



Commonwealth of Virginia

# NONDISCRIMINATION PLAN 2023

Shirley M. Bray-Sledge  
June 2023



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## **Element One: Designation of State and Local level Equal Opportunity (EO) Officers**

The State of Virginia along with its recipients address how they are complying and will continue to comply with the requirements of 29 CFR 38.28 through 38.33. Any individual appointment as an EO officer should have the skill, ability, knowledge, and authority to properly oversee and direct the EO program to which that individual has been assigned.

### Narrative Explanation of Activities:

The nondiscrimination and equal opportunity provisions contained in 29 CFR 38.28 require that all recipients, with the exception of small recipients and service providers, designate EO officers. These provisions describe who can serve as EO officers and what their responsibilities entail.

### **DESIGNATIONS**

**State-level EO Officer(s):** The Governor of Virginia has designated Carrie Roth, Commissioner of Virginia Employment Commission and Advisor to the Governor for Strategic Initiatives, for State program-wide coordination of compliance with the equal opportunity and nondiscrimination requirements of the Workforce Innovation and Opportunity Act (WIOA) and part 38 of the Code of Federal regulations. Commissioner Roth has designated Shirley Bray-Sledge as the State-level EO officer with the ultimate responsibility for State program-wide coordination of compliance with the equal opportunity and nondiscrimination requirements in WIOA. This was done to ensure that Virginia Employment Commission (VEC), Virginia Community College System (VCCS), local workforce development areas (LWDAs) and all sub-recipients comply with all federal regulations. The Virginia Employment Commission is also the agency that administers unemployment insurance.

Ms. Bray-Sledge has a history of 46 years in Equal Employment Opportunity/Equal Opportunity, Civil Rights and Human Resources work. Her experience includes administering external and internal programs in federal and state government. Ms. Bray-Sledge's experience and extensive training have provided her with a strong background in the areas needed to successfully carryout her assigned duties as the State-level EO officer. Ms. Bray-Sledge has oversight responsibility for coordinating, implementing, maintaining, and monitoring the nondiscrimination and equal opportunity requirements under the U.S. Department of Labor (USDOL) regulations 29 CFR Part 38, Section 188 of WIOA and Title VI of the Civil Rights Act of 1964, as amended. The Civil Rights Center (CRC) will be promptly notified if the designation of the State-Level EO officer changes.



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### State-level contact information is:

Shirley M. Bray-Sledge  
State-level EO Officer  
Virginia Employment Commission  
6606 West Broad Street, Suite 405  
Richmond, Virginia 23230  
Telephone: 804-750-0015  
Fax number: 804-287-8538  
E-mail: [Shirley.bray-sledge@vec.virginia.gov](mailto:Shirley.bray-sledge@vec.virginia.gov)  
Virginia Relay: 711

Three administrative professionals, Equal Opportunity Specialist and two EO Federal Monitors, one which also carries the responsibilities of Language Access Coordinator, assist Ms. Bray-Sledge. This team was put together to ensure that she has the necessary staff and resources to establish and maintain compliance with nondiscrimination provisions. Ms. Bray-Sledge attends numerous trainings throughout the year, which include but is not limited to, EEOC webinars, NASWA EO Committee Training and Civil Rights Center training. Her position includes oversight responsibility for coordinating, implementing, maintaining, and monitoring the nondiscrimination and equal opportunity requirements of the U.S. Department of Labor federal regulations, 29 CFR Part 38.

### **Local level and Local Workforce Development Areas (LWDA) EO Officers**

**EO Officer Designation at the Local level:** The Virginia Community College System (VCCS) as a recipient of WIOA Title I funds has designated Vicki M. Tanner, Compliance Monitoring Manager as the Equal Opportunity Officer to ensure that all LWDA and Eligible Training Providers (ETPs) are in compliance with the equal opportunity and nondiscrimination requirements in WIOA. She is also in charge of the oversight to Section 38.51, 38.53, 38.54 and 38.55 compliance for WIOA Title I and other programs. The VCCS has entered into an agreement with the VEC to monitor all LWDA facilities. The VCCS remains responsible for ensuring LWDA are monitoring the Eligible Training Providers (ETPs) for compliance.

### VCCS EO Officer contact information is:

Vicki M. Tanner, MPA  
Compliance Monitoring Manager  
Virginia Community College System  
300 Arboretum Place, Suite 350  
Richmond, VA 23236  
Telephone: 804-819-1682  
Fax number: 804-819-1699  
E-mail: [vtanner@vccs.edu](mailto:vtanner@vccs.edu)  
Virginia Relay: 711



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Ms. Tanner has three additional monitors to assist each year in monitoring the local workforce development areas for compliance with Equal Opportunity and nondiscrimination requirements of Section 188 of WIOA. The fourteen (14) Equal Opportunity Officers of the Local workforce development areas (LWDAs) assist the VCCS EO officers in monitoring eligible training providers, annually.

**Local Workforce Development Area Equal Opportunity Officer's Designation:** In compliance with the nondiscrimination requirements for the Nondiscrimination Plan, we have fourteen (14) LWDAs and each has a designated local Equal Opportunity Officer. Each local workforce development area Equal Opportunity Officer's Employee Work Profile (EWP) is attached. Each one reflects their duties which ensure that the LWDA comply with section 188 of WIOA and 29 CFR Part 38. The local workforce development area's location and names of the designated Equal Opportunity Officers are also attached.

