, employees and interested members of the public aware of the recipient's obligation to operate its programs and activities in a nondiscriminatory manner, and of the extent of the rights of members of these groups to file complaints of discrimination. DOLIR is a partner of DWD and supports this process.

#### **Methods and Frequency of Dissemination**

The "Equal Opportunity is the Law" notice is disseminated to all Local Workforce Boards (LWB), WIOA Recipients, WIOA State, and Local Partner Agencies through a poster containing the notices described in 29 CFR 38.30. The notice is also displayed prominently throughout the job centers and other areas where customers and staff are personally greeted by staff. DWD requires that all Missouri Job Centers display this poster. (See Exhibit III-A.) Each local-level EO Officer is responsible for ensuring that a copy of the required nondiscrimination notices and posters is available to all service providers designated through their local workforce board area. Through recent integration of a new paperless service delivery process, all customers must register electronically and acknowledge receipt of the required nondiscrimination and equal opportunity notices in order to advance to additional enrollment/registration screens. Participants moving into individualized career services and training are required to complete an equal opportunity notice and sign the EO Notice for their participant file. DWD has implemented and is enforcing a policy that all grant applicants, recipients and WIOA Title I funds including applicants of employment and must participate in the WIOA Equal Opportunity Orientation (See Exhibit III-H) and sign the EO notices forms found in DWD Mainframe website (See Exhibit III-A).

DWD provides workforce informational materials for job seekers and business services. This includes but is not limited to recruitment brochures, post cards, flyers and other outreach materials regarding programs services and activities. The LWA is able to develop brochures, flyers and other informative materials that are customized to programs, services and activities offered in their workforce area. [The "Equal Opportunity is the Law"](#) poster is made available on the agency's website in both English and Spanish (See Exhibit III-A and Exhibit III-C). The "Equal Opportunity is the Law" poster includes notice that "Auxiliary aids and services are available upon request to individuals with disabilities". Alternate formats for non-English speaking individuals are available upon request, in each job center and on the DWD Main. "The Missouri Division of Workforce Development is an Equal Opportunity Employer/Program." These notices are also included in publications provided to registrants, participants, applicants of employment, eligible training providers and



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potential employers who utilize DWD’s services (See Exhibits III-D through III-I). To ensure that we are reaching the widest possible audience, the aforementioned notices are also displayed on DWD’s updated [Equal Opportunity Website](#)(See Exhibit III-B).

DOLIR does not have a separate complaint procedure for WIOA-based complaints as all such complaints are assigned to go through the DWD system.

**Equal Opportunity Continuing Notice and Poster Requirements**

DWD has further ensured local compliance with notice/poster requirements through providing updates to LWB on EO requirements and state standards, which provides that LWBs must display “Equal Opportunity is the Law” posters and include an EO Notice on any local website. This provides that all publications, brochures, broadcasts and other communication developed for WIOA Title I financially assisted programs or activities must contain notices that: (1) the applicable agency is an equal opportunity employer with equal opportunity programs; (2) auxiliary aids and services are available upon request to individuals with disabilities; and (3) where a telephone number is included on a publication, a TDD/TTY number or Missouri 711 Relay services or equally effective means of communication with individuals with hearing impairments must also be included.” (See Exhibit III-C)

The “[Equal Opportunity is the Law](#)” statement is posted prominently for the benefit of the public in all of the Missouri Job Centers. Posters are also available in Spanish. DOLIR and DWD jointly display these posters in all Job Centers informing persons how they may file a discrimination complaint with regard to unemployment compensation. This complaint procedure is also available on the DOLIR website (equal opportunity) at [www.labor.mo.gov/EO](http://www.labor.mo.gov/EO).

Additional internal communication of DOLIR’s nondiscrimination policies is made via the policy and procedure manual. All policies and procedures are updated periodically, as needed. The documents are available to all DOLIR employees through our Intranet. DOLIR has developed numerous policies and procedure regarding nondiscrimination, such as:

- B07-22100 Grievances
- B07-22000 Overview (Equal Employment Opportunity – EEO)
- B07-22200 Reasonable Accommodations for Disabilities
- B07-22300 Workforce Diversity Plan (Affirmative Action Plan)
- B07-22400 Workplace Harassment

DOLIR also provides that publications, brochures, broadcasts and other communications ordinarily distributed to claimants and developed for an unemployment insurance assisted program or activity must contain notice that: (1) the applicable agency is an equal opportunity employer with equal opportunity programs; (2) auxiliary aids and services are available upon request to individuals with disabilities; and (3) where a telephone number is included on a publication, a TDD/TTY number or equally effective means of communication with individuals with hearing impairments must also be included.



### **Information in Languages other than English**

The State EO Officer continually reviews recipient's provision of information in languages other than English to ensure that persons of limited English-speaking ability have access to programs and activities on a basis equal to that of those who are proficient in English. Based upon most recent census data, Spanish is the predominant language spoken by limited English proficient (LEP) persons in Missouri. [The WIOA EO Notice/Posters and WIOA Complaint and Grievance notice is available in Spanish through the DWD website.](#) The State EO Officer will make available a Spanish translation of DWD's Equal Opportunity Website. DWD also contracts with CTS Language Link, for over-the-phone interpreting services throughout the state DWD provides free professional interpreting for all services as well as written translation for LEP customers. These resources are made available to the LWA.

The [Missouri Economic Research and Information Center \(MERIC\)](#) conducted a study in 2016. According to the 2010-2014 American Community Survey 5-Year Estimates, 6.1% (342,797) of Missouri's population ages five and over spoke a language other than English at home. Twenty-one percent of the United States population for the same time period spoke a language other than English at home. The five most common non-English languages spoken in Missouri homes were Spanish or Spanish Creole (2.6%), German (0.4%), Chinese (0.3%), French including Patois and Cajun (0.3%) and Serb-Croatian (0.2%). (See Exhibit III-I.)

The Missouri Department of Labor is committed to providing services to all individuals seeking our programs. DOLIR makes these services easily accessible to all of our customers through the use of auxiliary aids, translated documents and language interpreters. DOLIR provides the following services to assist individuals in filing unemployment insurance claims and adjudicating issues arising out of those claims.

DOLIR will assess, as accurately as possible, the frequency with which we have or should have contact with LEP individuals from potential language groups seeking assistance. The more frequent the contact with particular groups, the more likely that enhanced language services in that language are needed. DOLIR will assess the scope of that program or activity, the size and concentration of the population it serves, and establish and carry out a plan to provide services and information in the language (or languages) used by a significant number or proportion of members of that population. Depending upon these factors, that plan may include printed materials in the language used by the "significant number or proportion of the population," or various other options.

Additionally, DOLIR will perform periodic monitoring to identify and implement other reasonable steps that could be taken to provide services and information in appropriate languages when there is a significant number or proportion of the population eligible to be served, or likely to be directly affected by those services, who may need services or information in a language other than English in order to be effectively informed about or able to participate in the services. In performing the monitoring, the Department will, at a minimum, take into account the considerations enumerated in 29 C.F.R. 38.35 (a)(1).

### **Notice Available to Individuals with Disabilities**

DWD has provided the EO Notice electronically, in Braille or in "large print" formats, to Missouri Job Centers. Customer may also request other formats as well as accommodations/modifications in order to ensure effective communications with individuals with disabilities. DWD has also provided the LWA a Comprehensive Manual designed to assist One-Stop systems to meet the needs of people with disabilities. The University of Massachusetts Boston makes this resource available (See Exhibit J). DWD also provides



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contact information and referral to “The Center for Braille and Narration Production” which can assist the LWA when a document is needed in an alternate format including Braille, narration or large print (See Exhibit III-K). DWD provides the LWA a quick resource for Job Center staff to provide disability accommodations for customers. Many other accommodations are possible, but this is a quick resource for staff (See Exhibit III-L & III-M). DWD has provides sign-language interpreting resources/guides along with TTY phone guide/resources and other resources for those who are deaf or hard of hearing (See Exhibit III-N).

**Notice to Participants, Applicants and Employees**

DWD makes nondiscrimination and equal opportunity policies available to new and potential employees as early in the hiring process as possible. Missouri Job Center staff orientation sessions include notice of these policies and the above-referenced “EO is the Law” poster/notice is made available to anyone who visits a Job Center. Each local area provides nondiscrimination and equal opportunity training to new and current employees on a regular basis. The DWD’s Training Unit has designed a training calendar for use by internal and partner staff for communicating available opportunities. Additionally, the State EO Officer has launched web-based training regarding nondiscrimination and equal opportunity issues for all new employees of LWBs and subcontractors (See Exhibit III-G.)

DOLIR advises its employees of their right to file a complaint with the CRC in its internal employee policy manual. The internal and external dissemination of the EO policy describes the department complying with the State workforce diversity plan. This document is updated annually and this attests to the communication of the EO policy internally to employees and externally to interest groups, community organizations, women, individuals with disabilities, subcontractors, vendors, etc. This plan is available for review on the department’s website.

All new employees receive an explanation of Title VII of the Civil Rights Acts of 1964. A copy of Equal Opportunity is the Law notice – MODOL 4522 (See Exhibit III-E.) is provided to all new employees during their orientation.

In addition, MODOL-4522 Equal Opportunity is the Law poster will be distributed to DOLIR field offices, unemployment regional claims centers (DES-RCC) and Missouri Job Centers.



**Attachments Notice and Communication**

- III-A [Disseminating Notices for Equal Opportunity Complaints and WIOA Complaints & Grievances](#)
- III-B [DWD Equal Opportunity Website](#)
- III-C [WIOA Discrimination Complaint Form](#)
- III-D [DWD Annual Report](#)
- III-E [DWD & DOLIR Equal Opportunity is the Law Poster – English](#)  
[DWD & DOLIR Equal Opportunity is the Law Poster – Spanish](#)  
[Equal Opportunity is the Law Notices – Other Languages Link](#)
- III-F [Missouri Job Centers Products and Services](#)
- III-G [DWD Webinar EO Trainings](#)
- III-H [DWD WIOA Orientation](#)
- III-I [MERIC Missouri Most Spoken Languages 2016](#)
- III-J [Access for All: A Resource Manual for Meeting Needs of One-Stop Customers with Disabilities](#)
- III-K [Alternate Format Material Catalog 2018](#)
- III-L [Disability Accommodation Resources](#)
- III-M [Resource Guide for Missouri -Disability Etiquette Section](#)
- III-N [TTY Phone for Customers who are Deaf Resource](#)
- III- O [B07-22100 Grievances](#)
- III- P [B07-22000 Overview \(Equal Employment Opportunity\)](#)
- III- Q [B07-22000 Policy](#)
- III-R [B07-22200 Reasonable Accommodations for Disabilities](#)
- III-S [B07-22400 Workplace Harassment](#)
- III-T [B0722300 Workforce Diversity Plan \(Affirmative Action Plan\)](#)
- III-U [MODES-INF-170 What You Need to Know About Unemployment Insurance in Missouri](#)  
[www.labor.mo.gov/EO](http://www.labor.mo.gov/EO).



