

ELEMENT SEVEN- MONITORING RECIPIENTS FOR COMPLIANCE (29 CFR 38.54(c)(I)(viii))

PURPOSE

The State of Idaho addresses how WIOA EO Officer(s) monitors the recipients. The State has established procedures to monitor all aspects of the recipient's compliance with the WIOA Section 188 and 29 CFR Part 38. All EO Officers monitoring reviews include a review of compliance and responsibilities that have been assigned through the State's Nondiscrimination Plan (NDP). A review of each recipient's programs and activities to determine whether discrimination is occurring is also included in the monitoring.

NARRATIVE

The State ensures compliance with its administrative obligations under the WIOA Sections 188 and 29 CFR Part 38 during the monitoring process. Monitoring is conducted by the State EO Officer which includes a desk and field review to determine a recipient's compliance with the provisions of WIOA Section 188. These reviews check for compliance with the administrative obligations including assurances in contracts and agreements, notices, brochures and communication responsibilities under the State's NDP, as well as its programs and activities.

Monitoring recipients to ensure their programs and activities are operating in a nondiscriminatory manner must involve, at a minimum:

1. Analysis of the data and records collected by the recipient pursuant to 29 CFR 38.41 through 29 CFR 38.45 to determine whether any differences based upon race, ethnicity, sex, age and disability have practical or statistical significance; and
2. Where significant differences are found, follow-up investigations are done.
3. The system and format in which the records and data are kept must be designed to allow the Governor and CRC to conduct statistical or other quantifiable data analyses to verify the recipient's compliance with Section 188 of WIOA.

In order to ensure that WIOA Title I financially assisted programs and/or activities are operating in a nondiscriminatory manner, the State's monitoring regimen includes a desk analysis of the data and records collected by the recipient pursuant to 29 CFR 38.41 through 29 CFR 38.45. This analysis, conducted by the EO Officer should determine if any differences based upon race, ethnicity, sex, age, or disability exist and whether such differences have a practical or statistical significance.

Complying with the administrative obligations of 29 CFR 38 includes but is not limited to:

Assurances. (29 CFR 38.25 through 38.27)

Assurances are required to be provided by each WDA in their Local Plan.

Equal Opportunity Officers. (29 CFR 38.28 through 29 CFR 38.32)

EO Officers are listed in Element One: Designation of State and local level Equal Opportunity Officers.

Notice and communication. (29 CFR 38.34 through 29CFR 38.39)

"Equal Opportunity is the Law" notices are listed in Element Two: Notice and Communication.

Affirmative Outreach. (29 CFR 38.40)

Affirmative Outreach is addressed in Element Four to ensure that recipients are required to provide equal access to their programs and activities to include various groups that are protected by these regulations.

The State utilizes the "Equal Opportunity Monitoring Review Guide" when facilitating on-site monitoring reviews for recipients' programs and activities.

Data and information collection and maintenance. {29CFR 38.41}

Data and information collection and maintenance are kept in a system that allows the Governor and CRC to conduct analysis as described in Element Six: Data and Information Collection and Maintenance.

Complaint processing procedures. (29 CFR 38.72)

The State provides a nondiscrimination and equal opportunity complaint process and offers Alternate Dispute Resolution (ADR) throughout the complaint processing procedure. All sub-recipients must comply with these procedures which meet the requirements of 29 CFR 38.70 through 29 CFR 38.80.

Conducting Equal Opportunity monitoring and evaluation, review of applicants for and recipients of WIOA Title I financial assistance (including assurance of programmatic and architectural accessibility).

The State, through a monitoring process, determines if the EO Officer or designee has reviewed applicants for and recipients of WIOA Title I financial assistance from or through the WDA, including sub-recipient agencies. Monitoring includes the review of:

1. Receipt of the right to file grievance information for applicants and recipients;
2. Records of local discrimination complaint reports and resolution;
3. Applicable equal opportunity notices and signage for individuals with disabilities and other special needs populations;
4. Appropriate signage and equal opportunity information presented in languages other than English;
5. Review participant's case files, both electronic and paper for required notices, signatures, or appropriate documentation.
6. The Local Plan for nondiscrimination and equal opportunity provisions of the WIOA Section 188;
7. Contractual assurances of compliance with the nondiscrimination and equal opportunity provisions of the WIOA;
8. Programmatic and physical accessibility for disabled individuals to appropriately receive WIOA services;
9. Staff and participant interviews; and
10. Review of the recipient's policy and procedures to ensure they are not discriminatory.
11. Review the procedures for obtaining prompt corrective action when applying sanction when noncompliance is found.
12. Reports of monitoring reviews and reports of follow-up actions taken under those reviews where violations were found, including the sanctions.

The State provides an annual monitoring report identifying all discrepancies found and the actions required to address each specific discrepancy. Each EO Officer bears the responsibility for monitoring these same elements, not only in their internal service delivery system but also for any and all sub-recipients who provide WIOA Title I funded services or activities.