**The duties of the state-level EO Officer and the manner in which those duties are carried out- describe both the State-level EO duties, responsibilities and activities associated with the implementation of 29 CFR Part 38, all other duties, responsibilities and activities.**

Ms. Bray-Sledge has intermittent duties additional to the ones listed below, none of these present a conflict of interest, or the appearance of a conflict, with the responsibilities of an EO officer.

Ms. Bray-Sledge's duties include, but are not limited to the following:

- Coordinating the State EO responsibilities under 29 CFR Part 38.
- Functioning as the state's liaison with the Civil Rights Center.
- Monitoring and investigating the recipient's activities, and the activities of the entities that receive WIOA Title I, Wagner Peyser and UI financial assistance from the recipient, to make sure that the recipient and its sub-recipients are not violating their nondiscrimination and equal opportunity obligations under Section 188 of WIOA and 29 CFR Part 38.
- Reviewing the recipient's written policies to ensure that those policies are nondiscriminatory.
- Reporting directly to the appropriate official about equal opportunity matters.
- Providing technical assistance and guidance to the local level EO officers statewide to ensure compliance with federal regulations and other applicable regulations, policies, procedures, and directives.
- Developing and publishing the recipient's procedures for processing discrimination complaints and ensuring those procedures are followed.
- Overseeing the development and implementation of the state's Nondiscrimination Plan.
- Undergoing training to maintain competency; and
- Reporting conflicts or apparent conflicts of interest to appropriate parties.



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Ms. Tanner's current Employee Work Profile (EWP) reflects duties that ensure the VCCS and LWDAs compliance with Section 188 of WIOA and 29 CFR Part 38.

Her duties include the following:

- Serves as the Equal Opportunity Officer.
- Conducts compliance reviews of local areas and One-Stop centers to ensure compliance with WIOA Equal Opportunity and Nondiscrimination requirements.
- Ensures that all applicants, registrants, participants, and employees of WIOA programs have equal access to the program benefits.
- Investigates and resolves Equal Opportunity related complaints.
- Coordinates and provides training for local area WIOA EO officers.
- Participates on the ADA survey team, which reviews and ensures local area One-stop center compliance with physical and programmatic accessibility requirements.
- Development and review of written policies for LWDAs to make sure that those policies are nondiscriminatory.
- Development and review of procedures for processing discrimination complaints, to include tracking complaints filed, developing procedures for investigating and resolving discrimination, making sure those procedures are followed and making available to the public in appropriate languages and formats (the procedures for filing a complaint).
- Conducting outreach and education about equal opportunity and nondiscrimination requirements and how individuals may file a complaint.
- Undergoing training to maintain competency; and
- Contributing to the development and implementation of the nondiscrimination plan.

The fourteen (14) local EO officers are responsible for, but are not limited to:

- Conducting EO and nondiscrimination monitoring reviews and investigating the activities of services providers and other recipients in their area to ensure compliance with the nondiscrimination and EO obligations under WIOA and 29 CFR Part 38.
- Reviewing written policies to ensure that the policies are nondiscriminatory.
- Developing and publishing procedures for processing discrimination complaints and ensuring adherence to the procedures; and
- Coordinating local level WIOA EO responsibilities to include ensuring services providers' compliance with the nondiscrimination and EO provisions of WIOA.

The LWDAs must submit new local level EO officer's contact information anytime there has been a change with the local level EO officer position. This notice should be sent to the VCCS EO officer. LWDAs have a continuing duty to notify the VCCS EO officer of any changes to the local level EO officer's contact



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information or position description. The VCCS EO officer issued a recent memorandum to local workforce development area (LWDA) Directors reinforcing existing policy and procedures for re-designating individuals to serve as equal opportunity (EO) officers at the local level.

Virginia has seventeen (17) Virginia Career Works comprehensive centers (Proud Partner of American Job Centers), nineteen (19) VEC Affiliate sites and thirty (30) LWDA affiliate sites that are located within the fourteen (14) local workforce development areas. All offices refer EO-related matters to their LWDA-designated EO officer, VCCS EO officer or the State-Level EO officer, as appropriate. The LWDA EO officers may refer issues to VCCS EO officer or other entities depending on jurisdiction. This ensures nondiscrimination and accessibility in services provided to Career Works Centers and affiliate sites' customers. LWDA has developed a policy to administer this requirement. A list of the Career Works Centers and affiliate sites are attached.

### **The level within the organization (*described in such terms as the individual's authority and position relative to the reporting authority*) occupied by the EO Officer.**

The State and Local EO officers are required to report directly to an appropriate official within the individual's organization (such as the Commissioner of VEC, Chancellor/Administrator of VCCS or Directors of LWDA) about equal opportunity matters. This means that EO officers must report directly to the highest-ranking official in the individual's organization. The EO officer must have access to that person without undue delay or obstructions in order to ensure that the necessary flow of information to the top official is not hindered.

The State-level EO officer reports to Shelby Perry, Human Resource Management Services (HRMS) Director, but on matters related to EO and nondiscrimination, Ms. Bray-Sledge has direct access to the Commissioner, Carrie Roth.

Ms. Tanner (VCCS EO officer) reports to Dr. Yolanda Crewe, Director of WIOA Programs. Dr. Crewe manages WIOA Title I Grants Administration Programs and monitoring staff. She reports directly to Mr. Randall Stamper, Associate Vice Chancellor, Career Education and Workforce Development.