**Section IV: Data and Information Collection and Maintenance 29 CFR Part 38.41-45**

**DWD**

The Division of Workforce Development (DWD) - and its sub-recipients are in full compliance with all data and information collection and maintenance requirements of 29 CFR 38.38 through 38.41. DWD has launched and started using a new comprehensive case management system known as “MOJOBS” to collect demographic data and keep this data confidential. DWD and Local EO Officers maintain logs of complaints filed that allege discrimination for a period of three years from the date of resolution of the complaint, in compliance with DWD’s Agency Records Disposition Schedule requirements for “Statewide Program Files.” (See Exhibit IV-C.)

**Collecting Demographic Data**

DWD utilizes the Missouri new case management system, created to track information on job seekers and employers who participate in Labor Exchange, Self-Sufficiency, or WIOA programs. All staff including subcontractors are required to enter data into the MOJOB case tracking system. The system is designed to collect and maintain records on every registrant, applicant, eligible applicant, participant, and terminees (program exiters (both positive and negative)). Through the MOJOBS system, DWD and the State EO Officer are able to monitor recipients’ equal opportunity performance, identify possible instances of discrimination, and identify whether individuals or groups of individuals have been subjected to disparate impact or discriminated against on a basis prohibited by WIOA Section 188 and 29 CRF Part 38.

Each recipient must collect such data and maintain such records, in accordance with procedures prescribed in WIOA Section 188 to allow the CRC Director or the State Equal Opportunity Officer as necessary to determine whether the recipient has complied, or is complying, with the nondiscrimination and equal opportunity provisions of WIOA. 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 (LEP) 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 and reporting; determining eligibility, where appropriate, for WIOA Title I-financially assisted programs or activities; determining the extent to which the recipient is operating its WIOA Title I-financially assisted program or activity in a nondiscriminatory manner; or other use authorized by law.

**Analyzing EO Demographic Data**

To verify compliance with Section 188 of WIOA and 29 CFR Part 38, every recipient upon collecting all the necessary data, is required to conduct a statistical or quantifiable analysis by race/ethnicity, sex, age and disability (if known). After conducting the analyses, any significant differences in participation for programs, activities, services and employment practices must be investigated. Two quantifiable methods to be applied are 80% Rule (four-fifths) and the Two Standard Deviation Analysis Test. Using 80% Rule (four-fifths) or “rule of thumb” is one of the typical ways of conducting impact ratio analysis. Its application suggests the



fact that “a selection rate for any race, sex, or ethnic group which is less than four-fifths (or 80%) of the rate for the group with the highest rate will generally be regarded as evidence of adverse impact and possible discrimination. Since the 80% test does not involve probability distributions to determine whether the disparity is a “beyond chance” occurrence, it is usually not regarded as a definitive test for adverse impact. For this purpose, Missouri DWD has also been involved in utilizing the two standard deviation to augment the process of conducting statistical data analysis to identify adverse impact.

### **Medical or Disability Related Information**

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) (See Exhibit IV-D)

*Knowledge of disability status or medical condition and access to information in related files.* Persons in the following categories may be informed about an individual's disability or medical condition and have access to the information in related files under the following listed circumstances:

- Program staff who are responsible for documenting eligibility, where disability is an eligibility criterion for a program or activity.
- First aid and safety personnel who need access to underlying documentation related to a participant's medical condition in an emergency.
- Government officials engaged in enforcing this part, any other laws administered by the Department, or any other Federal laws.

*Knowledge of disability status or medical condition only.* Supervisors, managers, and other necessary personnel may be informed regarding restrictions on the activities of individuals with disabilities and regarding reasonable accommodations for such individuals.

The MoJobs system is designed to collect demographic information, including race/ethnicity, sex, age, and disability status, where known, as required by 29 CFR Part 38, as well as, selective service registration, veteran information, employment status, low-income information, custodial and non-custodial parental information, educational level, dislocated worker information and identified barriers.

DOLIR utilizes a program to develop a family of reports to use in monitoring UI claims. Following the guidance provided in Unemployment Insurance Program Letter (UIPL) 11-14, the Division of Employment Security (DES) produces quarterly reports that contain the following information disaggregated by race, ethnicity, sex, age, and disability status:

- Overall single-claimant claims processed: new initial claims, additional initial claims, total initial claims
- Single-claimant monetary determinations: total number made, total number resulting in ineligibility
- Single-claimant nonmonetary determinations: total number made, total number denying benefits
- Separation issues: total number made because of voluntary quits, discharge for misconduct, other; total number denying benefits because of these issues



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- Non-separation issues: total number made because of able, available, and actively seeking work, disqualifying or deductible income, refusal of suitable work, reporting requirements, and others; total number denying benefits because of these issues
- Single-claimant appeals: total number of lower authority appeals decisions made by separation issues (voluntary quits, discharge for misconduct, and others) and by non-separation issues (able, available, and actively seeking work, disqualifying or deductible income, refusal of suitable work, reporting requirements, and others); total number of lower authority decisions in favor of claimants, total number of lower authority decisions not in favor of claimants; total number of higher authority appeals decisions made; total number of higher authority decisions made in favor of claimants; total number of decisions not in favor of claimants

These reports are generated each quarter and show a year's worth of cumulative data.

The DOLIR EO officer receive a copy of this report. These reports are analyzed for statistical significance or trends in identifying evidence of systemic discriminatory activities affecting diverse population/protected categories as outlined in federal and state civil rights statutes. These reports are stored electronically.

### **Confidentiality of Demographic Data**

Pursuant to 29 CFR 38.37(b)(2), demographic data regarding race/ethnicity, sex, age, and disability status (where known), is stored in a manner that ensures confidentiality and that data is used only for the purposes of recordkeeping and reporting. This data is not available to potential employers seeking program participants as potential employees and cannot be used as a category to match job requirements. Furthermore, all staff with access to information contained in DWD's new case management system (MOJOBS) is subject to DWD's comprehensive Confidentiality Policy (See Exhibit IV-A). This Confidentiality Policy defines any information "that identifies or describes an individual or employer, including, but not limited to, name, social security number, ethnicity, age, date of birth, [or] gender" as "Confidential Information." (See Exhibit IV-A) MOJOBS system users must then sign an attestation that they will comply with the policy.

All EEO related data that is collected by DOLIR relating to potential program applicants/participants and applicants for employment is maintained and stored in a confidential manner.

### **Complaint Log and Enforcement Actions**

The WIOA State EO Officer maintains a log of complaints that allege discrimination, reported to the State or Local EO Officers. Local EO Officers are required to submit logs to the WIOA State EO Officer quarterly for review and compilation. (See Exhibit IV-B.) Each recipient must maintain, and submit to CRC upon request, a log of complaints filed with the recipient that allege discrimination on the basis(es) of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIOA Title I-financially assisted program or activity. The log must include: The name and address of the complainant; the basis of the complaint; a description of the complaint; the date the complaint was filed; the disposition and date of disposition of the complaint; and other pertinent information. Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential (See Exhibit IV-B).





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The State EO Officer is also responsible for notifying the CRC Director of any administrative enforcement actions or lawsuits brought against the agency, or any Local Workforce Development Board (LWB) or subcontractor, which alleges discrimination on one or more of the bases prohibited by WIOA Section 188.

DOLIR's EO Officer is responsible for maintaining a log of complaints that alleges discrimination by any recipient of unemployment claim programs as reported to the Department.

**Records Retention**

The aforementioned discrimination complaint logs are kept for a minimum of five years from the date of resolution of the complaint, in compliance with DWD's Agency Records Disposition Schedule requirements for "Statewide Program Files." (See Exhibit IV-C.)



**Attachments for Data and Information Collection and Maintenance**

- IV-A [Confidentiality and Information Security Plan for the Workforce Development Statewide Electronic Case Management System](#)
- IV-B [DWD Discrimination Complaint Log](#)
- IV-C [DWD Agency Records Disposition Schedule](#)
- IV-D [Statewide Case Note Policy Service](#)
- IV-E DOLIR Complaint Log MODOL-4520
- IV-F [DOLIR Complaint Form](#)
- IV-G [UIPL 11-14](#)



## **Section V: Affirmative Outreach 29 CFR 38.40**

### **Purpose:**

All Missouri Division of Workforce Development service providers are complying and will continue to comply with the requirements of 29 CFR 38.40 relating to the provision of universal access to programs and activities and implementing and enforcing an Affirmative Outreach plan in each local workforce development area in Missouri (See Exhibit V-H)

The Missouri Department of Labor (DOLIR) addresses requirements found in 29 CFR 38.54(d)(1)(vi) and 29 CFR 38.42 by providing equitable services among the eligible population through its outreach programs. These programs are designed to broaden the composition of the pool of those persons considered for participation in programs administered through the Division of Employment Security (DES). DOLIR has policies and procedures in place that allow employees and program recipients to file grievances.

### **Communication to LWBs, One-Stop Operators, and Service Providers**

In an effort to broaden the composition pool of those considered for participation in programs and activities, DWD has made region-specific demographic information available to LWBs, and has required outreach to target groups in the State WIOA Plan and Local Plan. This effort must include individuals with limited English-language proficiency (LEP), individuals with disabilities and minority groups. (See Exhibit V-A.) While DOLIR does not have a specific role in this area, it supports DWD's efforts on behalf of the State.

### **Demographic Information to Target Underserved Populations**

DWD is able to gather and conduct a statistical data analysis by the required demographics (race, ethnicity, gender, age) for each LWA Effective January 3, 2019, DWD will be collecting data on those individuals that are English-proficiency and this data will be used to conduct an assessment. (This information is provided to each LWB to assist in their Limited English Language Proficiency (LEP) assessment and planning efforts and to develop services in accordance with specific regional population growth. Local Workforce Areas are required to conduct a statistical data analysis annually. Local-level EO Officers may also obtain data from DWD's "MoPerforms" data reporting system to enhance their capacity to perform region specific analysis. For programs, services and activities that are not captured in jobs.mo.gov must be analyzed by the local boards annually or as needed.

### **Outreach to Target Groups**

The State WIOA Plan requires local areas to reach out to specific target groups, including women, minorities, and older individuals, individuals with limited English proficiency, and persons with disabilities (See Exhibit V-A.) DWD requires each local area to ensure that their Affirmative Outreach and recruitment plans are implemented to broaden the composition of the applicant for employment, registrant and participant pools. (See Exhibit V-H.)

DOLIR has completed a number of projects to disseminate messages to minority populations most likely to be disenfranchised including but not limited to:



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- A comprehensive website with information on topics such as worker protection, wage complaints, discrimination reporting workplace injury, fair housing, unemployment benefits, and more.
- Creating web applications to allow users to exchange services online without having to call or drive to a department office. DOLIR's UInteract system allows people to file unemployment insurance claims online from their homes or other convenient locations. People may also file discrimination complaints online.

### **LEP Individuals**

DWD has also taken specific steps to broaden the composition of its participant pool to include individuals with Limited English Proficiency (LEP). DWD has conducted statewide LEP training to ensure all staff and partners are knowledgeable and capable of providing services to LEP individuals. The LEP curriculum is available as a self-paced training DWD requires of all staff and partners. DWD has requested that each local-level EO Officer identify all staff and partners within their regions who are fluent in more than one language. DWD-100, Complaint and Grievance Form; DWD PO-319, Migrant Seasonal Farm Worker; DWD-101, Discrimination Complaint Form; and the DWD-102, "EO is the Law Poster." (See Exhibit V-E.)

