

 MARICOPA COUNTY Workforce Development Board	SECTION/REFERENCE DES Section 700 Equal Opportunity & Nondiscrimination Policy; WIOA Section 188 29 CFR Part 38	POLICY NUMBER 24-02
	ORIGINAL ISSUE DATE October 2024	REVISION DATE October 2024
	AUTHORIZED BY: Maricopa County Workforce Development Board	
SUBJECT: Equal Opportunity (EO) under the Workforce Innovation and Opportunity Act (WIOA)		

Purpose: To ensure compliance with the equal opportunity and nondiscrimination provisions of the Workforce Innovation and Opportunity Act in the administration and operation of programs and activities funded in whole or in part under WIOA Title I, including programs and activities provided by partners and contractors as part of Maricopa County’s workforce system.

Responsibility of: All Workforce Development Division (WDD) staff, WDD EO Officer, Partners, and Contracted Service Providers staff.

Definition: Section 188 of WIOA provides that no individual will be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because 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, citizenship status or participation in any WIOA Title I-financially assisted program or activity.

Description: WIOA Section 188 and Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act, 29 CFR Part 38, clarify the nondiscrimination and EO provisions of WIOA. WIOA Title 1-B funded service providers, partner programs and contractors must comply with Section 188 of WIOA and 29 CFR Part 38 and other applicable laws including:

- Title VI of the Civil Rights Act of 1964, as amended which prohibits discrimination on the basis 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.
- The Americans with Disabilities Act of 1990, as amended which prohibits discrimination on the basis of disability.
- Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

General Prohibition on discrimination:

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

It is against the law for recipients and sub-recipients of WIOA Title I funds to discriminate on the basis of race, color, religion, sex (including pregnancy, child birth or related medical condition, sex stereotyping, transgender status (gender expression and gender identity)), national origin (including Limited English Proficiency (LEP)), age, disability, political affiliation or belief, citizenship/status as a lawfully admitted immigrant authorized to work in the United States, and participation in any WIOA Title I financially assisted program or activity.

Arizona Department of Economic Security, Local Workforce Development Areas (LWDA), ARIZONA@WORK partners, service providers, including eligible training providers, work-based training providers (On-the-Job training employers) and Work Experience (WEX) employers must not discriminate when:

- Deciding who will be enrolled in, or have access to any WIOA Title I financially assisted program, service, or activity,
- Providing opportunities in, or treating any person with regard to WIOA Title I financially assisted program, service, or activity, and
- Making employment decisions in the administration or, or in connection with WIOA Title I financially assisted program, service, or activity.

Role and Responsibilities of the LWDA EO Officer:

The LWDA EO Officer will report matters related to EO to the Maricopa County Human Services Department's Assistant Director for Workforce Development, to the State WIOA EO Officer, and to the Department of Labor, Civil Rights Center (CRC) as appropriate. The LWDA EO Officer's responsibilities include but are not limited to:

- Ensuring compliance with Federal, state, and local laws, regulations, policies, and directives
- Communication and training on EO matters to career center staff and WIOA service providers
- Assuring that publications, on-line materials, contracts, agreements contain required EO language
- Ensuring reasonable efforts are made to provide language services, interpretation, or translation, free of charge for Limited English Proficiency (LEP) individuals
- Ensuring each program or activity, when viewed in its entirety, is operated in a manner that makes it accessible to qualified individuals with a disability.
- Responding to and tracking discrimination complaints
- Processing and investigating discrimination complaints in the LWDA
- Conducting EO monitoring and providing technical assistance to service providers and contractors
- Developing EO policy, procedures, notices, and forms
- Reviewing LWDB written policies to ensure they are nondiscriminatory
- Acting as liaison with the State WIOA EO Officer
- Maintaining competency by attending EO and nondiscrimination training

Equal Opportunity is the Law Notice:

Each LWDA must prominently display the "Equal Opportunity is the Law" poster in reasonable numbers and places where customers and staff can easily see it in English or other appropriate languages, as determined by the LWDA. The information contained in the poster must also be presented in every orientation to new participants, new employees, and/or the general public. Discussion of the rights and responsibilities under the nondiscrimination and EO provisions of WIOA, including the right to file a

complaint of discrimination at the local, state, or federal level is required, as described at 29 CFR 38.39. Additionally, the information in the "Equal Opportunity is the Law" poster must be, at a minimum:

- Disseminated in internal memoranda and other written or electronic communications with staff;
- Included in employee and participant handbooks or manuals regardless of form, including electronic and paper form if both are available; and
- Provided to each participant and employee and made part of each employee and participant file in both paper and electronic files.