Mr. Stamper reports to Dr. Van Wilson, Interim Senior Vice Chancellor and Academic Officer of the Virginia Community College System. Dr. Wilson reports to Dr. David Doré, Chancellor of the Virginia Community College System. Dr. Crewe's responsibilities include strategic planning, policy development, performance goal development, and compliance and oversight of sub-recipients of WIOA Title I funds. The aforementioned includes the oversight of WIOA's Equal Opportunity and Nondiscrimination requirements, as well as the financial accountability in the administration of WIOA Title I, Wagner Peyser, and UI programs. The local EO officers are LWDA Directors or reports directly to the Directors of the LWDA's.



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### **Priority of Responsibilities**

Should instances arise where the appearance of a conflict is presented for Ms. Bray-Sledge (State-level EO officer), such cases will be assigned for investigation to other entities to address the assignment. These other entities are referring to the Administrative Law Division's staff attorney, or an independent investigation by the Department of Human Resources Management Office of Equal Employment Services or contractor. The following are examples of potential conflicts of interest that we anticipate:

- Complaints regarding applicants for positions in Human Resource Management Service (HRMS).
- Complaints by HRMS staff.
- Complaints about personnel selections in which the EO officer or HRMS director were involved in the selection process; and/or
- Complaints where there was the appearance of conflict because of a previous connection with the complainant.

Ms. Tanner (VCCS EO officer) also addresses designation of LWDA EO officers, potential conflicts of interest and accountability on a case-by-case basis. Conflicts of interest continue to be reviewed through the monitoring process by the VCCS EO officer. If a potential conflict exists, the VCCS EO officer will be assigned the investigation. If a potential conflict exists, the VCCS EO officer will be responsible for handling the matter.

Local workforce development area EO officers do not have other responsibilities or activities that create a conflict, or the appearance of a conflict, with the duties as an EO officer. Everyone is able to give top priority to and adequately accomplish all of the responsibilities under Section 188 of WIOA and the WIOA nondiscrimination regulations. If an instance should arise where the appearance of a conflict is presented, the case will be assigned to the VCCS EO officer for investigation.

### **Nondiscrimination Plan**

VEC and VCCS develops and submits to the US Department of Labor, Civil Rights Center (CRC) every two years Virginia's Nondiscrimination Plan. This document outlines the equal opportunity policies, procedures, and system established by the Governor to give a reasonable commitment that the Commonwealth and its recipients will comply with the CRC equal opportunity and nondiscrimination requirements. The State-level EO officer is responsible for overseeing the development and implementation of Virginia's Nondiscrimination Plan.

The State-level Equal Opportunity Officer is responsible for ensuring that the plan is designed to give a reasonable guarantee that all recipients will comply, and are complying, with the nondiscrimination and





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equal opportunity provisions of WIOA. They are held responsible to the effect that; it will be ensured that at a minimum recipients have:

- Satisfied the requirements of Assurances (Section 38.25-38.27).
- Designated state and local levels EO officers (Section 38.28 – 38.33).
- Meet the Notice and Communication requirements (Section 38.34 – 38.39).
- Developed and maintained a system to ensure that data and information is collected and stored in compliance with (Section 38.41-38.45).
- Conducted Affirmative Outreach (Section 38.40).
- An assurance that recipients are in compliance with recordkeeping requirements (Section 38.53).
- Established and published complaint processing procedures (Section 38.51 – 38.53); and
- Developed a system for monitoring compliance in accordance with Section 188 of WIOA and 29 CFR Part 38 requirements.

### **Monitoring for Compliance**

Monitoring tools have been developed to monitor compliance by the state and its recipients with the nondiscrimination provisions of WIOA and their implementing regulations. The system contains specific elements which include:

- Statistical or quantifiable analysis of records and data, including analyses by race/ethnicity, sex, age, and disability status.
- An investigation of any significant differences identified by the statistical or quantifiable analysis, to determine whether these differences appear to be caused by discrimination.
- An assessment to determine whether the State and/or its recipient have fulfilled their administrative obligations under Section 188 of WIOA and 29 CFR Part 38 (such as recordkeeping and providing notice and communication). The assessment includes a review of the State's or recipient's compliance with its obligations related to the designation of and support for, its EO officer.
- Policy communication and training to ensure that EO officers and other relevant staff members are aware of and can effectively carry out their regulatory responsibilities. Which also includes the review of the states and its recipient's job training plans, contracts assurances and other similar documents and agreements. To ensure that these agreements are nondiscriminatory and contain required language regarding nondiscrimination and equal opportunity.

VEC and VCCS ensures that the required monitoring is occurring, and that follow-up action is taken, when necessary. The WIOA nondiscrimination regulations place responsibility on each recipient's EO officer for ensuring that monitoring takes place.



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**The manner in which the recipient makes the identity of the EO Officer(s) known to applicants, registrants, participants, employees, applicants for employment, as well as interested members of the public.**

The State-level EO officer and local level EO officer's name and contact information has been posted on "EO is the Law" posters as well as internal and external communications about the recipient's nondiscrimination and equal opportunity programs throughout the State.

The EO officer's overall monitoring responsibilities under WIOA nondiscrimination regulations is to ensure that the recipients under the individual's jurisdiction are complying with the legal obligations related to notice and communication. VEC, VCCS and LWDA and its recipients must notify specified groups of individuals and entities to convey information pertaining to the protections associated with the nondiscrimination provisions of WIOA, and the provisions associated under the grant which delineate specific rights. VEC, VCCS and LWDA and its recipients must use two distinct types of notification in particular circumstances specified in the WIOA nondiscrimination regulations:

- The "[Equal Opportunity is the Law](#)" notice/poster; and
- "Tagline."