DOLIR is committed to providing services to all individuals seeking its programs and makes services easily accessible through the use of auxiliary aids, translated documents, and language interpreters. DOLIR's website features a variety of Spanish-language publications UInteract, DOLIR's online unemployment application system, allows applicants to complete required information screens in English and Spanish. Links are also provided in six additional languages: Arabic, Bosnian, French, Somali, Russian and Vietnamese. These six languages were selected based upon data provided from prior interpreter services requests. Messages in these six languages direct users to contact the DOLIR Regional Claims Center to receive assistance in accessing translation/interpreter services. Applicants who speak languages other than English, Spanish, or the six listed above may choose an "Other" tab, which provides an English-language message and contact number for the Regional Claims Center, where a Claims Specialist can assist the applicants in accessing translation/interpreter services in their preferred language.

### **Individuals with Disabilities**

Each Missouri Job Center is required to make assistive technology available to ensure access to services; including, a screen reader, a screen enlarger, communications access to telephone services for the Deaf (Relay Service and a TTY or IP Relay Service). Additional adaptive equipment is made available when a customer makes a request. Missouri Job Centers have many resources to accommodate or provide modifications to programs or services. One resource is Missouri Assistive Technology and their equipment loan program for local school districts and other public/private agencies in Missouri. Missouri workforce partners receive support in the form of technical assistance and equipment loans on request from the Missouri Assistive Technology. This partnership ensures services are effectively provided to customers with disabilities.

### **Priority of Service**

DWD has implemented procedures regarding the priority of service for veteran customers of Missouri Job Centers. The Jobs for Veterans Act (JVA) of 2002 created a priority of service requirement for all qualified DOL job training programs. "Qualified job training programs" are defined by the law as "any workforce preparation, development or delivery program or service that is directly funded, in whole or in part, by the



Department.” While the regulations and data collection is new, priority of service has been a requirement since 2002. (See Exhibit V–G.)

### **The Employment Applicant Pool**

DWD has also taken steps to broaden the composition of DWD’s employment applicant pool. The Division regularly places job advertisements and workforce related articles written by DWD staff in local Hispanic, African-American, and women’s newspapers; including, but not limiting the following newspapers

- The Call, Kansas City (African American)
- K.C. Hispanic News, Kansas City (Hispanic)
- St. Louis American, St. Louis (African American)
- Mid-Missouri Women’s Journal, Columbia (Female)

As job vacancies arise, DOLIR places posting information on jobs.mo.gov, located on the Official Missouri State website, and sends regular updates to DOLIR staff regarding internal job openings.

DOLIR is currently exploring methods to increase its online presence with job applicants and utilizes social media sites such as LinkedIn and Twitter. For open positions that require specific licensing/certifications, DOLIR partners with state professional organizations for posting and recruitment (for example, placing ads with the Missouri Bar Association’s online job postings for lawyers)

DOLIR has used career services offices at St. Louis Community College, Westminster College the University of Missouri, Stephens College, Columbia College, William Woods University, Harris-Stowe University, Truman State University, Northwest Missouri State University, Missouri Western University, the University of Central Missouri, and Lincoln University to announce job vacancies to students, alumni, and the public:

Depending on the location of the opening, DOLIR places job advertisements in the following newspapers:

- Columbia Daily Tribune
- The Call, Kansas City (primarily African American subscribers)
- St. Louis American, St. Louis (primarily African American subscribers)
- Jefferson City News Tribune
- K.C. Hispanic News, Kansas City (primarily Hispanic subscribers)
- Dos Mundos (primarily Hispanic subscribers)
- Mid-Missouri Women’s Journal, Columbia (primarily female subscribers)
- Southeast Missourian
- Springfield News Leader
- St. Joseph News Press
- St. Louis Labor Tribune



**Attachments for Affirmative Outreach**

- V- A [State WIOA Plan 2016-2020](#)
- V- B [Local Workforce Investment Areas Demographics by Counties and Cities](#)
- V - C [The Many Languages of Missouri](#)
- V - D [MO Performs Data Analysis Sample](#)
- V - E [Equal Opportunity is the Law Poster – Spanish](#)  
[State Monitor Advocate Migrant Seasonal Farmworkers - Spanish](#)
- V- F [Assuring Equal Access to Job Seekers with Disabilities in Missouri’s One Stops](#)
- V- G [Priority of Services Veterans](#)
- V-H [DWD EO Affirmative Outreach Guide](#)

Link to DOLIR webpage, [www.labor.mo.gov](http://www.labor.mo.gov)  
[www.labor.mo.gov/des](http://www.labor.mo.gov/des) (comprehensive information for UI claimants)  
[www.labor.mo.gov/discrimination](http://www.labor.mo.gov/discrimination)  
[www.labor.mo.gov/EO](http://www.labor.mo.gov/EO)  
[www.labor.mo.gov/jobopenings](http://www.labor.mo.gov/jobopenings)  
[www.labor.mo.gov/posters](http://www.labor.mo.gov/posters) (includes Spanish-language posters)  
[www.labor.mo.gov/training](http://www.labor.mo.gov/training) (request training on a variety of topics, including harassment and discrimination prevention)



**Section VI: Governor's Oversight Responsibilities Regarding Recipients' Recordkeeping §38.53**

**DWD**

DWD ensures that recipients collect and maintain records in a manner consistent with the provisions of §38.41 and any procedures prescribed in Section 188 of WIOA und 29§38.41(a). DWD has provided more guidance for this section under Missouri's Nondiscrimination Plan, Section IV Data and Information Collection and Maintenance (38.41 through 38.45). All WIOA recipients should refer to this section for guidance.

**DOLIR**

The Director of the Division of Workforce Development has ultimate responsibility for administration of the workforce development components of the WIOA Nondiscrimination and Equal Opportunity program in the state and, on behalf of the Governor, ensures that Local Workforce Boards (LWBs) and all sub-recipients, comply with all federal regulations. Serving in an associated role, the Department of Labor and Industrial Relations (DOLIR), Division of Employment Security (DES), administers the state unemployment insurance program.



**Section VII: Complaint Processing Procedures 29 CFR Part 38.69 through 38.85**

**Purpose**

It is against the law for recipients 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 DWD and its recipients 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.

DWD and its 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.

All Workforce Innovation and Opportunity Act (WIOA) Title I financially assisted entities must have policies that:

1. Prohibit employees and non-employees from harassing or discriminating against staff, customers, and partner employees;
2. Prohibit retaliation against harassment or discrimination complainants; and
3. Provide reasonable employment-related accommodations to employees and job applicants with disabilities.

**Who May File**

- (1) Any person who believes that either he or she, or any specific class of individuals, has been or is being subjected to discrimination prohibited by WIOA or its implementing regulations may file a written complaint, either by him/herself or through an authorized representative.

**Time and Place for Filing**

- (1) Complainants may file within one hundred and eighty (180) days of the alleged discrimination.
- (2) Discrimination complaints may be filed by contacting one of the following or at <https://jobs.mo.gov/community/equal-opportunity> (See Exhibit A-B):
  - a. DWD State Equal Opportunity Unit





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- b. Missouri Job Center or local administrative entity, Local Workforce Development Board (LWDB)
- c. service provider,
- d. One-Stop operator or
- e. the Director of the Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Ave. NW, room N-4123, Washington D.C. 20210.

**Initial Review of Written Complaints**

Any DWD or sub-recipient employee may take a written discrimination complaint from a complainant or a complainant's designated representative. A written complaint must include: the complainant's name and address; the identity of the individual or entity the complainant alleges is responsible for the discrimination; a description of the complainant's allegations in enough detail to allow an initial determination of jurisdiction, timeliness, and the apparent merit of the complaint; and the complainant's signature or the signature of the complainant's authorized representative. Complaints may be made on the Complaint Information Form (CIF) (See Exhibit VII- C)

**Time Limits**

DWD will attempt to complete processing its discrimination complaint and issue a written notice of final action within ninety (90) calendar days from the date the complaint was filed. If DWD is not able to complete the investigation or ADR/Mediation within the 90 days, DWD will notify the Complainant that more time will be needed to process the complaint. DWD will notify the Complainant of their rights to file with the Civil Rights Center (CRC) if they are not satisfied with an extension.

**Complaint Routing and Record Keeping**

A DWD or sub-recipient employee who takes a discrimination complaint must immediately route discrimination complaints to the State EO within 2 business days from when the complaint was received. Local-level EO Officers will log all complaints on the DWD-PO-524 EO Local WIOA Discrimination Complaint Log (See Exhibit VII-D). The log will include: the name and address of the complainant; the basis for the complaint; a description of the complaint; the disposition and date of disposition of the complaint; and any other pertinent information. State and Local-level EO Officers are responsible for keeping any information that could lead to the identification of the person filing the complaint confidential. Immediately upon receiving and logging a discrimination complaint, the Local-level EO Officer will forward the complaint to the State EO Officer for determination of jurisdiction and further processing.

**Notice of Lack of Jurisdiction**

If the State EO Officer determines DWD has no jurisdiction to process a discrimination complaint under Section 188 of WIOA, he/she will send a notice of lack of jurisdiction to the complainant within ten (10) days of receipt. This notice will include the reason for the determination and indicate to the complainant their right



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to file a complaint directly with CRC within thirty (30) calendar days from receipt of the notice of lack of jurisdiction.

If the State EO Officer determines that the EO Office does have jurisdiction to process the complaint, the EO Officer will send written notice to the complainant within ten (10) days of receipt stating that the complaint has been accepted. The notice will list the issues raised in the complaint and state, for each issue, whether it has been accepted or rejected for investigation, providing an explanation for any rejection. The notice will indicate the complainant has the right to be represented by an attorney or another person of the complainant's choice and give the complainant the right to choose between Alternative Dispute Resolution (ADR) or investigation.

DWD's State WIOA EO Officer has jurisdiction over complaints that:

- Are filed against a WIOA recipient; and
- Allege a basis for discrimination that is prohibited by WIOA; and
- Are filed within one hundred and eighty (180) calendar days of the alleged discrimination.

**Alternative Dispute Resolution: Mediation Process**

If the party filing the complaint requests to use an ADR process to resolve the complaint, the State EO officer will arrange ADR/mediation to attempt to resolve the complaint. DWD will pay for the Mediator. The EO Officer will schedule mediation by written notice, mailed to all interested parties at least seven (7) calendar days prior to the first mediation session. The notice will include the date, time, and place of the ADR/mediation. The mediation process must be concluded within thirty (30) calendar days from the date the complaint was filed. The complaint is considered resolved when all parties to the complaint enter into a written agreement resolving the issues raised in the complaint. The written agreement will give notice that if the terms of the agreement are breached, the Complainant may file a complaint with CRC within thirty (30) calendar days of the date the non-breaching party learns of the breach. If the parties do not reach an agreement, the State EO Officer will conduct an investigation.

**Investigation Process**

If ADR/mediation does not resolve the discrimination complaint, or if the Complainant elects to forego mediation, the State EO Officer will conduct a fact-finding investigation of the allegations contained in the complaint. The investigation may include interviews with the complainant, respondent and any witnesses; requests for pertinent documents; on-site inspection; and research of applicable policies and procedures.