Imposing sanctions and corrective actions for violations noted by a recipient during its monitoring reviews.

The State EO Officer issues a report summarizing all non-compliance issues found during annual monitoring. These issues are then put into a Corrective Action Plan with timelines that each local area is responsible for implementing. When implementation of a Corrective Action Plan is incomplete by the specified deadline, the state will issue appropriate sanctions based on the severity of the noncompliance issues identified in the Corrective Action Plans.

The State EO Officer may monitor the local areas at any time without notice. The process outlined above also applies when there is more frequent monitoring. However, the report summarizing issues of noncompliance may be communicated informally, e.g. email.

Sanctions are considered when the recipient fails to adequately implement the Corrective Action Plan by the deadlines specified in the plan. Sanctions may revoke approval of all or part of the recipient's WIOA Title I financial assistance.

Ensuring policy development, communication, and training are implemented.

State policies and procedures are available on the [Idaho Department of Labor website](#). Additionally, policy broadcasts or informational broadcasts are sent via email to all OSPs and workforce staff to communicate changes to policy or provide immediate information that may affect Title I programs or activities. The WIOA Policies and Procedures and broadcasts direct recipients of Title I funds to develop local equal opportunity and nondiscrimination policies and procedures that include requirements to ensure sub-recipient agencies meet the same obligation. Recipients' policies are located in each local plan and are updated as needed.

The State ensures the federal programs and activities are operating in a nondiscriminatory manner and provide equal opportunity, including but not limited to:

- Conducting analyses by race, ethnicity, sex, age and disability of program and employment activity including but not limited to rates of application, placement, and termination, to determine if significant differences exist; and
- Conducting follow-up monitoring to determine the cause of any such differences, through the analysis of the records of individual and eligible registrants, applicants, employees and applicants for employment, interviews and other appropriate techniques.

The UI program housed at IDOL, a required core partner, collects information when initial unemployment claims are filed. Records are maintained on each claimant in a secure system. Data is stored in secure UI databases. Stored data is used to conduct analyses to determine whether any discriminatory issues exist. If any discriminatory issues exist, the State EO Officer will work with the IDOL EO Officer to address them pursuant to policy.

The procedure for reviewing recipient policies and procedures, to ensure that the policies and procedures do not violate the prohibitions contained in 29 CFR 38.5 through 38.10.

The EO Officer conducts a desk audit prior to on-site reviews to analyze program materials and the Local Plan to ensure no discrimination is occurring in local program policies, sub-contracts and procedures. Plans must have the following assurances:

1. The IDOL will provide a system that includes compliance with Title IV of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975, Title IX of the Education Act of 1972, Section 188 of WIOA and the Current State of Idaho Nondiscrimination (NDP);
2. The IDOL will describe how each access site identified in the NDP will ensure compliance with Equal Opportunity and Americans with Disabilities and

3. The IDOL will provide contact information and identification of the Local, State and Federal EO Officers available in all facilities used to conduct WIOA Title I funded trainings, programs and activities.

Recipients are required to publish their Equal Opportunity and Nondiscrimination Complaint policy statement and procedure on their website.

The State EO Officer conducts interviews, as needed, as a part of the monitoring process.

The written reports prepared for each review must provide, among other things that the results of the monitoring review will be made available to the recipient(s) reviewed.

An EO Monitoring Review Report is written by the State EO Officer. Copies of the EO Monitoring Review Report are provided to the Local EO Officer by the State EO Officer. The report identifies areas in which the WDA is out of or could be out of compliance (discrepancies) and other areas of concern. The EO Monitoring Review Report may also make recommendations for corrective actions needed to correct deficiencies.

The Local EO Officer will maintain communication with the State EO Officer until all equal opportunity related discrepancies have been corrected.

The involvement of the State and local level EO Officer(s) in conducting reviews. Where EO monitoring is carried out by individuals other than the State or local level EO Officer, the narrative should provide the names, titles, and organizations of those persons.

The State EO Officer reviews certain equal opportunity items as a part of the annual reviews. Any issues identified during the annual EO monitoring reviews involving equal opportunity and nondiscrimination are discussed with the IDOL EO Officer to ensure compliance with applicable regulations. The State EO Officer conducts the review to ensure that past identified issues were appropriately addressed and resolved.

The procedure for determining which recipients are to be reviewed, the frequency of reviews of recipients, and the number of recipients to be reviewed per year.

The State reviews each recipient annually through desk reviews and on-site reviews, unless needed more frequently to track and identify compliance issues. A review schedule is developed at the beginning of each program year identifying when each OSP is scheduled for a desk and on-site review. Each recipient is provided with a copy of the review schedule along with a copy of the desk review guides that will be utilized during the review. Regional managers are sent a letter by the State EO Officer notifying them of the review 30 days prior to the review date. In addition to these scheduled monitoring reviews, the State reserves the right to conduct monitoring with increased frequency throughout the program year.