The "Equal Opportunity is the Law" notice must have the exact text of the notice that is provided in 29 CFR 38.35. The text explains:

- That discrimination on specifically listed bases (race, sex, disability, etc.) is against the law, and
- Where and when to file a discrimination complaint.

There is a specific list of categories of individuals and entities that must receive the EO notice/poster. Examples include:

- Applicants/registrants for program and services,
- Participants,
- Applicants for employment/employees,
- Professional organizations,
- Sub-recipients, and
- Members of the public.

VEC, VCCS and LWDAs requires that the notice be distributed in specified ways, including, at a minimum:

- Prominent posting in the recipient's premises,
- Through internal memoranda and other communication methods,
- Inclusion in handbooks (participant/employee) and manuals, and
- Making the notice available to each participant/employee and making it a part of the participant/employee's file.



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Any material that describes or explains the requirements for participation in recipients' programs, activities or services include the "tagline." The tagline alerts individuals with disabilities that auxiliary aids and services are available upon request. Any material that provides a phone number also indicate "VA Relay" services are available for individuals with hearing impairments. This applies to all materials that are communicated orally, in writing and/or electronically. Any materials and information that is distributed to staff, clients, participants, and the public at large. The tagline is on all recipients' websites.

The "tagline" includes the exact text below:

*"Equal Opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities."*

The only exception to the requirement that the exact text be used is in cases where the information is being published or broadcast by the news media, such as newspaper, television or radio station. In such cases, the exact text of the tagline need not be used, as long as the essential information is accurately conveyed.

VEC, VCCS and LWDAs requires their recipients and their sub-recipients to provide persons with limited English proficiency, the EO poster/notice, in their preferred language. VEC and VCCS has provided local workforce regions contact information to the Civil Rights Center's website, which contains the "Equal Opportunity is the Law" notice/posters in various other languages that can be used in their locations.

**The VEC, VCCS and LWDAs ensure level of staff and other resources are available to state and local level EO officer(s) to ensure that WIOA Title I, Wagner Peyser and UI financially assisted programs and activities operate in a nondiscriminatory way.**

The Commissioner is in full support of the nondiscrimination and equal opportunity program. The Human Resource Management Service (HRMS) department has provided staff support to the State-level EO officer that includes an EO Specialist and two Federal Monitors, one of which is also the Language Access Coordinator (LAC). In addition to the State-level EO officer, the EO specialist and monitors provide support and technical assistance to the regions and assist them with monitoring the workforce areas for nondiscrimination and equal opportunity compliance. HRMS's budget includes funds designated to ensure that the State-Level EO officer has the staff and resources necessary to sufficiently carry out the requirements of Section 38.51, 38.53, 38.54 and 38.55 of 29 CFR for state programs. These funds will also be used for staff to attend training, workshops and continue to update their knowledge and training in EEO/EO. The specific funding for the EO program is identified in a budget request submitted annually to the HRMS Director. This request does not include salaries and benefits.



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### **The State’s plan for ensuring the State and local level EO Officers and their staff are sufficiently trained to maintain competency.**

The State-level EO officer may attend training and seminars conducted by the Equal Employment & Opportunity Commission (EEOC), Equal Opportunity Conferences hosted by the National Association of State Workforce Agencies (NASWA), their EO Committee, the U.S. Department of Labor, Civil Rights Center’s webinars and online training, WorkforceGPS, LEAD Center and other related training sponsored by ADA Mid/Atlantic Region.

The State-level EO officer, with the support of the Commissioner, is proactive in providing LWDA and VCCS EO officers with nondiscrimination and equal opportunity information and identifying training needs. These efforts help ensure that all local service delivery staff members, including sub-recipient staff, maintain a clear understanding of nondiscrimination and equal opportunity requirements, thus ensuring compliance with applicable laws and regulations.

The State-level EO officer provides annual training to LWDA EO officers, VEC leadership staff, VCCS EO officer and any local management staff operating programs, services and activities in the Virginia Career Works Centers and affiliate sites. This training is provided to all parties responsible for interacting with our applicants, customers in the delivery of our program, activities and services. The annual EO training has been delivered virtually and recorded to be used as a tool for refresher.

The local level EO officers are responsible for local EO training for all staff. This training focuses on ensuring that those staff with the critical role of ensuring nondiscrimination in the provision of services are knowledgeable and understand the requirements in the equal opportunity regulations. To ensure that local level EO officers are sufficiently trained regarding their roles and responsibilities, we have revised the EO officer’s training curriculum and placed more emphasis on requirements of the Nondiscrimination Plan and Section 188 of WIOA training for all staff including LWDA, training providers, and subcontractors.

The State-level EO officer has equal opportunity workshops available to all staff. These workshops are mandatory for new employees and refreshers are provided annually. The following are samples of the EO/EEO topics available online through VEC’s website [“EO/EEO Hot Spot”](#):

- Nondiscrimination and Equal Opportunity Policy (Webinar),
- Sexual Harassment,
- Cultural Diversity (Webinar),
- Reasonable Accommodation Managers and Staff (Webinar),
- Transgender Awareness (Webinar),
- Providing Equal Access to Customers with Disability (Webinar),
- Providing Equal Access to limited English proficient Customers (Webinar),



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- Preventing Discrimination/Harassment in the Workplace (on-line) training,
- Workplace Civility (Webinar),
- Preventing Workplace Harassment (Webinar),
- Workplace Violence Training (Webinar),
- Limited English Proficiency (Webinar),
- Sex Discrimination (Webinar),
- Disability Awareness Training 2022 and Propio-One training videos,
- Customer Service Training 2022,
- Accessibility and Accommodations in the Job Centers, and
- Diversity, Opportunity, and Inclusion training/programs.