Throughout the investigation process, the EO Officer will keep the identity of any individual who furnishes information relating to or assisting in the investigation, including the identity of the individual who filed the complaint, confidential to the extent possible, consistent with a fair determination of the issues.

**Notice of Final Action**

Within approximately ninety (90) days of receipt of the complaint, the State EO Officer will issue to the complainant a Notice of Final Action. The Notice of Final Action will contain the DWD's decision on each issue and the reasons for the decision, a description of the resolution, and notice that the Complainant has



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the right to file an appeal with CRC within thirty (30) calendar days from the date the notice of final action is issued if dissatisfied with the final action.

Sample Letters for Discrimination Complaints (See Exhibit VII-E)

1. Notice of Receipt (NOR)
2. Notice of Acceptance (NOA)
3. Notice of Alternate Dispute/Mediation (NOADM)
4. Notice of Settlement (NOS)
5. Notice of Final Action (NOFA)

**Intimidation and Retaliation Prohibited**

No WIOA Title-I 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.

**Program Complaints and Grievances Procedures**

Every recipient of WIOA Title I funds must maintain a written procedure for grievances and complaints in accordance with 20 CFR 683.600, *et seq.* (See Exhibit F). General WIOA complaints may be made up to one (1) year from the date of the event or condition alleged to be a violation of WIOA. The appropriate resolution process to be followed depends on the nature of the complaint. General WIOA complaints fall into the following two categories:

1. Complaints involving local WIOA programs, agreements, or LWB policies and activities; or
2. Complaints involving State WIOA policies, programs, activities, or agreements.

A complaint may be amended or withdrawn at any time prior to a scheduled hearing. Any DWD employee who processes a WIOA complaint will keep information that could lead to the identification of the person filing the complaint confidential, to the extent practical. The identity of any person who furnishes information related to, or assisting in, an investigation will also be kept confidential to the extent possible. DWD and its One-Stop partners will not discharge, intimidate, retaliate, threaten, coerce, or discriminate against any person because such person files a complaint, opposes a prohibited practice, furnishes information, assists, or participates in any manner in an investigation or hearing.

**General WIOA Complaints**

The DWD General WIOA Complaint Form (See Exhibit - G) may be duplicated by Local offices. Any alternate form must include all information required on the General WIOA Complaint Form. Any complaint received in writing will be accepted and handled in the same manner as if it were made on the General WIOA Complaint Form. State and Local-level Equal Opportunity Officers will log all WIOA formal complaints on the form (DWD-PO-526 EO Local WIOA Complaint Log (See Exhibit VII-H). The log includes: the name and address of the complainant; the basis for the complaint; a description of the complaint; the disposition and date of disposition of the complaint; and any other pertinent information. DWD has provided a Program Complaint and Grievance Guide that includes documentation requirements and template letters as a resource to the Local-level EO Officers (See Exhibit VII - I).



The Complainant should be allowed sufficient time and technical assistance to provide a complete and clearly written explanation on his or her complaint. If the Complainant is unable to write, staff may transcribe his or her words onto the form; staff must 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 ensure the following information has been provided, especially if the complaint is not received on the General WIOA Complaint Form:

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 constitute the alleged violation(s).

### **Complaints Involving Local Programs and Policies**

#### **Who May File**

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 LWDB policies and activities.

WIOA Title I Recipients are obligated to accommodate complainants with disabilities so that they may file complaints. Alternate formats will be used, upon request by the complainant, to notify the complainant of hearings, results, and any other written communication. WIOA Title I recipients are obligated to provide auxiliary aids and services, such as language interpreters or other modifications, upon request, for negotiations, hearings and any other meetings where aural communication occurs or where it is necessary for the parties to communicate effectively. An accessible location will be used for hearings and other meetings upon request.

#### **Time and Place for Filing**

Complaints may be filed with the local administrative entity or the service provider within one (1) year from the date of the event or condition was alleged to have occurred.

#### **Resolution Process**

##### **Step One - Initial Review**

If the complaint alleges a violation of any statute, regulation, policy, or program that is not governed by WIOA, the local administrative entity or service provider may refer the complaint to the appropriate organization for resolution. In such cases, the local administrative entity or service provider will notify the complainant of the referral.

Once the local administrative entity or the service provider receives the complaint from the complainant or the complainant's designated representative, the receiving employee will log the complaint. The local administrative entity or service provider will then establish a complaint file containing the following:



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1. Application and enrollment forms;
2. Completed General WIOA Complaint Form (or complainant's written statement);
3. Chronological log of events or conditions alleged to be a violation of WIOA;
4. Any relevant correspondence; and
5. Record of the attempted informal resolution.

### **Step Two- Informal Resolution**

The local administrative entity or service provider will attempt to informally resolve the complaint to the satisfaction of all parties. This informal resolution process must be completed within ten (10) business days from the date the complaint is filed. If all parties are satisfied, the complaint is considered resolved, and the terms and conditions of the resolution must be documented in the complainant's file. When a service provider attempts the informal resolution, the service provider will forward the complaint file to the local administrative entity. The local administrative entity will review the complaint file and investigate it further if necessary.

### **Step Three- Formal Resolution**

When an informal resolution is not possible, the local administrative entity will issue a determination within twenty (20) calendar days from the date the complaint was filed. If the complainant does not request an appeal of the determination, the complaint is considered resolved (unless the complainant files a hearing within (7) calendar days. The local administrative entity or service provider will document the determination (formal resolution) of the complaint in the complaint file. Any party dissatisfied with the determination may request a hearing within seven (7) calendar days of the date of the determination.

### **Step Four - Hearing**

A complainant may request a hearing if dissatisfied with the formal resolution. A complainant may amend or withdraw his or her complaint at any time prior to a scheduled hearing. If the complaint is not withdrawn, the local administrative entity will designate a hearing officer or a hearing committee to ensure the complaint receives fair and impartial treatment. The hearing must be conducted within forty-five (45) calendar days from the date the complaint was filed. The hearing officer will schedule a formal hearing and mail a written notice to the complainant, the respondent, and any other interested party at least seven (7) business days prior to the hearing.

The notice will include the date, time, and place of the hearing. Parties may present witnesses and documentary evidence, and question others who present evidence and witnesses. The complainant may request that records and documents be produced. Attorneys or another designated representative (s) may represent each party. All testimony will be taken under oath or affirmation. The hearing will be recorded either in writing or by audiotape.

The hearing officer's recommended resolution will include a summary of factual evidence presented during the hearing and the conclusions upon which the recommendation is based. The hearing officer will also concur with the chief local elected official (CLEO) toward reaching consensus on the recommended resolution to the complaint. If consensus cannot be reached, the hearing office will initiate a request to the state for resolution.



### **Step Five - Final Decision**

The local administrative entity will review the recommendation of the hearing officer and issue a final decision within sixty (60) calendar days from the date the complaint was filed.

### **Step Six- Appeal**

Any party dissatisfied with the local administrative entity's final decision, or any party who has not received either a final decision or a resolution within sixty (60) calendar days from the date the complaint was filed, may request an appeal. The appeal must be received by the DWD within ninety (90) calendar days from the date the complaint was filed at the following address:

Missouri Division of Workforce Development  
State WIOA Compliant and Grievance Office  
Email: [DWDComplaintsandGrievances@ded.mo.gov](mailto:DWDComplaintsandGrievances@ded.mo.gov)  
Danielle Smith, State WIOA Complaint and Grievance Officer  
421 E. Dunklin  
Jefferson City, MO 65101-1087

DWD will review the complaint file, the hearing record, and all applicable documents and issue a final decision on the appeal within thirty (30) calendar days from the date the appeal was received.

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## **Complaints Involving State WIOA Policies, Programs, Activities or Agreements**

### **Who May File**

Applicants, employees, participants, service providers, recipients and other interested parties may file a complaint alleging a violation of State WIOA policies, programs, activities or agreements.

### **Complainants with Disabilities**

DWD will accommodate complainants with disabilities, so that they may file complaints. Alternate formats will be used, upon request to notify the complainant of hearings, results, and any other written communication. DWD will provide auxiliary aids and services, such as language interpreters or other modifications, upon request, for negotiations, hearings, and any other meetings where aural communication occurs or where it is necessary for the parties to communicate effectively. An accessible location will be used for hearings and other meetings upon request.

### **Time and Place for Filing**

Complaints may be filed with the service provider or with DWD within one (1) year from the date of the event or condition alleged to be a violation of WIOA.



## Resolution Process

### Step One - Initial Review

DWD will receive the complaint from the complainant, or the complainant's designated representative. If the complaint alleges a violation of any statute, regulation, policy, or program that is not governed by WIOA, DWD will refer the complaint to the appropriate organization for resolution and notify the complainant of the referral.

DWD will log all complaints received. DWD will then establish a complaint file containing the following:

1. Application and enrollment forms;
2. Completed General WIOA Complaint Form (or complainant's written statement);
3. Chronological log of events or conditions alleged to be a violation of WIOA;
4. Any relevant correspondence; and
5. Record of the attempted informal resolution.

### Step Two - Informal Resolution

DWD will attempt to informally resolve the complaint to the satisfaction of all parties. This informal resolution process must be completed within ten (10) business days from the date the complaint is filed. If all parties are satisfied by this informal process, the complaint is considered resolved and the terms and conditions of the resolution will be documented in the complaint's file.

### Formal Resolution- Step Three

When an informal resolution is not possible, DWD will forward the complaint file to the address below:

Missouri Division of Workforce Development  
State WIOA Compliant and Grievance Office  
Email: [DWDComplaintsandGrievances@ded.mo.gov](mailto:DWDComplaintsandGrievances@ded.mo.gov)  
Danielle Smith, State WIOA Complaint and Grievance Officer  
421 E. Dunklin  
Jefferson City, MO 65102-1087

The State WIOA Complaint and Grievance Officer will review the complaint file, conduct further investigation, if necessary, and issue a determination within twenty (20) calendar days from the date the complaint was filed. If the complainant does not request an appeal of the determination, the complaint is considered resolved and the complaint file will be documented accordingly. Any party dissatisfied with the determination may request a hearing within fourteen (14) calendar days of the date of the determination.

### Step Four - Hearing

A Complainant may amend or withdraw his or her complaint at any time prior to a scheduled hearing. If the complaint is not withdrawn, the DWD will designate a hearing officer or a hearing committee to ensure the complaint receives fair and impartial treatment. The hearing must be conducted within forty-five (45) calendar days from the date the complaint was filed. The hearing officer will schedule a formal hearing and



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mail a written notice to the complainant, the respondent, and any other interested party at least seven (7) business days prior to the hearing. The notice will include the date, time, and place of the hearing.

Parties may present witnesses and documentary evidence, and question others who present evidence and witnesses. The complainant may request that records and documents be produced. Attorneys or another designated representative(s) may represent each party. All testimony will be taken under oath or affirmation. The hearing will be recorded either in writing or by audiotape. The hearing officer's recommended resolution will include a summary of factual evidence presented during the hearing and the conclusions upon which the recommendation is based.

