



MOA Element 3

ASSURANCES

AGENDA

- **Presentation:** Review of Learning Objectives
- **Presentation:** Assurances Requirements under WIOA
- **Activity:** Researching Assurances Regulations
- **Presentation:** Assurances Supporting Documentation
- **Presentation:** State's Implementation of Assurances Requirements

LEARNING OBJECTIVES

- The participant will be able to explain the Assurance requirements.
- The participant will be able to describe how the state guarantees that Assurance requirements will be met.
- The participant will be able to describe who must provide written Assurance.
- The participant will be able to identify documentation that is acceptable to demonstrate that Assurance regulations are being implemented.

KEY REQUIREMENT FOR ASSURANCES

The key requirement for Assurances is that each WIOA grant applicant must provide a written assurance, or a guarantee, that the organization will comply with WIOA regulations, 29 CFR 38.20.

- **Assurance requirement for applicants.** Each grant applicant, and each training provider who is seeking eligibility for WIOA funding, must indicate that the required nondiscrimination and equal opportunity language will be included in all grants, cooperative agreements, plans, contracts, and other similar documentation.
 - The applicant must include the exact language as is in the following:

ASSURANCES

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 will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

Section 188 of the Workforce Innovation & Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States 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;

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 also assures that 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.

- Each grant applicant and each training provider seeking eligibility must also ensure that they will provide programmatic and architectural accessibility for individuals with disabilities.
- **Assurance requirement for recipients.** Recipients are to provide the following:
 - Description of procedures they have established to ensure that their procurement and contracting officers incorporate the Assurances in all appropriate documentation, including grants, cooperative agreements, and contracts to carry out the programs and activities funded under WIOA
 - Description of procedures they have established to ensure programmatic and architectural accessibility for individuals with disabilities

- **States' Strategic Five-Year Plan Assurance Statement.** Each Strategic Five-Year State Plan submitted by a state to carry out a new or continuing WIOA financially assisted program or activity must provide a statement that it is, or will be, complying with the nondiscrimination and equal opportunity provisions of WIOA.



Why is it important to ensure programmatic and architectural accessibility to persons with disabilities?



What is the difference between the Assurance information an applicant must provide and the assurance the state provides for the Five-Year Strategic Plan?

ASSURANCES: OPERATION OF LAW

The obligation created by the Assurance applies to all grants, cooperative agreements, contracts, or other arrangements for financial assistance under WIOA. It may be physically incorporated into the contract documents or may be incorporated by reference (29 CFR 38.20).

However, even when the Assurance is not incorporated or referenced in a document, it is considered incorporated by operation of law.



Term to Know – Operation of Law

This refers to the automatic application of the terms of the Assurance in all grants, cooperative agreements, contracts, or other arrangements for financial assistance under WIOA – regardless of whether the Assurance is physically incorporated or referenced in such document and regardless of whether there is a written agreement.



What does incorporated by reference mean?

ACTIVITY: RESEARCHING ASSURANCE REQUIREMENTS

Purpose:

- 🔑 To identify the Assurance requirements in the implementing regulations for WIOA, 29 CFR 38

Task:

- ✓ You are a member of the State of Independence's EO training team. The topic of today's training is the regulatory requirements for Assurances, which is Element 3 of the Methods of Administration to Implement the Nondiscrimination and Equal Opportunity Provision of the Workforce Innovation & Opportunity Act.
- ✓ Using the Code of Federal Regulations (29 CFR Part 38, section 38.20 – 22) as a reference, find the information needed to respond to the questions on the next page.
- ✓ Write your answers on the next page in the space provided.
- ✓ In your answers, include the section(s), page number, reference number(s), and letter(s) that indicate where the information is located.
- ✓ Share your findings with the class.

Time:

- 🕒 20 minutes

ASSURANCES SUPPORTING DOCUMENTATION:

Assurance documentation should include, at a minimum:

- A copy of any Assurance pages of plans, contracts and other agreements
- A copy of any memos or directives to contract managers advising them to include the required Assurance in the appropriate documents
- A copy of any checklists or other guidelines used by contract specialists, attorneys, or others who review contracts and agreements that indicate that nondiscrimination and equal opportunity are considered in the evaluation of such documents
- A copy of procedures developed to review the ability of grant applicants and training providers seeking eligibility to comply with the nondiscrimination and equal opportunity provisions of WIOA
- A copy of each WIOA EO issuance (e.g., the general EO policy statement, the policy statement on sexual harassment, and the policy statement on religious accommodation)

STATE'S IMPLEMENTATION OF ASSURANCE REQUIREMENTS

This part of the training has been reserved to discuss the state's approach to implementing the MOA's Assurance requirements. Your state specialist will address the following:

- Policy communications and directives to LWSA's that instruct recipients how they are to comply with the Assurance requirements under 29 CFR 20
- Procedures to ensure that procurement and contract officers are instructed regarding the inclusion of the Assurance
- A review of all state procedures and systems that support the implementation of the Assurance requirement
- An explanation of any additional MOA requirements imposed by the state to implement the Assurance requirement