Our annual mandatory EO training was provided on December 8 and 9, 2021. The following topics were delivered:

- Data collection,
- Monitoring,
- Disability,
- LEP, and
- Section 188 Overview.

On November 15-16, 2022 our curriculum covered the following:

- Nondiscrimination requirements of Section 188 of WIOA,
- Related laws and executive orders,
- Handling conflicts between Federal and State laws,
- Roles and responsibilities of the EO officer,
- Assurances,
- Tagline,
- Harassment and hostile environment,
- Serving persons with disabilities,
- Serving LEP persons,
- Serving LGBTQX+ persons,
- Handling religious-based accommodation requests,
- Data collection and maintenance,
- Diversity, opportunity, inclusion,
- Discrimination complaint investigations, and
- Determining jurisdiction.

The VCCS EO officer ensures that all new LWDAs EO officers are provided hands-on monitoring training in their local areas.



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The Virginia Department for Aging and Rehabilitative Services (DARS) delivered the “Windmills: Employment Disability Inclusion” training to all VEC, VCCS and LWDAs staff. The training was offered the fourth Thursday of each month from January through November. The topics covered, “Disability Fact or Fiction,” “Whose Fault?,” “Perspectives,” “Taking the Emotion out of Emotional Disabilities,” “Profiles” and “Assistive Technology and Reasonable Accommodation.”

LWDAs staff receive on boarding or orientation training upon hire, which provides instructions and guidance regarding the LWDA’s nondiscrimination policy and procedures. This ensures they are aware of expectations, procedures, and processes to ensure equal access to activities, programs and services to all clients. The annual training that is provided to LWDAs EO officers are shared with staff in their weekly, monthly, and quarterly meetings.

Most programs and services are provided through classroom, video conferencing and webinar training sessions. Unemployment insurance benefit program staff receives training tailored for the call center and adjudication center staff. Other VEC staff receives EO and nondiscrimination training appropriate for their work.



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Attachments Element One - Designation of State and Local level Equal Opportunity (EO) Officer

- 1- (a) State-Level EO officer's Organizational Chart
- 1- (b) State-Level EO officer Employee Work Profile (EWP) and staff/ Budget
- 1- (c) Governor's Designee WIOA Nondiscrimination Letter
- 1- (d) VCCS EO officer Employee Work Profile (EWP) Compliance Monitoring Manager; 3 Workforce Compliance Monitor and Workforce Fiscal Compliance Monitor
- 1- (e) LWDAs locations and designated EO officers
- 1- (f) LWDAs EWP's
- 1- (g) Sampling of Equal Opportunity Posters
- 1- (h) Sampling of EO officer's Training
- 1- (i) State-level EO officer posting on [www.vec.virginia.gov](http://www.vec.virginia.gov) website
- 1- (j) LWDA sample posting of EO officer posting on their websites
- 1- (k) VCCS/VEC Letter of Agreement for monitoring LWDAs centers/affiliates/satellite
- 1- (L) Windmills: Employment Disability Inclusion Training



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### Element Two: Notice and Communication

Virginia addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 38.34 through 38.39. States should ensure that the establishment of a notice and communication system that makes all registrants, applicants, and eligible applicants/registrants, participants, applicants for employment, employees and interested members of the public aware of both the recipient's obligation to operate its programs and activities in a nondiscriminatory manner, and the extent of the rights of members of these groups to file complaints of discrimination.

#### Narrative Explanation of Activities

Statewide notification and communication of the equal opportunity policy ensures Virginia's commitment to nondiscrimination and equal opportunity regulations. Notices and other forms of communication are distributed to all appropriate parties. VEC, VCCS, LWDAs, and subcontractors have ensured that notice and communication is delivered to all registrants, applicants, eligible applicants, participants, applicants for employment, employees and interested members of the public. VEC, VCCS, LWDAs and subcontractors ensures these individuals understands their rights and responsibilities.

Within VEC, VCCS, LWDAs and other recipients, as well as customers, the public and professional organizations, are provided notice of the nondiscrimination and equal opportunity requirements of the Workforce Innovation and Opportunity Act (WIOA). The nondiscrimination and Equal Opportunity Policy are distributed to recipients and training is provided to all staff. All employees have been provided a copy of the policy and are required to review the policy and receive training at a minimal, annually.

Both the WIOA and Equal Opportunity and Nondiscrimination policies incorporate the following laws and regulations:

- Title VI and Title VII of the Civil Rights Act of 1964, as amended.
- Section 504 of the Rehabilitation Act of 1973, as amended.
- Americans with Disabilities Act of 1990, as amended.
- The Age Discrimination Act of 1975, as amended.
- The Age Discrimination in Employment Act of 1967, as amended.
- Title IX of the Education Amendments of 1972, as amended.
- Section 188 of the Workforce Innovation and Opportunity Act (WIOA) of 2014, and
- Title 29 Code of Federal Regulations, Part 38.