### **Step Five - Final Decision**

DWD will review the recommendation of the hearing officer and issue a decision within sixty (60) calendar days from the date the complaint was filed. The decision of DWD is considered final.

### **Appeals to the U.D. Department of Labor (USDOL)**

A complainant who receives an adverse final or appeal decision from the State may appeal that decision to USDOL within sixty (60) days of the receipt of the decision being appealed. Appeals must be filed within one hundred and twenty (120) days of the complainant's filing of the grievance with the State, or filing of the appeal of a local grievance with the State. All appeals must be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, Washington, DC 20210, Attention: ASET. A copy of the appeal must be simultaneously provided to the appropriate Employment and Training Administration (ETA) Regional Administrator and the opposing party.

### **Criminal Fraud, Waste and Abuse**

Information and complaints involving criminal fraud, waste, abuse, or other criminal activity must be reported immediately through the DWD's Incident Reporting System to the USDOL Office of Inspector General, Office of Investigations, Room S5514, 200 Constitution Avenue NW, Washington, D.C. 20210, or to the corresponding Regional Inspector General for Investigations, with a copy simultaneously provided to the ETA. The Hotline number is 1-800-347-3756. Complaints of a non-criminal nature are handled under the procedures set forth in 20 C.F.R. §683.620 or through the DWD's Incident Reporting System.

### **Intimidation and Retaliation Prohibited**

No WIOA Title-I recipient may discharge, intimidate, retaliate, threaten, coerce, or discriminate against any individual because the individual has filed a program complaint or grievance or otherwise participated in the investigation of a complaint.

### **DWD Equal Opportunity Hotline**

The purpose of the DWD Equal Opportunity Hotline is to identify any issues, concerns and or discrimination occurring with the Missouri workforce system confidentially.

Toll Free Complaint Hotline: 866-753-5554

### **DOLIR**





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The DOLIR Equal Opportunity Officer has the designated responsibility for the development and implementation of a procedure for processing complaints alleging discrimination under the provisions of 29 CFR part 38.

Consistent with 29 CFR 38.54 (d)(1)(v) and 29 CFR 38.76 through 38.79, DOLIR has adopted and published a procedure providing for the prompt and equitable resolution of complaints alleging violation of the nondiscrimination or equal opportunity provisions. The Equal Opportunity Officer maintains a log of discrimination complaints filed. Such logs contain the name and address of the complainant, basis and description of complaint, date filed, and disposition of complaint. The DOLIR EO Officer has the authority to investigate claims made against DOLIR employees or in receipt of DOLIR services. Claimants who express concerns about discrimination in the private sector, or against other state/municipal employers, receive contact information for the Missouri Commission on Human Rights, another agency within DOLIR that has authority to assess and remedy employment discrimination claims.

DOLIR's complaint processing with regard to its employees follows the process provided for in its Administrative Policy Manual, Policy B07-22100. (See Exhibit VIII-D.) All relevant internal publications reflect the timeframes associated with the filing of complaints and instructions for filing complaints directly with Civil Rights Center (CRC).

With regard to persons making claims against DOLIR, the EO Officer investigates the claims, gathering and reviewing all relevant information. At the close of the investigation, the EO Officer writes a letter to the claimant explaining the outcome of the investigation. The Director of the Division of Employment Security is copied on every letter, and each letter contains instructions on how the claimant may contact the CRC directly. When necessary, the EO Officer consults with senior management to ensure that all services are provided equitably and with excellent customer service --- note that the "EO Is The Law" notification that is posted at all local Missouri Job Centers, Regional Claims Centers, and other work areas provides detailed instruction for filing complaints.



**Attachments for Section VII Complaint Processing Procedures**

- VII-A [Equal Opportunity is the Law Poster](#)
- VII-B [Equal Opportunity Notice](#)  
[Equal Opportunity Notice Spanish](#)
- VII-C [Compliant Information Form\(CIF\)](#)  
[Complaint and Information Form \(CIF\) \(Spanish\)](#)
- VII-D [Discrimination Complaint Log](#)
- VII-E [Discrimination Complaint Template Letters](#)
- VII-F [Program Complaints and Grievance Notice](#)  
[Program Complaints and Grievance Notice \(Spanish\)](#)
- VII-G [Program Complaints and Grievance Guide](#)
- VII-H [General Complaint Form](#)  
[General Complaint Form \(Spanish\)](#)
- VII- I [Program Complaint and Grievances Log](#)
- VII- J [DOLIR Policy B07-22100](#)
- VII- K [DOLIR Complaint Form](#)



**Section VIII: Monitoring Recipients for Compliance 29 CFR Part 38.51-53**

**DWD**

DWD monitors recipients for complying with the administrative obligations of 29 CFR Part 38 and performing the responsibilities assigned such recipients by the State through the Nondiscrimination Plan (NDP). DWD and recipients are obligated to monitor for nondiscrimination and equal opportunity compliance annually. DWD and recipients are obligated to conduct statistical data analysis on programs, services, and activities funded with Title I WIOA funds. DWD and its recipients are also obligated to annually monitor for nondiscrimination and equal opportunity compliance in employment practices. This includes but not limited to analyzing data on applicants for employment, employees and terminations. DWD conducts comprehensive nondiscrimination and equal opportunity reviews with their recipients. This review includes, but is not limited to, DWD monitoring onsite, conducting surveys/interviews of customers and employees, reviewing program/employee files, and monitoring for ADA compliance. At a minimum, DWD monitors its recipients annually for equal opportunity performance on all programs, activities, services and employment practices that are funded in part or in whole with WIOA Title I funds.

**Data Analysis**

Missouri's MoJobs case management system collects information on applicants, registrants, eligible applicants/registrants, participants and terminees. DWD and LWDBs have access to this system and regularly analyze data collected to determine whether any discrepancies based on race, disability, ethnicity, or sex have practical or statistical significance. To perform this analysis DWD compares applicants' race, ethnicity, sex, and disability status with participants' and terminees' characteristics to ensure these protected applicants are being equitably enrolled into basic, individualized and training services. Additionally, DWD compares the applicant pool to census civilian labor force data and unemployment data for each local area to ensure protected groups are recruited in proportion to the population at large and the unemployed population. DWD then conducts an analysis of the data pursuant to the "80% rule" and the two-standard deviation formula by following the four step process: calculating the rate of selection for each racial, ethnic, sex or disability group; observing the group with the most favorable rate; comparing each of the other rates with the most favorable rate; and observing the selection rate for all groups.

DWD also analyzes employment data to determine whether any differences based upon disability, race, ethnicity, or sex has practical or statistical significance. Prior to monitoring any recipient for compliance, DWD requires that the recipient submit a list of its employees, all employment applicants and the employees and applicants of each of their recipients to the DWD Equal Opportunity (EO) Officer. These lists include the race, ethnicity, sex, and disability status of employees and applicants for employment. The State and Local EO Officer analyzes these lists and compares them to Civilian Labor Force Data or Census data for the county where the facility is located to ensure that state and local sub-recipients' hiring practices are not discriminating against these protected segments of the population.

**Monitoring Reviews**

The State EO Officer conducts monitoring reviews of each LWA annually using the DWD Equal Opportunity Monitoring Guide Tool. (See Exhibit VII-B.) These reviews cover all sections and elements describe in Section 188 of WIOA. This includes reviewing recipients on the following:



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Sections:

- I. Assurances; II. Designation of Equal Opportunity Officer;
- III. Notice and Communication;
- IV. Data Collection and Maintenance;
- V. Affirmative Outreach;
- VI. Governor's Oversight Responsibility Regarding Recipients' Recordkeeping);
- VII. Complaint Processing Procedures; and
- VIII. Governor's Oversight and Monitoring Responsibilities

Additional Elements:

- a. Review for Compliance under WIOA Section 188 with Policies/Contracts/Assurances
- b. Ensuring Compliance with WIOA Section 188
- c. Compliance with Federal Disability Nondiscrimination Laws
- d. Training for Compliance under WIOA Section 188
- e. Corrective Actions and Sanctions
- f. Supporting Documentation

The annual On-site Monitoring Reviews and/or any other monitoring reviews may begin with a notification to the appropriate administrator prior to the review; however, prior notification is not required. The State EO Officer collects preliminary data for analysis prior to the on-site review. A comprehensive on-site review calculated to determine compliance with equal opportunity and nondiscrimination requirements and review of significant differences or disparities will occur. Following the review, the State EO Officer conducts an exit meeting with the appropriate administrator or designee to discuss the findings.

DWD may conduct EO onsite monitoring reviews that are unscheduled and unannounced at any WIOA recipient's facilities to monitor the following:

- records;
- surveying staff awareness of nondiscrimination and EO policies and procedures;
- observing display of the mandatory "EO is the Law" posters;
- assessing data on participants/employees demographics; and
- reviewing and observing accessibility components.

DWD also developed a Local Monitoring Tool for local EO Officers to utilize for monitoring their sub-recipients. Local EO Officers are responsible for monitoring all sub-contractors and providing a monitoring schedule, a monitoring tool, and a written report of any findings. (See Exhibit C)

**Written Reports**

Within thirty (30) working days of the completion of the review, the State EO Officer will prepare a written report to be disseminated to the appropriate administrators, regarding areas of compliance and non-compliance.

**Sanctions and Corrective Actions**



The State EO Officer will inform the DWD Director of any compliance issues relating to the Monitoring Reviews. When a sub-recipient is found to have violated the equal opportunity provisions of WIOA, DWD first asks them to develop a plan to attain compliance and implement the corrective action plan. For minor violations this action may be limited to correcting violations and providing a written explanation as to the procedures in place to ensure the violation does not reoccur. If a violation is more severe, DWD will develop and implement a conciliation agreement with the sub-recipient. If the violations are substantial and unresolved and or recurring, DWD may issue a Notice to Show Cause which could result in DWD imposing a sanction or terminating the contract and potential debarment of the sub-recipient from receipt of subsequent federal contracts.

### **DOLIR**

DOLIR follows the guidance provided in Unemployment Insurance Program Letter (UIPL) 46-89. The DOLIR Division of Employment Security (DES) produces quarterly reports that contain information disaggregated by race, ethnicity, sex, age, and disability status as described in Element VI. The DOLIR data formula is based on tests of statistical significance using the same formula as the CRC.

In order to identify significant differences, these reports include the standard deviation for each group in the categories identified in Element VI. The standard deviation provides a measure of whether the group in question has experienced outcomes different from the norm. A value of two or more standard deviations from the norm represents a compliance problem that warrants further investigation. When the standard deviation is two or more, the report generates asterisks under that group to show that this finding warrants further investigation. When this occurs, the Equal Opportunity Officer determines the appropriate manner to investigate such findings.

DOLIR's EO Officer does an analysis to determine any discriminatory impact of DOLIR's Unemployment Claims (UC) operations through use of information that it collects as part of those UC operations, as described above.

