

TEXAS WORKFORCE COMMISSION LETTER

ID/No:	WD 01-15, Change 1
Date:	October 13, 2017
Keyword:	Equal Opportunity; WIOA
Effective:	Immediately

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers



From: Courtney Arbour, Director, Workforce Development Division

Subject: **Equal Opportunity Officers and Section 504 Coordinators—*Update***

PURPOSE:

To provide Local Workforce Development Boards (Boards) with information and guidance regarding local Workforce Innovation and Opportunity Act (WIOA) Equal Opportunity (EO) officers and Rehabilitation Act of 1973 Section 504 coordinators, specifically:

- EO officer and Section 504 coordinator designations;
- EO officer duties and responsibilities;
- EO officer and Section 504 coordinator training; and
- EO officer notification.

RESCISSIONS:

WD 01-15

BACKGROUND:

WD Letter 01-15 was issued on January 6, 2015. WIOA regulations regarding EO officers and 504 coordinators have since been amended. WD 01-15, Change 1, aligns Texas Workforce Commission (TWC) policy with WIOA changes.

WIOA §188 and §504 of the Rehabilitation Act of 1973 both provide that no qualified individual be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal assistance:

- Regulations at 29 Code of Federal Regulations (CFR) §§38.28–33 implement WIOA’s nondiscrimination and EO provisions, requiring grant recipients

(except small recipients—serving fewer than 15 beneficiaries during the entire grant year and having fewer than 15 employees) and service providers of WIOA Title I funds to designate a local EO officer.

- Regulations at 29 CFR §32.7 require grant recipients to designate at least one individual as a Section 504 coordinator to coordinate recipient efforts to comply with §504 of the Rehabilitation Act of 1973.

In accordance with these regulations, the governor designated an individual to serve as the state WIOA EO officer, to:

- ensure TWC’s compliance with WIOA nondiscrimination and EO provisions;
- oversee the implementation of necessary revisions and mandatory biennial recertification regarding the state’s Nondiscrimination Plan (NDP); and
- serve as TWC’s:
 - liaison to the US Department of Labor (DOL) Civil Rights Center; and
 - point of contact for EO external customers and grantees.

PROCEDURES:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”

EO Officers and Section 504 Coordinators Designations

NLF: Boards must designate:

- one individual to serve as its local EO officer and Section 504 coordinator; or
- one individual to serve as its EO officer; and
- one individual to serve as its Section 504 coordinator.

NLF: Boards must be aware that EO officers and Section 504 coordinators:

- must be senior-level employees with the authority to ensure that the responsibilities can be properly fulfilled;
- must possess the skill, knowledge, ability, and authority to properly oversee and direct the nondiscrimination and EO strategies within their jurisdictions;
- must not have primary human resources responsibilities or other responsibilities and activities that create a conflict, or the appearance of a conflict, with the responsibilities of the EO officer;
- may or may not be assigned to other duties depending on:
 - the Board’s size;
 - the size of the Board’s WIOA Title I financially assisted programs and activities; and

- the number of applicants, registrants, and participants served by the Board.

NLF: Within the EO officer or Section 504 coordinator job description, Boards must:

- list the primary EO-related responsibilities, collateral duties, and responsibilities for the respective positions; or
- cite the appropriate regulation (that is, §38.31 for EO officer or §32.7 for Section 504 coordinator).

NLF: Upper management support is necessary for the EO officer to ensure compliance with WIOA's nondiscrimination and EO provisions. Therefore, Boards must ensure that sufficient time, staff, and funds for handling EO matters are available.

NLF: Additionally, Boards must ensure that:

- organizational charts list the names of the EO officer and Section 504 coordinator, including their position titles, EO-related designations, and to whom they report;
- the EO officer's and Section 504 coordinator's name, position title, address, and telephone number (voice and TDD/TTY) are available to the public; and
- the EO officer's and Section 504 coordinator's identities and contact information appear on all internal and external communications regarding the Board's nondiscrimination and EO programs.