The WIOA "Equal Opportunity is the Law" poster with the wording specified in 29 CFR Part 38.35 is distributed statewide for the benefit of the public in all the Virginia Career Works Centers and affiliates sites in English and Spanish but may be displayed in as many as seven (7) languages in some centers. The





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“EO is the Law” is available on the various websites of recipients (VEC, VCCS, LWDAs), Virginia Workforce Connection (VAWC) site and made a part of the on-boarding and orientation sessions, where packages are delivered to applicants, participants, and employees.

### **Methods and Frequency of Dissemination**

The “Equal Opportunity is the Law” notice is disseminated throughout all local workforce development areas (LWDAs) facilities, VEC local offices, VCCS centers and affiliates sites. The poster containing the notices described in 29 CFR Part 35 is also displayed prominently throughout these locations. Posters are in plain sight and in a binder for closer inspection as well. The EO notice is made available to:

- Registrants, applicants, and eligible applicants,
- Applicant for employment and employees,
- Sub-recipients that receive WIOA Title I, Wagner Peyser or UI financial assistance from the recipient, and
- Members of the public, including those with impaired vision or hearing and those with limited English proficiency.

As provided in §38.15, the recipient is taking appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others and that the notice is provided in appropriate languages to ensure meaningful access for LEP individuals as described in §38.9. The notice can be seen through the VAWC, VEC, VCCS and various LWDA’s websites where services are being offered and information is provided. The notice is also provided through the various programs during the intake process and initial discussion with representatives. Signature lines also note auxiliary aids and services are available upon request and where phone numbers are listed, Virginia Relay 711 is included. The notice is posted on job listings through third-party vendors (PageUp) if used to advertise openings. Each local level EO officers are responsible for ensuring that a copy of the required nondiscrimination notices and posters are available to all service providers. New hires receive the notice during on boarding and orientation sessions. The notice is posted on marques located in several of the centers, resource rooms, bulletin boards, and employee break rooms. The specifics of each center can be seen in the walkthrough reviews that are conducted annually.

Policies and forms to file a discrimination complaint are also available on VEC, VCCS and LWDA’s websites. These policies and forms are provided in various languages depending on the LEP population in their respective areas. Through the integration of a paperless service delivery process, all customers must register electronically and acknowledge receipt of the required nondiscrimination and equal opportunity notice in order to advance onto additional enrollment/registration screens. Participants moving into the intensive training levels are required to go through orientation where the EO notice is signed, and a copy is placed in their participant files. The nondiscrimination and EO statement are included on registration forms and included in the Handbook for Claimants and Job Seekers. Virginia provides the EO notice in up to thirteen (13) additional languages found throughout the Commonwealth to include Amharic, Arabic, Bengali, Chinese (Simplified), French, German, Italian, Korean, Nepali,



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Punjabi, Spanish, Urdu, and Vietnamese. English and Spanish audio recording are available on the websites. The “EO is the Law” notice is also available in braille, English and Spanish at all locations where services are being provided.

The VEC’s discrimination complaint procedures and complaint forms are accessible from the “Equal Opportunity” link at the bottom of each page of the VEC internet site at <http://www.vec.virginia.gov/equal-employment-opportunity>. The babel notice is posted on the website to reflect language translation is available free of charge upon request. The Language Access Coordinator contact information is available to assist anyone seeking language interpreting and/or translation services.

VEC, VCCS, and LWDA’s and other recipients operating state programs have included the following tagline on their official websites, job announcements, brochures and advertisements that describe programs, or the requirements for participation, in financially assisted programs under Title I of WIOA, Wagner Peyser and UI:

*“Virginia (or name of recipient) is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities.”*

- Virginia Employment Commission: <http://www.vec.virginia.gov/equal-employment-opportunity>
- Virginia Workforce Connection: <https://www.vawc.virginia.gov/vosnet/Default.aspx>
- Virginia Career Works:  
<https://www.virginiacareerworks.com>
- Local Workforce Development Areas: Website links provided in the attachment 2(q)

Attached are sample materials that include the EO tagline language. As additional materials are produced to market programs and services, the EO tagline language will continue to be used. Where such materials indicate a telephone number, the materials provide a TDD/TTY number and/or relay service number (800-828-1120 or 711). The ADA Coordinator contact information is available on VEC’s website for anyone seeking a reasonable accommodation. The UI Claimants’ Benefits Rights and Responsibilities and the Claimant Handbook are available on VEC’s website and customers can access them in up to thirteen (13) additional languages.

### **Training and Monitoring for Compliance**

Registrants, applicants and participants are advised of their rights to file a discrimination complaint during orientation and/or registration for WIOA Title I, Wagner Peyser and UI services and are provided with the notice of rights to file a discrimination complaint. VEC, VCCS and LWDA’s monitor to ensure participants have a copy of a signed EO notice in their participant file. During EO monitoring reviews, monitors check to see if the EO posters are displayed in a reasonable number of places. The notice can



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be found at local office entrances, resource and break rooms, websites, resource materials, orientations and intake packages, handbooks, marquees and TV monitors throughout the Commonwealth.

The notice and communication requirements are covered during EO officer training and discussed during the EO and nondiscrimination training courses for recipients and their staff; as well as all policies and procedures relating to the administration of WIOA Title I, Wagner Peyser and UI programs, including the EO and nondiscrimination policies developed by the VCCS, LWDA's and VEC. The VCCS and each local area provide nondiscrimination and equal opportunity training to new and current employees on a regular basis. The VEC and VCCS EO officer provides ongoing technical assistance to LWDA's EO officer.