For more guidance please refer to Section IV Data and Information Collection and Maintenance Exhibit IV –G UIPL 11-14



**Attachments for Monitoring Recipients for Compliance**

- VIII- A      [DWD Equal Opportunity Monitoring Analysis Guide/Tool  
\(Program and Employment Practices\)](#)
- VIII- B      [DWD EO Affirmative Outreach Tool](#)
- VIII- C      DWD EO Monitoring Reports by Region
- VIII- D      DES UI Equal Opportunity Monitoring Policy, Review and Report



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**Element I: Review for Compliance under WIOA Section 188 with Policies/Contracts/Assurances**

**Purpose:** DWD has created a system to determine whether a grant applicant, if financially assisted, and or/ a training provider, if selected as eligible under Section 188 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 under 29 CFR Part 38, Section 188 of WIOA and the Missouri's Nondiscrimination Plan.

Each grant applicant, sub-recipient and each training provider seeking eligibility including On-the-Job Trainers(OJT)/Work Experience must be able to provide programmatic and architectural accessibility for individuals with disabilities please refer to Element V Federal Disability Laws and Subpart C of 29 CFR Part 32 for more guidance.

DWD requires the assurance to be incorporated into each grant, cooperative agreement, contract, or other arrangement whereby federal financial assistance under Title I of WIOA is made available. DWD and the Local Workforce Development Boards (LWDB) are required to monitor their recipients' contracts, grants and or other arrangements annually. For more guidance on the required assurance language, please refer to Section I Assurances.

**Eligible Training Providers**

The Missouri Eligible Training Provider System (ETPS) list was established in compliance with the Workforce Innovation and Opportunity Act (WIOA) of 2014 to provide customer-focused employment training resources for adults and dislocated workers. To become an Eligible Training Provider, a training provider must provide assurances under Element V, Federal Disability Laws, and renew their contract annually with DWD, which includes the required assurance language under Section 188 of WIOA. Eligible Training Providers will be monitored by Local Workforce Development Boards on all required nondiscrimination and equal opportunity elements of the Missouri's Nondiscrimination Plan and Section 188 of WIOA.

**Grant Applicants/Sub-Recipient**

Grant applicants and sub-recipients must commit to a written assurance for Section 188 of WIOA, 29 CFR Part 38 regulations and the Missouri's Nondiscrimination Plan. As a condition to the award of financial assistance from DWD under Title I of WIOA regulations, the grant applicant/sub-recipient must 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 of federal assistance:

- Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I-financially assisted program or activity;
- Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;



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- Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant applicant and sub-recipient must assure that as a recipient of WIOA Title I financial assistance, it will comply with the Missouri's Nondiscrimination Plan, Section 188 of WIOA and 29 CFR part 38 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's and sub-recipient's operation of the WIOA Title I-financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The grant applicant understands that the United States, the State of Missouri, and the DWD have the right to seek judicial enforcement of this assurance.

### **On-the-Job Trainers(OJT)/Work Experience**

On-the-Job Training (OJT)/Work Experience providers are recipients to which financial assistance under Title I of WIOA is extended, directly from the DWD, the LWDB or another recipient (including any successor, assignee, or transferee of a recipient). The term excludes any ultimate beneficiary of the WIOA Title I-financially assisted program or activity. In instances in which a Governor operates a program or activity, either directly or through a State agency, using discretionary funds apportioned to the Governor under WIOA Title I (rather than disbursing the funds to another recipient), the Governor is also a recipient.

If the OJT/Work Experience provider is a small recipient, they do not need to designate an Equal Opportunity Officer who has the full range of responsibilities listed in the Designating an Equal Opportunity Officer Section, but they must designate an individual who will be responsible for adopting and publishing complaint procedures, and processing complaints, as explained in the Complaint Processing Procedure Section and §§38.72 through 38.75.

For more guidance on DWD's system for determining compliance under Section 188 of WIOA, please refer to the Section I Assurance and Section VIII Governor's Oversight and Monitoring Responsibilities for State Programs.

### **DOLIR**

As a recipient of financial assistance from the United States Department of Labor (DOL), the Department of Labor and Industrial Relations is bound by statutes and regulations that prohibit discrimination and mandate equal opportunity. Consequently, all department employees are responsible for providing services without regard to a client's, claimant's, or applicant's race, color, national origin, gender, age, religion, or disability. Among the equal opportunity and non-discrimination laws (along with their implementing regulations) that apply to some or all agencies of DOLIR are Section 188 of WIOA; 29 CFR Part 38; Titles VI and VII of the Civil Rights Act of 1964;





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The Rehabilitation Act of 1973; The Age Discrimination Act of 1975; The Equal Pay Act of 1963; 7. The Age Discrimination in Employment Act of 1967; and The Americans with Disabilities Act of 1990.

DOLIR Policy B07-22000 informs employees of their obligations under equal opportunity and non-discrimination laws. Pursuant to MODOL-3704, “The Workforce Diversity Plan will be implemented to include assessment of major personnel processes to ensure that there is no discrimination in recruitment, selection, appointment, placement, promotion, training, benefits, employee relations (including grievances), separations, or any other personnel actions.” Pursuant to WIOA and the requirements stated in Unemployment Insurance Program Letter 11-14, the Department’s EO Officer 1) collects and analyzes UI claimant demographic data for possible indications of systemic discrimination, and 2) to investigate any such indications of potential discrimination that the analyses disclose.

For more information, see the following exhibits under the Assurance section:

- DOLIR Policy B07-22000
- MODOL-3704, DOLIR Equal Employment Opportunity Policy Statement



## Element II: System to Ensure Compliance of Section 188 of WIOA Compliance for Recipients

**Purpose:** A review of recipient policy issuances to ensure they are nondiscriminatory.

DWD and the Local Workforce Development Boards are responsible for annually monitoring their recipient's policies and issuances to ensure they are nondiscriminatory. Some methods that will be used to ensure compliance include the following:

- An investigation conducted through a review of the recipient's records;
- A review of the recipient's policy issuances to ensure that they are nondiscriminatory;
- A review conducted through the appropriate system, of the recipient's job training plans, contracts, assurances, and other similar agreements to ensure that they are both nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity;
- A review of the NDP for a system of policy communication and training to ensure that EO Officers (and members of the recipients' staff who have been assigned responsibilities under the nondiscrimination and equal opportunity provision of WIOA) are aware of, and can effectively carry out, their responsibilities;
- A review of the NDP for procedures to obtain prompt corrective action or, as necessary, for provisions regarding applying sanctions when noncompliance is found; and
- A review of supporting documentation to show that the commitments made in the NDP have been and are being carried out.

For more guidance on ensuring recipients policies and issuances are not discriminatory, refer to Section VIII Governor's Oversight and Monitoring Responsibilities for State Programs.

### **DOLIR**

DOLIR affirms its commitment to complying with WIOA and all federal and state equal opportunity laws. This commitment is reflected in the Department's Workforce Diversity Policy Statement, MODOL-4428. For further guidance, please refer to Section VIII, *infra*.



**Element III: A System for Reviewing Recipients' Contracts, Assurances and Other Agreements**

**Purpose:** A system for reviewing recipients' job training plans, contracts, assurances, and other similar agreements to ensure that they are both nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity;

**DWD requires its recipients to do the following:**

- Indicate that they will use the equal opportunity and nondiscrimination language in all of its contracts;
- Use the exact language found in the regulations (29 CFR Part 38.25 through 38.27); and
- Ensure that they will provide programmatic and architectural accessibility to persons with disabilities.

This ensures that at the time an entity applies, whether or not they are awarded and WIOA funding, they already demonstrate their commitment and ability to comply with the Assurance requirements. A recipient should not have, and does not have, the option to not agree to any of the directives in the Assurances notice. DWD reviews job training plans, contracts, assurances, and other similar agreements to ensure that they are both nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity provisions of WIOA annually during the monitoring review. For further guidance, please refer to Section VIII Governor's Oversight and Monitoring Responsibilities for State Programs.

**DOLIR**

DOLIR affirms its commitment to complying with WIOA and all federal and state equal opportunity laws. This commitment is reflected in the Department's Workforce Diversity Policy Statement, MODOL-4428. For further guidance, please refer to Section VIII, *infra*.



#### **Element IV: Ensuring Compliance with WIOA Section 188**

**Purpose:** Procedures for ensuring that recipients comply with the nondiscrimination and equal opportunity requirements of §38.5 regarding race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, political affiliation or belief, citizenship, or participation in any WIOA Title I-financially assisted program or activity;

#### **DWD**

DWD requires its recipient to provide initial and continuing EO Notice that it does not discriminate on any prohibited ground listed in Section 188 of WIOA. The recipient must provide information that describes an individual's right to file a discrimination complaint. The recipient must effectively communicate the "Equal Opportunity Is the Law" Notice to individuals with disabilities and to other populations with special needs.

DWD requires its recipients to make every effort to ensure that all participants, applicants of employment and employees get the Notice, read, understand and sign a copy. Recipients must also ensure that each participant, applicant for employment and employee file includes a signed copy of the Notice. The recipient is *not* exempt from obtaining signature verification of receipt of Notice from electronic participants (those who use computers to access services). It is the recipient's responsibility to design a process for obtaining a signed copy of the Notice from each participant and for including that signed copy in the participant's electronic file.

DWD will monitor its recipients annually to ensure EO Orientations are provided to any recipient and any interested parties on Section 188 of WIOA. Each Orientation session must include a discussion of:

- Individuals' rights under the nondiscrimination and equal opportunity provisions of WIOA and
- Individuals' right to file a complaint of discrimination.

DWD also requires its recipients to post the "Equal Opportunity Is the Law" poster prominently throughout the facilities. Through this Notice, a recipient communicates its equal opportunity policy that it does not discriminate. It is designed to make the public aware of the recipient's obligation to operate its programs and activities in a nondiscriminatory manner. All WIOA recipients are required to use this Notice in its entirety – without any editing or changes in the language. For further guidance, refer to Section III Notice and Communication.

#### **DOLIR**

DOLIR posts the "Equal Opportunity is the Law" poster prominently in its buildings and on its webpage.

The DOLIR employee intranet features a New Employee Orientation self-guided tutorial that reminds all staff of their duty and responsibility to create and maintain an environment free of discriminatory acts or behavior. A part of that tutorial, "Must Read Policies," has links to the Department's Code of Conduct, Equal Employment Opportunity policy, grievance policy, policies governing workforce diversity and harassment, and the "Equal Opportunity is the Law" poster. Specifically, Policy B07-22000, Equal Employment Opportunity, instructs employees of their duties of an agency that receives financial assistance



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from the USDOL. This policy also outlines the discrimination complaint process for UI applicants and clients.

For further guidance please refer to the exhibits listed below in the Notice and Communication section

**Exhibits**

- B07-28500 Code of Conduct
- B07-22000 Equal Employment Opportunity
- B07-22100 Grievances
- B07-22300 Workforce Diversity
- B07-22400 Workplace Harassment
- MODOL-4522, Equal Opportunity is the Law (Poster)



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**ELEMENT V:** Compliance with Federal Disability Nondiscrimination Laws

**Purpose:** Compliance with Section 504 of the Rehabilitation Act of 1973 [29 CFR Part 38.12 – 38.17 and 29 CFR Part 32 Subparts B and C]

Through accommodation policies, stringent monitoring, and assistive technologies, the State ensures that all recipients comply with the disability-related requirements of WIOA section 188, Section 504 of the Rehabilitation Act of 1973, as amended, and their implementing regulations, including, but not limited to 29 CFR Part 38.12 – 38.24 and Subparts B and C of 29 CFR Part 32.

