



NOTICE AND COMMUNICATION

AGENDA

- **Presentation:** Review of Learning Objectives
- **Presentation:** Key Requirements for Notice and Communication Under WIOA
- **Activity:** Equal Opportunity Is The Law
- **Presentation:** Notice and Communication Supporting Documentation
- **Presentation:** State's Implementation of Requirements for Notice and Communication

LEARNING OBJECTIVES

- The participant will be able to explain the federal requirements for Equal Opportunity Notice and Communication under WIOA.
- The participant will be able to describe the required procedures for disseminating the “Equal Opportunity is the Law” Notice and Tag Lines.
- The participant will be able to identify acceptable documentation to demonstrate compliance with the proper procedures for Equal Opportunity Notice and Communication.
- The participant will be able to describe the state’s plan for complying with the Equal Opportunity Notice and Communication requirements under WIOA.

KEY REQUIREMENTS FOR NOTICE AND COMMUNICATION

The implementing regulations at 29 CFR 38 lists several key requirements to comply with providing proper Equal Opportunity Notice and Communication.

1. The recipient must provide initial and continuing Notice that it does not discriminate on any prohibited ground (29 CFR 38.29-38.34).
2. The recipient must provide information that describes an individual's right to file a discrimination complaint (29 CFR 38.30 and 38.36).
3. The recipient must effectively communicate the "Equal Opportunity is the Law" Notice to individuals with disabilities and to other populations with special needs (29 CFR 38.31, 38.34 and 38.35).

KEY REQUIREMENT #1: PROVIDE INITIAL AND CONTINUING NOTICE

The first key requirement is that a recipient must provide initial and continuing notice that it does not discriminate on any prohibited ground.

What is Notice?

A recipient must establish a announcement and communication system that makes all members of the public aware of the recipient's obligation to operate its programs and activities in a nondiscriminatory manner.



Term to Know – Notice

The Notice advises all appropriate parties that the recipient does not discriminate. The Notice must be in writing and must contain the *specific wording* in the following example.



Term to Know – Beneficiary

Beneficiary means the individual(s) intended by Congress to receive aid, benefits services, or training from a recipient.

The following is a copy of the Notice:

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, national origin, age, disability, political affiliation or belief; and

Against any beneficiary of programs financially assisted under Title I of the Workforce Innovation & Opportunity Act (WIOA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in a 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.

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.

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 do not have to wait for the recipient to issue that Notice before filing a complaint with CRC.

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.

Requirements for Providing Initial Notice

- **Identify EO Officer and provide contact information.** The recipient must provide to all interested parties, the EO Officer's contact information, including:
 - Name
 - Position title
 - Business address, including e-mail address
 - Telephone number, including TDD/TTY number

- **Provide "EO is the Law" Notice to all appropriate parties.** The recipient must provide the "Equal Opportunity Is The Law" notice to all appropriate parties, including:
 - Registrants and applicants for services
 - Participants
 - Applicants for employment
 - Employees
 - Unions or professional organizations that hold collective bargaining or professional agreements with the recipient
 - Sub-recipients that receive WIOA Title I funds from the recipient

- Members of the public, including those with impaired vision or hearing

- **Communicate the Notice sufficiently.** Consistent with the requirements of 29 CFR 38.31, the recipient must, at a minimum, publicize the Notice as follows:
 - Post the Notice prominently in reasonable numbers and places
 - Disseminate the Notice in internal memoranda and other written or electronic communications
 - Include the Notice in handbooks or manuals
 - Give the Notice to each participant and include a signed copy in each participant's file

Requirements for Providing Information

- **Obtain signed Notice for files.** Recipients must give participants the opportunity to receive and sign a copy of the Notice:
 - A copy of the signed Notice should be a part of the participant's file.

Where participant files are maintained electronically, the recipient must devise a process for meeting the requirement to obtain the participant's signature on the Notice and to include the signed Notice in the participant's file.