NLF: Boards must ensure that EO officers and Section 504 coordinators receive the necessary training to maintain competency.

EO Officer Duties and Responsibilities

NLF: Boards must ensure their EO officer's duties and responsibilities include, but are not limited to, the following:

- Serves as the Board's liaison with the state WIOA EO officer and DOL's Civil Rights Center
- Monitors and reviews the Board's activities, and the activities of those entities that receive WIOA Title I funds from the Board, annually by December 31, to ensure the Board and its subrecipients do not violate nondiscrimination and EO obligations under WIOA Title I, §504 of the Rehabilitation Act of 1973, or their implementing regulations
- Reviews the Board's written policies to ensure that the policies are nondiscriminatory
- Develops and publishes the Board's procedures for processing discrimination complaints under §§38.72–38.73; makes available to the public, in appropriate languages and formats, the procedures for filing a complaint; ensures that the procedures are followed; and, as necessary, confers with the state WIOA EO officer on received complaints
- Reports EO matters directly to the appropriate official—including, but not limited to, the Board executive director or state WIOA EO officer
- Conducts outreach and education on equal opportunity and nondiscrimination requirements consistent with §38.40, which states that efforts should include,

but are not limited to, advertising the recipient's programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations; sending notices about openings in the recipient's programs and/or activities to schools or community service groups that serve various populations; and consulting with appropriate community service groups about ways in which the recipient may improve its outreach and service to various populations

- Conducts outreach and education on how an individual may file a complaint consistent with §38.69
- Attends training at the Board's expense to maintain competency
- Collaborates with the state WIOA EO officer when a complainant selects alternative dispute resolution as the method resolving a complaint

EO Officer and Section 504 Coordinator Training

NLF: Boards must ensure competency through initial and continuous training for designated EO officers and Section 504 coordinators. Initially, new EO officers, Section 504 coordinators, and designated staff must review the NDP and complete the discrimination complaint process training within 90 days of assuming their duties and responsibilities. Training and other resources are available on TWC's Equal Opportunity Compliance Department's Intranet site at <https://www.twc.texas.gov/agency/laws-rules-policy/equal-opportunity-law>.

NLF: Boards must ensure that attendance documentation is maintained and submitted to the state EO Unit:

- upon request;
- during compliance reviews;
- during NDP biennial revisions; or
- as needed by DOL.

NLF: Boards must verify by certificates of attendance, agendas, or similar documents, which must include:

- course title;
- institution name;
- beginning and ending training dates, as applicable;
- number of training hours; and
- a brief course description.

NLF: Once per calendar year, Boards must ensure that training from external training sources (for example, EO-related webinars, forums, seminars, conferences) consists of 10:

- contact hours in minimum one-hour blocks;
- continuing education units; or
- continuing professional education hours.

EO Officer Notification

NLF: Boards must notify the state WIOA EO officer within five business days after the effective change date of a designated EO officer or Section 504 coordinator. Boards must not exceed a 90-day lapse in assignment of an EO officer.

Please forward new EO officer information via EO staff contact information found on TWC's Equal Opportunity Intranet site at <https://www.twc.texas.gov/agency/laws-rules-policy/equal-opportunity-law> or by mail to:

State WIOA EO Officer
101 East 15th Street, Room 504
Austin, Texas 78778-0001

INQUIRIES:

Send questions to the state WIOA EO officer at (512) 463-2400 or EO.reports@twc.texas.gov.

ATTACHMENT:

Attachment 1: Revisions to WD 01-15 Shown in Track Changes

REFERENCES:

Workforce Innovation and Opportunity Act §188
US Department of Labor, Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act (29 CFR Part 38)
Rehabilitation Act of 1973 §504, as amended
US Department of Labor, Implementation of Section 504 of the Rehabilitation Act of 1973, as amended, Provisions on Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance (29 CFR §32.7)
State of Texas Nondiscrimination Plan:
<https://www.twc.texas.gov/sites/default/files/fdcm/docs/nondiscrimination-plan-twc.pdf>