**DWD**

The State EO Officer ensures that all Missouri DWD recipients are made aware of their obligation not to discriminate on the basis of disability through required contractual assurances to be in full compliance with Section 504 of the Rehabilitation Act of 1973. The State EO Officer further ensures that all LWDBs honor this commitment in practice; by conducting annual compliance reviews that monitor programmatic and architectural accessibility (see Element VIII for more detail regarding compliance reviews). Prior to these reviews, the State EO Officer encourages LWDBs to complete an Americans with Disabilities Act (ADA) self-assessment-survey and submit this document as a part of their monitoring report.

DOLIR remains in full compliance with all requirements of Section 504 of the Rehabilitation Act which prohibits disability-based discrimination and insures program and site access to individuals with disabilities consistent with Sub-Parts B and C of 29 CFR Part 32.29 and 29 CFR Parts 38.54(d)(2)(v) and 29 CFR 38.7, 38.8 and 38.9. DOLIR advises all employees of the relevant provisions of the Americans with Disabilities Act (ADA), as amended, and has developed policies and procedures with respect to non-discrimination based on disability. DOLIR ensures program and site access to all individuals with disabilities.

DOLIR also has an anti-discrimination plan for its employees. All new employees are required to attend a comprehensive orientation session, where they are made aware of the agency's commitment to prevent disability-based discrimination and to provide reasonable accommodations both in employment and in the delivery of its program and services. The Equal Opportunity Officer or a designee from human resources personally presents all related information and participants are given full opportunity to ask any questions they may have regarding all related issues.

**Reasonable Accommodation**

DWD has its own Accommodations Policy, for DWD/DED employees and job applicants, which sets forth the methods by which the Department ensures that all job applicants and employees with disabilities are provided reasonable employment-related accommodations when necessary, unless the accommodation would impose an undue hardship. The policy explains the accommodation request procedures for employees and job applicants and provides an appeal process for those who are dissatisfied with Department decision(s) pertaining to accommodation requests. Local Workforce Development Boards are also responsible for ensuring accommodations for their employees, customers and sub-recipients based on revised DWD Issuance 33-2017 Harassment, Discrimination, and Retaliation Policy; Accommodation Policy.



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Additionally, DWD policy issuance notifies all recipients of Title I funds that they must develop their own Accommodation policies. DWD Issuance 33-2017. Training on accommodating customers, staff and others has been provided to staff statewide. Missouri provides guidance on Disability Accommodations and Assistive Technology for Missouri's Workforce System in DWD Issuance 12-2017 Minimum Standards for Assistive Technologies in Missouri Job Centers and additional information is available on our DWD Main website.

DWD has received assistance from ODEP and the LEAD Center to survey and train all staff on Section 188 compliance. DWD provides on-going webinar trainings with assessments on equal opportunity nondiscrimination topics. DWD has provided links and fact sheets about types of discrimination prohibited by WIOA. Some of the trainings are listed below:

- Disability Accommodations and Assistive Technology
- Prevention of Pregnancy Discrimination
- Religious Accommodations
- Prevention of Transgender Discrimination
- Employment Screening and Criminal Records: Pitfalls and Best Practices

### **DOLIR**

DOLIR promotes employment opportunities for individuals with disabilities and regularly encourages employers to consider qualified individuals with disabilities to fill their job openings. The Department is responsible for providing services to disabled applicants and accommodating employees with disabilities to ensure compliance with the reasonable accommodation provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act, as amended. Both Section 504 and the ADA mandate that recipients of federal financial assistance provide equal employment opportunities to qualified disabled individuals and to make reasonable accommodation to the known physical or mental limitations of otherwise qualified disabled individuals, unless the accommodation would impose an undue hardship.

DOLIR Policy B07-22200 provides both current employees and applicants with a procedure to request reasonable accommodation(s). This policy aligns with both the Americans with Disabilities Act and the Missouri Human Rights Act. DOLIR Policy B07-22200, Equal Employment Opportunity, affirms the Department's commitment to equal opportunity and its duties pursuant to the ADA, the Rehabilitation Act of 1973, and other civil rights laws. DOLIR maintains an intranet which affords employees access to various DOLIR forms and reports, as well as to all of the Department's policies.

Auxiliary aids and services are available upon request to individuals with disabilities. Such auxiliary aids include, but are not limited to: sign language interpreters, readers, audio texts, large print, TTY telephone assistance, and other methods of communication. Each of these services is designed to ensure receipt of essential information regarding agency services, programs, policies and procedures, and particularly those that pertain to eligibility and appeal rights. Such aids and devices are also available as reasonable accommodations for employees to ensure effective communication regarding common job related issues, i.e., training, meetings and interviews.



### **Architectural and Programmatic Accessibility**

DWD and its recipients are responsible for ensuring physical and programmatic accessibility in addition to communications accessibility. Accessibility is ensured through monitoring and enforcement of DWD policy.

### **Job Qualifications**

The State EO Officer reviews existing job requirements annually for review and assurance that they do not discriminate on the basis of disability. DWD has also implemented the Uniform Employee Guidance in their Equal Opportunity Monitoring review. DWD uses this tool to assist DED and Local Workforce areas to achieve the nation's goal of equal opportunity without discrimination on the grounds of the prohibited bases found in Section 188 of WIOA and 29 CFR Part 38.

### **Pre-employment Inquiries**

DWD asks all applicants of their ability to perform job-related functions with reasonable accommodation; no other pre-employment medical or disability questions are asked of any applicant. Through policy issuance to LWDBs, DWD has further ensured that all recipients refrain from making pre-employment medical or disability inquiries prohibited by law.

DOLIR does not ask applicants pre-employment medical or disability questions.

### **Confidentiality of Medical Information**

DWD has developed a Confidentiality Policy for Medical Information. This policy describes requirements for staff and all partners to comply with ensuring medical information is maintained in a separate location from the customers' main file or their staffs' personnel files. Compliance with this policy is required of all DWD, LWDB, and subcontractor staff.

DOLIR complies with the Health Insurance Portability and Accountability Act (HIPAA) including its confidentiality provisions with regard to its employees. The EO Officer partners with Personnel Analysts in DOLIR's Human Resources Section and is available to consult on any issue regarding reasonable accommodations. Determinations are made by the appropriate management personnel on a case-by-case basis. In most cases, medical documentation is required to support each requested accommodation. These medical documents are secured in locked cabinets in the Human Resource Section and are kept separate from other personnel files. Only designated staff have access to these files.

### **Integrated Settings and Communication**

DWD provides assistive technology in the Job Centers and resources for staff to help ensure equal and effective communications and access to programs and services in the Job Centers. Additionally, resources for obtaining other specialized assistive technology or other accommodations are made available to all Job Center staff by DWD on the DWD Main page of jobs.mo.gov. DWD works to ensure that customers with disabilities can participate fully in all Job Center programs and services in the most integrated setting. Assistive technology available in Missouri's Job Centers includes: Sprint IP Relay service, large screen monitors, assistive listening device screen enlarger software, alternative keyboards, height adjustable tables, and the Ubi Duo, a face-to-face communications device. American Sign Language interpreting is made





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available when requested by customers. Information on how to obtain other assistive technology or services is available to all staff on the DWD Main page of [jobs.mo.gov](http://jobs.mo.gov).



**Attachments for Element V - Federal Disability Law**

V-A [ADA Self-Assessment Survey and Planning Tool](#)

V-B [DWD Issuance 11-2012 Pre-Employment Inquiries](#)

V-C [DWD Issuance 01-2008, Change 2 Medical Confidentiality Policy](#)

V-D [Missouri Job Center Assistive Technology](#)

V-E [DWD Equal Opportunity Training](#)

- Disability Accommodations Assisted Technology
- Prevention of Pregnancy Discrimination
- Prevention of Religious Accommodations
- Prevention of Transgender Discrimination
- Employment Screening and Criminal Records: Pitfalls and Best Practices

V-F [Prohibited Discrimination Fact Sheets](#)

V-G [DWD Issuance 33-2017-2012 Harassment and Discrimination Policy and Accommodation Policy](#)

V-H See NDP Element VII

V-I DOLIR Documents:

- [B07-28500, Code of Conduct](#)
- [B207-22000, Equal Employment Opportunity](#)
- [B07-22220, Reasonable Accommodation for Disabilities](#)
- MODOL-2396, Application for Employment
- MODOL-4529, Notice Under the Americans with Disabilities Act



**Element VI: Training for Compliance under WIOA Section 188**

**Purpose:** A system of policy communication and training to ensure that EO Officers and members of the recipients' staffs who have been assigned responsibilities under the nondiscrimination and equal opportunity provisions of WIOA or this part are aware of and can effectively carry out these responsibilities;

**DWD**

DWD will annually monitor WIOA recipients' EO related training that EO staff and others have received as well as a schedule of EO training already delivered or scheduled to be delivered. This may be training delivered by the State or Local EO Officer to recipient staff or training delivered to EO Officers or recipient staff by outside sources, such as the CRC.

**DOLIR**

DOLIR will annually monitor EO-related training that the EO Officer 1) receives from the State EO Officer and outside sources, such as the CRC, and 2) schedules and provides, both alone and in conjunction with other Department Human Resource staff, to Department employees.



## **ELEMENT VII: Corrective Actions and Sanctions**

**Purpose:** Corrective Actions and Sanctions Section 188 of WIOA and 29 CFR 38

### **DWD**

DWD will enforce and apply the appropriate corrective actions and sanctions when any sub-recipient violates a contract, Missouri's Nondiscrimination Plan (NDP) or Section 188 of WIOA and 29 CFR Part 38. These standards apply to any entity to which WIOA Title I financial assistance is extended, either directly through DWD or through another entity. The responsibilities of WIOA Title I-financially assisted entities can be found in Missouri's Nondiscrimination Plan (NDP) and in the implementing regulations at 29 CFR Part 38.

### **Corrective Actions and Sanctions**

DWD will conduct statistical/quantifiable analysis and/or review policies and procedures to determine whether a violation exists, whenever a monitoring/compliance review report, complaint determination, or any other information indicate a possible failure to comply with either Section 188 of WIOA and 29 CFR Part 38 or Missouri's Nondiscrimination Plan as well as any other nondiscrimination and equal opportunity policies and procedures. If the determination of noncompliance is made during an EO monitoring review, investigation of a complaint, or in DWD's review of any other relevant information, DWD will make every effort to provide technical assistance to the region to correct the violation.

Corrective actions that cannot be fully addressed during a monitoring/compliance review (e.g., development of a preliminary plan to address an accessibility issue such as wheelchair accessibility) will be part of the EO monitoring report. The recipient will then have thirty (30) days from the date of receiving the report to respond to the findings and correct any violations identified. DWD EO Staff will follow-up within thirty (30) days of the recipient's response to ensure that corrective action has occurred. DWD may grant extensions for good cause. When EO violations are found and are severe or recurring, DWD will issue a conciliation agreement to correct the violation(s) and to assure the recipient's commitment to voluntary compliance with Section 188 of WIOA and Missouri's Nondiscrimination Plan.