The State-level EO officer provides annual training to all VEC, VCCS, and LWDA's EO officers to ensure compliance with Section 188 of WIOA and 29 CFR Part 38. New employee orientation (on boarding) and all employee mandatory annual training and policies are available online. This web-based training has been developed to provide nondiscrimination and equal opportunity training to new and current employees on a regular basis. All training can be accessed through <https://vincent.intranet.vec/groups/human-resource-management-services-hrms/eeoeo-hot-spot>. The policies and web-based training can be updated and delivered to new and existing employees on an annual basis. LWDA's and VCCS receive the recordings after training has been delivered.

### **The steps taken to ensure that communications with individuals with disabilities are as effective as communications with others. (29 CFR part 38.38)**

The recipients have taken steps to assure physical, programmatic, and communicative tools are accessible for individuals with disabilities and in an integrated setting. All Assistive Technology (AT) is available in the Career Works Center resource rooms and/or stored at the front desk. The following is a list of the various AT equipment and assistive tools available at the local offices:

- ZoomText Magnifier/Reader is a fully integrated magnification and reading program tailored for low vision users.
- Jaws screen reader provides speech for the most popular computer applications.
- Magnifying screens (enlarges documents for low vision users).
- TTY text telephone assist people who are Deaf, Hard-of-Hearing, or speech impaired, use the telephone to communicate, by allowing them to type messages back and forth to one another instead of talking and listening.
- Captel phones (Captioned Telephone) is ideal for people with some degree of hearing loss. It works like any other telephone with one important addition, it displays every word the caller says throughout the conversation. Captel phone users can listen to the caller and can also read the written captions in the Captel's bright display window.
- Notices are posted stating adaptive equipment is available.
- Employment counselors and Veteran representatives provide case management or referrals for individuals with disabilities.



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- Access to ASL interpreters for people with hearing impairments is contracted with the Virginia Department for the Deaf, Hard-of-Hearing.
- Staff is trained and available to assist with AT equipment.
- Computer access for all individuals with disabilities.
- Adjustable workstation that accommodates wheelchair users.
- Larger monitors for people with low vision.
- Vocational rehabilitation services provide regular training on auxiliary aids to ensure staff is familiar with the various aids being offered in the facilities.
- Real-time American Sign Language services are available through Propio and Purple services through the use of a laptop and camera.

Virginia requires that all recipients of WIOA Title I, Wagner Peyser and UI financially assisted programs advertise in their broadcasts or media publications that they are an equal opportunity employer/program and auxiliary aids and services are available upon request for individuals with disabilities. (29 CFR Part 38.40).

All brochures, pamphlets, materials published by VEC/VCCS/LWDAs must include the statement: “\_\_\_\_\_ is an Equal Opportunity Employer/Program. Auxiliary aids and series are available upon request to individuals with disabilities TTY via VA Relay 711.” This statement is also provided on each homepage and websites where program and services are being advertised.

**Virginia ensures that persons of limited English proficiency have access to its programs and activities on a basis equal to that of those who are proficient in English (29 CFR Part 38.40).**

Virginia has created an LEP Plan and designated a Language Access Coordinator (LAC) to implement the plan. The plan created a LEP workgroup (employee, community members, & advocacy groups), identify vital documents for translation, real-time interpreting services as well as translation services, and provides training, monitoring, employee/customer surveys and quality assurance measures. LWDAs have created individualized LEP plans using the state model. Virginia has instituted an annual virtual town hall. This is our third virtual session (hosted on May 9, 2023) and the topic was “Working Together and Providing Language Access to Virginia’s LEP individuals.”

The VEC, VCCS and each LWDA, have established LEP policies that outline expectations, procedures, and a process for the delivery of services to our LEP customers. Vital documents have been determined throughout WIOA Title I (Adult/Dislocated Worker/Youth) programs and translated into Spanish and other languages which are provided upon request. The Wagner Peyser (RESEA, TRADE, Veterans, MSFW, Job Services) and Unemployment Insurance programs have identified all vital documents and have translated those documents into Spanish and other languages based on the demographics of their area.



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Virginia is a recipient of the UI equity grant and one of the projects focused on “Effective Customer Communication.” We are revising all UI forms, applications, and correspondence to ensure that we are providing clear and easy to understand language when communicating with our customers. After the changes have been made these same documents will be translated into ten (10) additional languages (Arabic, Chinese, Tagalog/Filipino, Persian/Farsi, Korean Urdu, Amharic, French, Vietnamese and Hindi), in addition to English and Spanish. Our call center’s Internet Voice Response system (IVRs) has been enhanced with plain language and we are currently in the process of translating the documents into the same ten (10) additional languages. This will provide equity in access to our LEP customers. VEC, VCCS and LWDAs use on-demand language access vendors (Propio + Language line) for LEP participants. In using these vendors VEC, VCCS and LWDAs have access whenever needed (24/7/365 days per year) for translation and interpreting services.

Each program is monitored to ensure that recipients are using the babel notice when appropriate. Each staff member that interacts with the public have “I Speak” cards readily available. If a customer walks in and needs language access services, the staff member can find their language on the card and contact an interpreter to provide further services.



