



"Equal Opportunity - **What You Need to Know**"

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

Facilitated by Susan Roger
Content provided by Seena Foster, Title VI Consulting,
www.titleiconsulting.com and Lynn Nedella, DES

! Learning Objectives



Equal Opportunity (EO) defined and the span of control

Applicable laws that govern EO

Your role in EO/Limited English Proficiency (LEP) procedures

Harassment Defined

The different types of complaints and required protocol

! The Big Picture

Section 188 of the Workforce Innovation and Opportunity Act (WIOA) requires nondiscrimination (treatment or consideration of, or making a distinction in favor of or against, a person or thing based on the group, class, or category to which that person or thing belongs rather than on individual merit: racial and religious intolerance and discrimination) and equal opportunity (accessibility) in the administration, oversight and delivery of WIOA-related:

- ✓ Services
- ✓ Training
- ✓ Employment practices (i.e. positions with your agency or company that are funded with WIOA dollars)

! The Big Picture

Compliance with the nondiscrimination requirements of the WIOA Section 188 stems from the following themes:

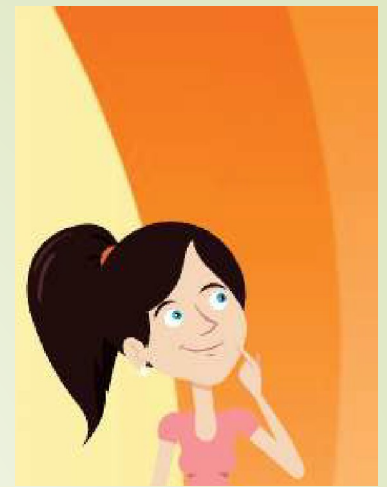
- ✓ Access (program access and physical access)
- ✓ Equal Opportunity (able to meaningfully participate in, and benefit from the program or activity)

! Compliance Overview

Your Equal Opportunity (EO) Officers are:

Donald Logan for the City of Phoenix
donald.logan@phoenix.gov

Kerry Bernard for the State of Arizona
kbernard@azdes.gov



For compliance, know your policies from start to finish.

Develop policies and procedures that apply across the board.

Regularly train staff.

Monitor your programs and activities.

More information on WIOA is available at <https://ion.workforcegps.org/>

! “Equal Opportunity is the Law”



Posters must be prominently displayed in a reasonable number of places where the public is served and where staff congregates.

Must be posted in languages other than English that are spoken by a significant number or proportion of the population to be served.

This is typically defined as five percent.

For copies of these posters visit the ARIZONA@WORK City of Phoenix website.

<https://arizonaatwork.com/locations/city-phoenix>

! “Equal Opportunity is the Law” Notice

The “Equal Opportunity Is the Law” notice must be disseminated to the following:

- Eligible registrants and applicants
- Participants
- Applicants for employment

The notice must be translated, as needed, for LEP persons, and must be available in alternative formats for persons with disabilities.

! “Equal Opportunity is the Law” Notice

A record (paper and / or electronic) must be kept demonstrating an individual’s receipt of the notice. It should be affiliated with the participant’s program file.

This must be presented during orientations, regardless of one-on-one or group setting

! The Laws that Apply to You

Title VI of the Civil Rights Act of 1964 (race, color, national origin, Limited English Proficiency- LEP)

Title VI I of the Civil Rights Act of 1964 (employment side)

Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1998 (ADA) as amended (disability)

The Age Discrimination Act of 1975 (any age)

Title IX of the Education Amendments Act of 1972 (includes pregnancy and Lesbian Gay Bisexual Transgender Questioning - LGBTQ)

Section 188 of the Workforce Innovation and Opportunity Act of 2014 (race, color, national origin, citizenship, political affiliation or belief, religion, sex, WIOA participant status, any age, and disability)

Pregnancy Discrimination Act of 1978

* These also apply to all employees



! The Long Arm of the Law

These statutes apply to all recipients and sub-recipients of WIOA Title I-related assistance.

This includes:

- Any individual or entity (community-based organization, private employer, private or public institution, including any educational or health care institution) that receives WIOA- related funding
- On-the-job trainers and young adult work experiences
- Contractors that are part of the delivery process for the WIOA program or activity



! Potential Plan of Action

Post applicable laws and nondiscrimination information to your website and in your written materials, such as internal manuals or handbooks, notices, recruitment and orientation materials to:

- provide guidance to staff, and
- notify the public of their rights.

Make sure your folks understand the prohibited bases of discrimination in your WI QA-related programs and activities.

Prominently display WIDA-related related resources, such as the "Equal Opportunity Is the Law" posters and brochures in multiple languages at departmental or agency locations



! Potential Plan of Action

Make sure your staff understand the prohibited bases of discrimination in your WIOA-related programs and activities.