Where a recipient has an “electronic” process, what procedures might the recipient adopt to ensure that the individual receives and signs the Notice?

- **Include non-discrimination policy in all communications.** The recipient must indicate in all of its communications (internal and external) that the WIOA financially assisted program or service does not discriminate on the basis of prohibited factors.



Term to Know – Communication

Any information included in recruitment brochures and other materials that are ordinarily distributed in written or oral form, electronically or on paper, to staff, clients, or the public at large

- **Avoid communicating “discriminatory information.”** The recipient must not issue any communication that suggests, by its text or by illustration, that the recipient treats beneficiaries, registrants, applicants, participants, employees, or applicants for employment differently based on any prohibited ground. The only exception to this requirement is if the treatment in question is permitted under federal law.



Can you give examples of types of information that may not be communicated?

- **Include the required tag lines in all relevant communications.** The recipient must add two abbreviated statements – known as “tag lines” – declaring its nondiscrimination policy. A recipient that broadcasts program information on the news media must recite the tag lines or otherwise indicate that federal law prohibits discrimination.



Term to Know – Tag Lines

The two tag lines are:

- “Equal Opportunity Employer/Program”
- “Auxiliary aids and services are available upon request to individuals with disabilities.”

- **Include TDD/TTY information.** In all communications indicating that the recipient may be reached by telephone, the telephone number of the TDD/TTY or relay services used by the recipient must be included.



Term to Know – Auxiliary Aids or Services

Auxiliary aids or services include: qualified interpreters, note-takers, transcription services, telephone handset amplifiers, telephones compatible with hearing aids, closed-caption decoders, or other effective means of making orally delivered materials available to individuals with hearing impairments. Also, qualified readers, taped texts, audio recordings, Braille and large print materials, or other effective means of making visually delivered materials available to individuals with visual impairments.

- **Conduct an orientation session.** Each Orientation session should include a discussion of the following:
 - The individual's rights under the nondiscrimination and equal opportunity provisions of WIOA
 - The individual's right to file a complaint of discrimination



Term to Know – Orientation

A form of communication used to familiarize the following with the recipient's programs and services:

- New participants
- New employees
- Members of the public who wish to access the recipient's programs and services

**ACTIVITY:
DETERMINING PROPER NOTICE:
"EQUAL OPPORTUNITY IS THE LAW"**

Purpose:

-  To determine whether a Notice meets the regulatory requirements

Task:

- ✓ You and your group mates are members of the on-site EO review team for the State of Independence. You have been asked to determine if a One-Stop's posters comply with Notice and Communication requirements.
- ✓ Examine the poster on the following pages. If necessary, edit the Notice to be consistent with the requirements.
- ✓ Come to a consensus regarding changes if any are required.
- ✓ Select a spokesperson from your group to share your findings with the class.

Time:

-  15 minutes

Government of the State of Independence

Equal Opportunity Is the Law

It is against the law for this federally funded Office to discriminate on the following reasons:

Against any individual in the United States, on the basis of race, color, sex, national origin, handicap, political affiliation or belief; and

Against any individuals in programs funded under Title I of the Workforce Innovation & Opportunity Act (WIOA), on the basis of the individual's citizenship/status as lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIOA Title I-financially assisted program or activity.

The recipient must not treat beneficiaries differently in any of the following areas:

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

Providing opportunities in, or treating any person with regard to, such program or activity; or

Hiring and firing employees for such a program or activity.

What To Do If, As A Beneficiary, You Have Been Treated Differently

If you think that you have been subjected to discrimination under a WIOA Title I-funded program or activity, you may file a complaint within 80 days from the date of the alleged violation with either:

or

Director
Directorate of Civil Rights
U.S. Department of Labor
Room N-4123
200 Constitution Avenue, NW
Washington, DC 20210.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 60 days have passed (whichever is sooner), before filing with the Directorate of Civil Rights Center (DCR) (see address above)

If the recipient does not give you a written Notice of Final Action within 60 days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with DCR. However, you must file your complaint within 20 days of the 60-day deadline (in other words, within 80 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 complaint within 20 days from the date you were sent the Notice of Final Action.