Any brochures, flyers, media, forms, and on-line materials providing program information and eligibility/participation requirements that are distributed or broadcast to the public on WIOA programs and services must include the following EO tagline: **"Equal opportunity employer/program; Auxiliary aids and services are available upon request to individuals with disabilities."**

All materials that list telephone numbers must also include a TDD or TTY or a relay service telephone number. Service providers must take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others.

Language Services: When a significant number of the eligible population needs information in a language other than English to be effectively informed of the program, materials will be translated. At a minimum, this will include the "EO is the Law" notice and the EO Complaint Procedure. Other program materials and information/services may be translated to other languages if warranted by a significant number of individuals accessing services. If the need for written translation is not warranted, interpreters may be used to communicate with applicants/participants. Language services, interpretation, or translation will be made available free of charge to limited English proficiency (LEP) individuals.

EO Training: The LWDA EO Officer will provide training to Maricopa County staff, service provider/subcontractor staff and partner staff on an annual basis. The training will cover the following areas:

- Definition of Equal Opportunity
- Who is responsible for Equal Opportunity
- WIOA Section 188, 29 CFR Part 38 and other applicable laws and regulations
- Overview of DES Non-Discrimination Policy
- Discrimination Complaint process
- Limited English Proficiency
- Working with individuals with disabilities
- Reasonable Accommodation
- Maintenance of confidential applicant/participant data
- Reporting Fraud and Abuse
- EO Resources

EO Monitoring:

Maricopa County will monitor service providers/contractors for compliance with the nondiscrimination provisions of WIOA at a minimum annually. To the extent practical, EO monitoring will be conducted as part of the programmatic monitoring. The EO monitoring will include a review of how EO is communicated to individuals accessing services and employees, review of a random sampling of

participant records, a review of the facility to ensure ADA compliance, and compliance with the State's Nondiscrimination Plan.

WIOA service providers and contractors will permit the Maricopa County EO Officer, State WIOA EO Officer and the DOL CRC access to applicant and participant records as well as interviews with applicants, participants, and staff during EO reviews.

The Maricopa County EO Officer will provide a written report to the service provider within 20 business days of the review. The report will summarize the review and note any findings or violations and corrective actions.

Discrimination Complaints:

Any person, either by him/herself or through a representative, who believes that either he or she or any specific class of individuals has been or is being subjected to discrimination prohibited by the nondiscrimination and EO provisions of WIOA, may file a written complaint. The discrimination may be on the basis of color, religion, sex, national origin, age, disability, political affiliation, or belief and against beneficiaries on the basis of citizenship/immigrant status to work in the United States, or participation in programs funded under WIOA Title I, or in connection with any WIOA Title I funded program or activity. (See the Discrimination Complaint Policy for more information.)

EO Investigations:

If the LWDA or Tribal EO Officer determines there may be violations of WIOA Section 188 and 29 CFR 38, the investigation must include:

- A statistical or other quantifiable analysis of records and data kept under 29 CFR 38.41, including analysis by race/ ethnicity, sex, LEP, preferred language, age and disability status using the Two Standard Deviation Report and/or the 80 Percent Rule Report in AJC.
- An investigation of any significant differences identified in the participation of programs, activities, or employment provided by the all ARIZONA@WORK Job Centers and affiliate sites, One-Stop operators, service providers, including eligible training, work-based training (OJT employers), WEX employers and sub-recipients to determine whether these differences appear to be caused by discrimination. The investigation may be conducted through a review of the LWDA's records or any other appropriate means.
- An assessment to determine whether the recipient has fulfilled its administrative obligations under WIOA Section 188 or 29 CFR 38 (e.g. recordkeeping, notice and communication) and any duties included in the NDP.

Corrective Actions and Sanctions:

Refer to the EO Discrimination Sanctions Policy.

Data Collection / Analysis:

Service providers/contractors will collect the following EO data for all WIOA Title I-B financially assisted programs to include records on applicants, registrants, participants, and exiters through the State WIOA case management and reporting system: race, ethnicity, sex, age, and where known, disability status.

Note: disability status is disclosed by individuals on a voluntary basis.

Record Retention:

Records shall be stored for a period of not less than three years from the end of the program year (June 30) or not less than three years from the date of the resolution of the complaint.

Records must be maintained in a secure environment and must be used only for the purposes of determining eligibility, record keeping, reporting, equitable services analysis or other use authorized by the EO and nondiscrimination provisions.