Make sure your staff has the necessary resources to ensure nondiscrimination and equal opportunity for your LEP and disabled populations.



! Recruitment Taglines

What is the specific language



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

! Examples of Auxiliary Aids and Services

- ✓ Qualified readers
- ✓ Notetakers
- ✓ Large print materials
- ✓ Qualified sign language interpreters
- ✓ Brailed materials

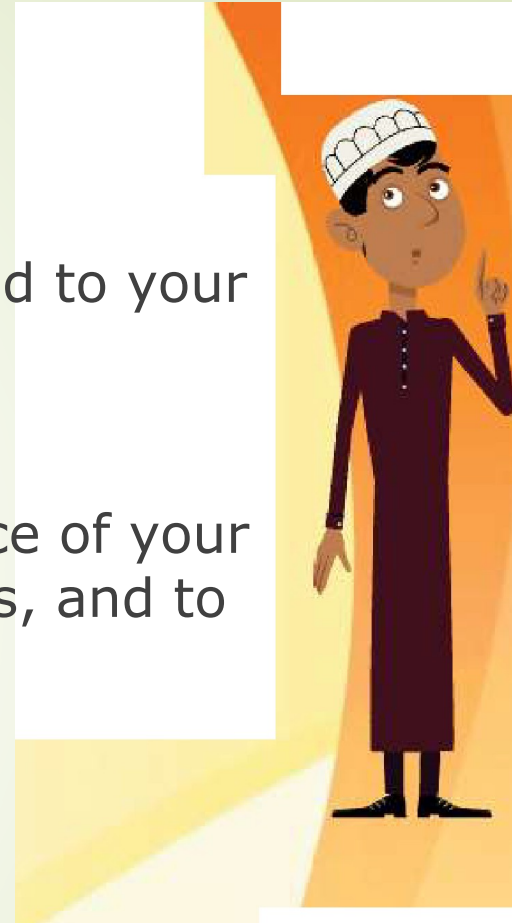


- ✓ Taped texts
- ✓ Audio recordings
- ✓ Equipment, devices, and software
- ✓ TDD/TTY or relay service

! Why are Taglines Required?

Taglines must be included on all written materials related to your WIOA programs and activities.

They are designed to provide initial and continuing notice of your obligations to provide equal opportunity to all customers, and to properly serve persons with disabilities.



! Where do Taglines Go?



The taglines should be included on all written materials pertaining to your WIOA-related program or activity. Some examples are:

- ✓ Outreach and recruitment;
- ✓ Registration;
- ✓ Counseling and guidance;
- ✓ Testing;
- ✓ Selection, placement, appointment, referral;
- ✓ Training;
- ✓ Promotion and retention; and
- ✓ Written advertisements

! Best Practices

Include the taglines on your website, on the discrimination complaint form, and on all other written communications developed for your WIOA-related programs and activities

Wherever telephone numbers are provided, you must provide information pertaining to relay service or TDD/TTY (7-1-1) numbers on the website and on all written communications.



! Best Practices



Handling reasonable accommodation requests is an interactive process between you and the person with a disability. Be open to suggestions and to new technologies.

Remember, "auxiliary aids and services" must be provided at no charge to the individual with a disability.

! Discrimination Complaint Process Awareness

These procedures deserve extra attention. The EO Officer is required to develop and publish these procedures. These can be viewed at the ARIZONA@WORK City of Phoenix website by clicking on this portion of the slide.

Make sure the procedures are in writing and are widely known and available to staff, registrants, beneficiaries, and potential beneficiaries, contractors, service providers, and so on. This can be accomplished through:

- ✓ Your website;
- ✓ Recruitment and outreach materials and presentations;
- ✓ Orientation materials and presentations;

It is equally important that staff in all agencies are trained regarding these policies and procedures.

! Harassment

Harassment Definition: Unwelcomed verbal or physical conduct based on a protected class

- ✓ Severe and pervasive
- ✓ Condition of employment, benefit, service or participation

Types of Harassment:

- ✓ Hostile environment
- ✓ Quid Pro Quo

Retaliation Definition: Occurs when a recipient takes an

- ✓ Adverse action
- ✓ Against a covered individual
- ✓ Because he or she engaged in a protected activity



! Discrimination vs. Programmatic Complaint Procedures

"Programmatic" complaints differ from "discrimination" complaints in that "programmatic" complaints do not allege discrimination on a covered basis (i.e. race, color, national origin, and the like).

! Discrimination vs. Programmatic Complaint Procedures

An example: You offer an on-the-job training program through WIOA. Participation in the program is limited to one year. Joan files a complaint that she was terminated from the program after one year, and states that the time should be extended to accommodate the difficult economy.