**KEY REQUIREMENT #2:
PROVIDE INFORMATION ON INDIVIDUAL'S RIGHT
TO FILE A DISCRIMINATION COMPLAINT**

The Equal Opportunity is the Law notice ensures that the recipient will provide information describing the rights of an individual to file a discrimination complaint:

**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

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 do not have to wait for the recipient to issue that Notice before filing a complaint with CRC.

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.

The “Equal Opportunity Is The Law” Notice establishes:

- Who may file a complaint
- When a complaint must be filed
- Where to file the complaint
- The timeframes that the recipient has adopted in which to process the complaint

The WIOA regulations, as set out in this Notice and Communication element, if adhered to correctly, gives the recipient a variety of methods to ensure that the information the eligible public needs to file a complaint is accessible.

KEY REQUIREMENT #3: PROVIDE EFFECTIVE NOTICE TO PERSONS WITH DISABILITIES AND POPULATIONS WITH SPECIAL NEEDS

Another key requirement obliges recipients to effectively communicate the “Equal Opportunity Is The Law” Notice to persons with disabilities and to other populations with special needs.



Term to Know – Effective Communication

Effective Communication is ensuring that persons with disabilities or other special needs can access all of the recipient’s communications that are intended for the public or for them specifically and can easily understand them.

- Notices must be provided in formats appropriate for individuals with visual impairment.
- A recipient must furnish appropriate auxiliary aids or services where necessary.
- Communications indicating that the recipient can be reached by telephone must state the TDD/TTY or relay service used by the recipient.
- A recipient must ensure that individuals with disabilities who are interested can obtain information on the availability and location of accessible services, activities, and facilities.
- Where a significant percentage of the recipient’s eligible population is made up of individuals with limited-English, Notice and Communications are to be provided in the appropriate language.



What is TDD/TTY and why is its availability important in ensuring equal opportunity?



What measures can be taken to meet the communication needs of persons with limited English skills?

SUPPORTING DOCUMENTATION: NOTICE AND COMMUNICATION

Supporting documentation, which indicates the state's compliance with the requirements for Notice and Communication, should include, but need not be limited to:

Notice and Communication Policy

- Copies of communications from the state that instruct recipients on how they are to comply with Notice and Communication requirements
- Copies of agendas (including list of dates) of past and proposed EO briefings and EO training
- Copies of issuances or instructions that relate to Section 188 of WIOA or 29 CFR part 38 on policy issues, such as:
 - Sexual harassment
 - Reasonable accommodation
 - Accessibility

Notices and Communications

- Copy of the posted “Equal Opportunity Is The Law” Notice
- Copy of the Notice that includes information regarding state and sub-state level EO Officers:
 - Name
 - Position title
 - Business address, including e-mail address
 - Telephone number, including TDD/TTY number
- Copies of materials used for Orientation sessions (e.g., agendas, hand-outs) showing that EO was discussed, including addressing the right of an individual to file a complaint
- Copies of checklists of the contents of participant and employee files indicating that a signed copy of the Notice is included
- Copies of materials, such as recruitment brochures, showing that each includes:
 - Tag lines
- Telephone numbers for TDD/TTY access or telephone relay services

STATE'S IMPLEMENTATION OF NOTICE AND COMMUNICATION REQUIREMENTS

This part of the training has been reserved to discuss the state's approach to implementing the MOA's Notice and Communication requirements. The state specialist will address the following:

- Policy communications and directives to LWSA's that instruct recipients on how to comply with the Notice and Communication requirements of 29 CFR 38
- Procedures and systems that support the implementation of Notice and Communication
- Additional MOA requirements imposed by the state to implement Notices and Communication