

SOUTHWESTERN AREA WORKFORCE DEVELOPMENT BOARD

REQUIRED INFORMATION IN COMMUNICATIONS POLICY 19-02

DATE OF ISSUE

November 7, 2019

EFFECTIVE DATE

December 1, 2019

APPLICABILITY

New Mexico Workforce Region IV, Southwestern Area New Mexico Workforce Connection in all seven counties: Catron, Doña Ana, Grant, Hidalgo, Luna, Sierra, Socorro

PURPOSE

In compliance with the Consolidated Appropriations Act, 2017, the Southwestern Area Workforce Development Board will inform the public of how much funds comes from Federal sources in any program, project, or grant activity when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing its projects or programs funded in whole or in part with Federal funds.

In compliance with Code of Federal Regulations Title 29, Part 38, Subpart B, the Southwestern Area Workforce Development Board will provide notice in communications of the nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA) which are contained in section 188 of WIOA (29 U.S.C. 3248)

BACKGROUND

Public Law 115-31 – May 5, 2017, Division H, Title V, Section 505, stipulates when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in the Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state –

- A. The percentage of the total costs of the program or project which will be financed with Federal money;
- B. The dollar amount of Federal funds for the project or program; and
- C. Percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

Section 188 of WIOA prohibits discrimination on the basis or race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title I-financially assisted program or activity.

ACTION

- A. For consistency in all forms of communications, internal and external, either verbal or print, including digital forms, such as but not limited to emails, letterhead, issued statements, press releases, policies, outreach materials to include business cards, brochures, fliers, banners, posters, social media posts and the like, will contain at a minimum the following tagline:

Funded by the U.S. Department of Labor

- B. Per CFR §38.34: Recipients' obligations to disseminate equal opportunity notice
- 1) A recipient must provide initial and continuing notice as defined in §38.36 that it does not discriminate on any prohibited basis. This notice must be provided to:
 - a. Registrants, applicants, and eligible applicants/registrants;
 - b. Participants;
 - c. Applicants for employment and employees;
 - d. Unions or professional organizations that hold collective bargaining or professional agreements with the recipient;
 - e. Subrecipients that receive WIOA Title I financial assistance from the recipient; and
 - f. Members of the public, including those with impaired vision or hearing and those with limited English proficiency.
 - 2) As provided in §38.15, the recipient must take appropriate steps to ensure that communications with individual with disabilities are as effective as communications with others and that this notice is provided in appropriate languages to ensure meaningful access for LEP individuals as described in §38.9.
- C. Per CFR §38.34: Equal opportunity notice/poster
- 1) The notice must contain the following specific wording:

Equal Opportunity Is the Law

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases: Against any individual in the United States, on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

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

Deciding who will be admitted, or have access, to any WIOA Title I-financially assisted program or activity;

providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity.

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

What To Do If You Believe You Have Experienced Discrimination

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

The recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose); or

The Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW., Room N-4123, Washington, DC 20210 or electronically as directed on the CRC Web site at www.dol.gov/crc.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).

If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you may file a complaint with CRC before receiving that Notice. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).

If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

- D. Per CFR §38.36: Recipients' obligations to publish equal opportunity notice
- 1) At a minimum, the Equal Opportunity Notice required by §38.34 and 38.35 must be:
 - a. Posted prominently, in reasonable numbers and places, in available and conspicuous physical locations and on the recipient's website pages;
 - b. Disseminated in internal memoranda and other written or electronic communications with staff;
 - c. Included in employee and participant handbooks or manuals regardless of form, including electronic and paper form if both are available; and
 - d. Provided to each participant and employee; the notice must be made part of each employee's and participant's file. It must be part of both paper and electronic files, if both are maintained.
 - 2) The notice must be provided in appropriate formats to registrants, applicants, eligible applicants/registrants, applicants for employment and employees and participants with visual impairments. Where notice has been given in an alternate format to registrants, applicants, eligible applicants/registrants, participants, applicants for employment and employees with a visual impairment, a record that such notice has been given must be made a part of the employee's or participant's file.
 - 3) The notice must be provided to participants in appropriate languages other than English as required in §38.9.
 - 4) The notice required by §§38.34 and 38.35 must be initially published and provided within 90 days of January 3, 2017, or of the date this part first applies to the recipient, whichever comes later.
- E. Per CFR §38.37: Notice requirement for service providers

The Governor or the LWDA grant recipient, as determined by the Governor and as provided in that State's Nondiscrimination Plan, will be responsible for meeting the notice requirement provided in Per CFR § Per CFR §38.34 and 38.35 with respect to a State's service providers.

F. Per CFR §38.38: Publications, broadcasts, and other communications

- 1) Recipients that publish or broadcast program information in the news media must ensure that such publications and broadcasts state that the WIOA Title I-financially assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIOA Title I-financially assisted program or activity is prohibited by Federal law), and indicate that auxiliary aids and services are available upon request to individuals with disabilities.
- 2) A recipient must not communicate any information that suggests, by text or illustration, that the recipient treats beneficiaries, registrants, applicants, participants, employees or applicants for employment differently on any prohibited basis specified in §38.35, except as such treatment is otherwise permitted under Federal law or this part.

G. Per CFR §38.39: Communication of notice in orientations

During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title I-financially assisted program or activity, in person or over the internet or using other technology, a recipient must include a discussion of rights and responsibilities under the nondiscrimination and equal opportunity provisions of WIOA and this part, including the right to file a complaint of discrimination with the recipient or the Director. This information must be communicated in appropriate languages as required in §38.9 and in formats accessible for individuals with disabilities as required in this part and specified in §38.15.

H. Per CFR §38.40: Affirmative outreach

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

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

I. Training

- 1) The administrative entity will provide training on the required communications within the Act to SAWDB's service providers' management, One-Stop Operator, and SAWDB Board

J. Monitoring

- 1) The administrative entity will work with the One-Stop Operator to review materials and online information which will include procurement solicitations
- 2) The administrative entity will review procurement and other printed materials during the annual on-site monitoring review for compliance

INQUIRIES

Questions related to this policy may be directed to the Administrative Entity at (575) 744-4857.

ATTESTED

This policy was approved through board resolution on November 7, 2019

SAWDB Board Chair Signature

Date