- ✓ Joan has not alleged "discrimination" on a covered basis such as race, color, national origin, gender, age, or disability.
- ✓ This would be processed as a "programmatic" complaint, not as a civil rights discrimination complaint. The procedures for handling WIOA-related programmatic complaints are found at 20 C.F.R. §667.600.

! Potential Plan of Action

Ensure your website clearly notifies folks of:

- (1) their right to file a discrimination complaint,
- (2) the civil rights laws applicable to your programs and activities, and
- (3) the necessary contact information for the EO Officer, or individual designated to conduct discrimination complaint investigations under WIOA Section 188.

Develop and publish policies and procedures regarding the EO Officer's maintenance of the discrimination complaint log.

Ensure that the right to file a discrimination complaint is prominently posted on your webpage and in all of your public spaces.

! Potential Plan of Action

Train staff regarding how to process or refer discrimination complaints involving WIOA-related programs and activities.

- ✓ *The first step is to get the complaint in writing. The Customer Complaint form is on the on the aforementioned City of Phoenix website.*

Include relay service or TDD/TTY information on any written communication that includes telephone numbers.

Ensure discrimination complaint information is available in alternative formats for persons with disabilities, and in other languages for LEP persons.

! Changes in Serving LEP

There are two central responsibilities you have when serving LEP persons:

- ✓ You must have the ability to communicate in the language (or languages) used by a "significant number or proportion" of your service area population (including displaying the "Equal Opportunity Is the Law" posters in the language(s)); and
- ✓ You must assess "the particularized language needs" of the LEP individual who communicates in a less-widely-used language. Once the language need is assessed, you must have access to resources to enable you to communicate with that individual.



! Changes in Serving LEP



Heat maps available at: <https://www.lep.gov/maps/>

Each LEP person must have meaningful access to, and a meaningful opportunity to participate in, WI QA-related programs and activities.

! Interpretation and Translation

Front line staff must know the resources and how to access them:

- ✓ Language flyer and language line services
- ✓ "I speak" cards

Communication with LEP persons occurs through:

- ✓ Qualified interpreter services; and
- ✓ Qualified translation services for "vital" documents in less-widely-used languages.

You are required to:

- ✓ Provide these services free-of-charge to the LEP person; and
- ✓ Notify each LEP person these services are available at no cost.

! How Can You Meet LEP Requirements?

While each and every LEP person must be served at no cost to the LEP person, there may be differences in how you meet this requirement. For example:

- ✓ You may use contract language line services for languages you encounter less often.
- ✓ You may have a bilingual staff member for a significant LEP population in your area; but



! How Can You Meet LEP Requirements?

The four factors you consider in determining how you provide interpretation/translation services are:

- ✓ The number (or proportion) of LEP persons in your service area;
- ✓ The frequency with which LEP persons come into contact with the program or activity;
- ✓ The importance of the aid, benefit, service, or training being provided (core, critical, or intensive materials versus tangential, administrative documents); and
- ✓ Resources available to the recipient



! Additional Resources

ARIZONA@WORK City of Phoenix Policies 501-504

<https://arizonaatwork.com/arizonawork-city-phoenix-policies>

The new WIOA Section 188 regulations were published in the Federal Register on December 2, 2016 and become effective on January 3, 2017. They can be found through the links on this website: **www.dol.gov/crc**

The State Nondiscrimination Plan is available at: **[https:// des.az.gov/ services/ employment/workforce-development-act/workforce-investment-act-wia-equal-opportunity](https://des.az.gov/services/employment/workforce-development-act/workforce-investment-act-wia-equal-opportunity)**

Promising Practices in Achieving Universal Access and Equal Opportunity: A Section 188 Disability Reference Guide

[https://www.dol.gov/oasam/programs/crc/Section 188Guide.pdf](https://www.dol.gov/oasam/programs/crc/Section_188Guide.pdf)

DOL Policies on LGBTQ+ Employees and Applicants: Rights and Responsibilities Desk Aid **www.dol.gov/crc**

A series of free blog articles **[at www.titleiconsulting.com/blog](http://www.titleiconsulting.com/blog)**
[LEP: www.lep.gov](http://www.lep.gov) Understanding Sexual Harassment Video JAN:
www.askjan.org

! What are your next steps?

Complete the Survey Monkey.

<https://www.surveymonkey.com/r/RHMNCKP>

Any questions regarding the Power Point Training please contact Susan Roger at susan.roger@phoenix.gov

Equal Opportunity questions please contact:

Donald Logan at donald.logan@phoenix.gov

Kerry Bernard at kbernard@azdes.gov

Thank you!