When EO violations are found during the course of a discrimination complaint investigation, those issues will become part of the State EO Officer's "finding of fact" section found in the Notice of Final Action. Depending on the extent and severity of the violation, technical or programmatic corrective actions may be recommended as well as a conciliation agreement which is used when violations are more serious, or when there is a deficiency that cannot be corrected immediately. A corrective action may also include "make-whole" provisions such as retroactive relief (e.g., back wages or benefits) and prospective relief (e.g., change of policy). DWD may grant extensions for good cause. A failure to implement remedies set forth in a Notice of Final Action will result in DWD issuing a Notice to Show Cause.

A partial response or lack of response to the Notice to Show Cause may be elevated to the Governor of Missouri for determination of appropriate sanctions. Sanctions may include, but are not limited to, reparation for discriminatory practices, establishment of policy issuance, removal of participants from sites refusing to implement corrective actions, and legal action.



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**Post Violation Procedures must include:**

1. Actions to end and/or redress the violation of the nondiscrimination and equal opportunity provisions of Section 188 of WIOA, 29 CFR Part 38, or Missouri's Nondiscrimination Plan;
2. Make-whole relief where discrimination has been identified, including, as appropriate, back pay (which must not accrue from a date more than 2 years before the filing of the complaint or the initiation of a compliance review) or other monetary relief; hire or reinstatement; retroactive seniority; promotion; benefits or other services discriminatorily denied; and
3. Such other remedial or affirmative relief as the WIOA State Equal Opportunity Officer deems necessary, including but not limited to outreach, recruitment and training designed to ensure equal opportunity.

**\*Monetary relief may not be paid from Federal funds.**

**Compliance Reviews**

As appropriate and necessary to ensure compliance with the nondiscrimination and equal opportunity provisions of Section 188 of WIOA, and the Missouri Nondiscrimination Plan, DWD may review any application, or class of applications, for Federal/State financial assistance under Title I of WIOA, before and as a condition of their approval. The basis for such review may be the assurance specified in §38.25, information and reports submitted by the recipient/grant applicant under Section 188 of WIOA and the Missouri's Nondiscrimination Plan or guidance published by the State WIOA Equal Opportunity Officer, and any relevant records on file with DWD.

When awarding financial assistance under Title I of WIOA or any state funding, local workforce development boards must consult with the State WIOA Equal Opportunity Officer to review whether DWD or the CRC has issued a Notice to Show Cause under §38.66(b) or a Notice of Final Determination against an applicant that has been identified as a probable awardee.

The LWDB will consider, in consultation with the DWD, the information provided in the Notice to Show Cause or a Final Determination, along with any other information provided by the DWD in determining whether to award a grant or grants. LWDB must consider refraining from awarding new grants to applicants or must consider including special terms in the grant agreement for entities named by the DWD as described in this section. Special terms will not be lifted until a compliance review has been conducted by the WIOA State Equal Opportunity Officer, and the State Equal Opportunity Officer has approved a determination that the applicant is likely to comply with the nondiscrimination and equal opportunity requirements of Section 188 of WIOA, 29 CFR Part 38 and the Missouri's Nondiscrimination Plan.

When the WIOA State Equal Opportunity Officer determines that the grant applicant for Federal financial assistance under Title I of WIOA and state funding, if financially assisted, is not likely to comply with the nondiscrimination and equal opportunity requirements of Section 188 WIOA or this part, the DWD must:

1. Notify, in a timely manner, the Departmental Legal Attorney to notify the Missouri Attorney General's office of the findings of the pre-approval compliance review; and
2. Issue a Letter of Findings. The Letter of Findings must advise the grant applicant, in writing, of:
  - a. The preliminary findings of the review;



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- b. The proposed remedial or corrective action and the time within which the remedial or corrective action should be completed;
- c. Whether it will be necessary for the recipient(s) to enter into a written Conciliation Agreement
- d. The opportunity to engage in voluntary compliance negotiations.

If a grant applicant has agreed to certain remedial or corrective actions in order to receive WIOA Title I financial assistance, DWD must ensure that the remedial or corrective actions have been taken, or that a Conciliation Agreement has been entered into, before approving the award of further assistance under WIOA Title I. If a recipient/grant applicant refuses or fails to take remedial or corrective actions or to enter into a Conciliation Agreement, as applicable, DWD must refer the matter to the Missouri Attorney General with a recommendation that an appropriate civil action be instituted or take such other action as may be provided by law.

**Definitions:**

**Violation** is a failure to comply with Section 188 of WIOA, 29 CFR Part 38 and the Missouri's Nondiscrimination Plan. A violation may range in seriousness from an infraction, or a technical violation, to a more significant discrimination violation.

**Technical violations** include a failure to include the required language in an assurance or failure to include the tag lines in a communication.

**Discrimination violations** include findings of disparate treatment, disparate impact, and failure to provide reasonable accommodations.

**Make-whole relief for back pay** is "making the person whole" or bringing the person to the condition they would be in if the discrimination had not occurred. Such relief might involve back pay, front pay, retroactive benefits, training, or any service discriminatorily denied. - The victim(s) is entitled to be made-whole for any loss of earnings suffered because of a discriminatory practice. The amount of money received should be equal to what they would have earned (plus compound interest) had the discrimination not occurred. In Make-whole relief for discrimination involving a failure to place an individual in a training program, the victim is entitled to an immediate and unconditional offer of placement into the training program that he or she would have been placed in had it not been for the discrimination.

**Prospective Relief** is curative and preventive steps *voluntarily* taken to ensure that a violation does not re-occur in the future. An example of a corrective action plan for failing to include tag lines in a communication would be documentation that included:

1. An explanation that the communication was reissued with the tag lines added.
2. The timeframe for reissuing the communication if it has not yet been reissued.
3. An example of prospective relief planned to ensure that all future notices will also include the required language are as follows:
  - a) Changing the policy, practice, or procedure that allowed for the violation.
  - b) Developing a new policy communicating the change in policy.
  - c) Educating those responsible for implementing the revised procedures.



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**Conciliation Agreements are utilized in** the case of a more serious violation, or deficiency, that cannot be corrected immediately when a detailed written assurance, or Conciliation Agreement will be issued. The agreement must:

1. Be in writing
2. Describe each violation
3. Specify the corrective or remedial action needed to come into compliance
4. State the time period in which the corrective or remedial action must be completed
5. Be sufficient in scope to ensure that the violation(s) will not recur
6. Institute periodic reporting by the recipient on the status of the corrective and remedial action
7. Institute enforcement procedures to be applied if the agreement is breached

**Notice to Show Cause** – When a recipient failing to comply with the requirements of Section 188 of WIOA, 29 CFR Part 38 and the Missouri’s Nondiscrimination Plan when a determination has been made with a discrimination complaint, monitoring review or compliance review. DWD will issue a Notice to Show Cause before initiating the sanction or termination of contract proceedings.

**Sanctions** - When all attempts to provide assistance to effect voluntary correction of a violation have failed, or it is apparent that the recipient fails or refuses to correct the violation within the timeframe established, DWD may impose sanctions. Sanctions are the judicial enforcement actions taken, including suspending, terminating, or denying funding, when appropriate corrective actions are not taken to comply with WIOA regulations. Sanction procedures should include:

1. List the measures taken to achieve voluntary compliance up through the point when sanctions are imposed.
2. Explain that the severity of the noncompliance will determine the sanctions imposed.
3. Provide a table or listing of the potential sanctions that may be imposed.
4. Detail the notification process including rights of the respondent, time frames involved and provisions for a hearing.
5. Identify the individuals who have responsibility for carrying out the various steps in the sanctions process and the role of the State EO Officer and Local EO Officer in this process.

Noncompliance, Corrective Action, and Sanctions Guidelines Table (See Exhibit VII –A)

**DOLIR**

DOLIR does not have a separate procedure as all State corrective action and sanctions are assigned to be handled through the DWD system. Pursuant to Executive Orders 99 – 03 and 03 – 04, and in accordance with related interagency agreements, the authority for the statewide administration of WIOA Title I transferred from the Missouri Department of Labor (Division of Employment Security) to the Missouri Department of Economic Development (Division of Workforce Development (DWD)), effective July 1, 1999. Therefore, DOLIR is no longer administering WIOA Title I in Missouri. With regard to its other programs in operation, DOLIR is in full compliance with the requirements of 29 CFR part 38.54 (d) (2) (vii).

DOLIR has established procedures pursuant to B07-22000 and B07-22100, the agency’s anti-discrimination policy and internal grievance procedure. Through these policies, employees and claimants may obtain prompt,



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corrective action pursuant to WIOA and other applicable law. Contractors may also be held accountable for violations of various federal nondiscrimination laws. In previous elements, DOLIR has indicated a plan to analyze data for adverse impact.

Administratively, the Division of Employment Security (DES) is organized into a system of programs, and the manager of each program reports through the DES deputy director, to the DES Director. This organizational structure allows disputes and issues of concern to be raised in a timely manner at the highest appropriate level. The EO Officer is responsible for conducting EO compliance reviews and investigating complaints of alleged discrimination, and for issuing notices of violation when warranted.

Corrective action focuses on the problem and corresponds to the seriousness of the violation. Discrimination violations may include, but are not limited to, findings of disparate treatment and failure to provide reasonable accommodation. All of the required components are included in these procedures, including specific timeframes for completion of corrective actions and the individual responsible for follow-up action. Corrective actions vary in accordance with the severity of the violation. Elements 7 and 8 of the Missouri Nondiscrimination Plan outline DOLIR's Compliance/Monitoring plan.

Violations identified through compliance reviews prompted by request, through a complaint or series of complaints, and/or by an apparent or observed trend of disparity will incur corrective actions. Corrective and/or remedial action may take place whenever a complaint is determined to be substantiated as the result of an EO Equal Opportunity compliance review or investigation.

Corrective action means any action designed to eliminate a violation. In instances where deficiencies are identified the EO Officer will forward the information to DOLIR's Office of General Counsel, DES Director, and/or Department Director for further action in accordance with DOLIR administrative disciplinary policies. In instances where deficiencies are identified and corrective action plans are submitted, on-site follow-up will occur to assess the adequacy of the corrective action plan as outlined in DOLIR's Equal Opportunity/Nondiscrimination Monitoring Policy and Review Report.





**Attachments for Corrective Actions and Sanctions**

- VII - A [Noncompliance, Corrective Action, and Sanctions Guidelines Table](#)
- VII - B [DOLIR Grievance Policy](#)



**Element VIII: Supporting Documents for the Nondiscrimination Plan**

The Missouri Nondiscrimination Plan supporting documentation that shows that the commitments made in the Nondiscrimination Plan have been and/or are being carried out are found under each section described in this plan. The supporting documentation includes, but is not limited to: Policy and procedural issuances concerning required elements of the Nondiscrimination Plan; Copies of monitoring instruments and instructions; Evidence of the extent to which nondiscrimination and equal opportunity policies have been developed and communicated as required by this part; Information reflecting the extent to which equal opportunity training, including training called for by §§38.29(f) and 38.31(f), is planned and/or has been carried out; Reports of monitoring reviews and reports of follow-up actions taken under those reviews where violations have been found, including, where appropriate, sanctions; and Copies of any notices made under §§38.34 through 38.40.

All supporting documents may be found under each section or element in this plan.