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Attachments for Element Two - Notice and Communication

- 2-(a) VEC/LWDA Sampling of EO is the Law Notice (*various languages*)
- 2-(b) UI-Handbook for Claimants – English, Spanish, Vietnamese and Korean  
UI-Instructions for filing Initial or Weekly Claims – English, Spanish, Vietnamese and Korean
- 2-(c) Sampling of Equal Opportunity/Nondiscrimination Policy – English, Spanish
- 2-(d) On-line Services for Job seekers – English and Spanish
- 2-(e) Sampling of VEC/LWDAs Website Information
- 2-(f) Webinar EO Training
- 2-(g) Sampling of onboarding training for New Hires
- 2-(h) Sampling of VEC, LWDAs and VCCS EEO Complaint Form – (*various languages*)
- 2-(i) Equal Employment Opportunity Plan
- 2-(j) Virginia most spoken languages (*spreadsheet/charts*)
- 2-(k) Sampling of Reasonable Accommodation Policy/ Guide
- 2-(l) Sampling of Accessibility Policy  
EO Nondiscrimination Policy
- 2-(m) Procedure for Processing Sign Language Interpreter
- 2-(n) Sampling of Policy and Procedure Harassment Prevention
- 2-(o) Sampling of Policy and Procedure Discrimination Complaint Processing
- 2-(p) Sampling of Flyers and Brochures with tagline
- 2-(q) Sampling of LWDA website links
- 2-(r) Babel Notice



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### Element Three: Assurances

Virginia addresses how it and its recipients are complying, and will continue to comply with the requirements of 29 CFR 38.25 through 38.27 regarding the review of assurances, job training plans, contracts, and policies and procedures. Additionally, Virginia addresses the procedures it and its recipients are following and will continue to follow in assessing the ability of grant applicants, if funded, or training providers, if declared eligible, to comply with Section 188 of WIOA and 29 CFR Part 38.

#### Narrative Explanation of Activities

The Commonwealth of Virginia will not knowingly do business with any entity that discriminates. It is the obligation of the Virginia Employment Commission (VEC), Virginia Community College System (VCCS), and local workforce development areas (LWDAs) to ensure that all grants, agreements, or other similar applications for Federal financial assistance under WIOA include the EO assurance language. The assurance language commits the recipient to “comply fully with the nondiscrimination and equal opportunity provisions” of Section 188 of the Workforce Innovation and Opportunity (WIOA); Title VI of the Civil Rights Act of 1964, as amended; the Age Discrimination Act of 1975, as amended; Title IX of the Education Amendments of 1972, as amended; and 29 CFR Part 38 and other regulations implementing these laws. The assurance acknowledges the government’s right to seek judicial enforcement if these laws are not followed. The specific language for this assurance is found at 29 CFR 38.25 (a)(1). If a citation is used instead, it should read, “The nondiscrimination assurances at 29 CFR Part 38.25(a)(1) apply to this [contract/agreement/etc].”

State-level EO officer issues guidance to VEC, VCCS and LWDAs EO officers on EO assurances in the State Plan. Each application for WIOA funds includes the specified assurance committing the potential sub-recipient to comply fully with the nondiscrimination and equal opportunity provisions of Section 188 of WIOA and 29 CFR Part 38. In addition, policies issued at the state and local levels reinforce our commitment to ensure nondiscrimination throughout the one-stop system.

#### Assurances

Within the Finance and Administrative services of VEC, all contracts and agreements prior to finalization and execution must ensure EO assurances are included. The agency requires all applications for federal financial assistance under WIOA to include EO assurances, thereby committing recipients to full compliance with the nondiscrimination provisions of the Section 188 of WIOA and 29 CFR Part 38. The agency’s EO officer works with the Finance and Administrative services of VEC, VCCS and LWDAs to ensure language that incorporates nondiscrimination clauses, EO assurances and sanctions in contracts, grant agreements, as well as job training plan and requests for proposal processes where state and federal funds are expended.



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VEC, VCCS, LWDAs and their recipients ensure their training plans, contracts, and agreements, are consistent with the EO and nondiscrimination provisions of WIOA. The State-level Equal Opportunity Officer and VCCS Equal Opportunity Officer monitors the LWDAs using technical assistance, statistical data analysis, visits, complaints, desk audits and on-site reviews. Architectural accessibility, parking for individuals with disabilities, designated restrooms, program accessibility and effective communication with persons with disabilities are some of the elements monitored.

Local level Equal Opportunity Officers are obligated to monitor their recipients for compliance with Section 188 of WIOA and 29 CFR Part 38. The State-level EO officer provides a nondiscrimination monitoring guide that includes specific monitoring review guidance and instructions to ensure that all plans and contracts contain the required assurance language.

VEC, VCCS and state partner agencies have developed this nondiscrimination plan detailing the action that have been, and will be taken, to ensure compliance with Section 188 of WIOA and 29 CFR Part 38. This document will be reviewed and updated every two years and substantive changes will be forwarded to the United States Department of Labor Civil Rights Center (CRC).

VEC does not pass along any of its federal administrative grants for unemployment insurance to sub-grantees. VEC ensures that these grants are nondiscriminatory and contain required assurance by exclusively using grant agreement documents required and prepared by the Education and Training Administration of USDOL. The VEC enters into numerous contracts to carry out the State Unemployment Insurance programs. In addition to applicable federal requirements, state law and regulation require these contracts to be nondiscriminatory and to contain required assurances regarding nondiscrimination and equal opportunity. This required standardized language also serves as a policy directive and guideline used by the Department to ensure that the required assurances are included in all pertinent documents.

**The required assurances are incorporated into each grant, cooperative agreement, contract, or other arrangements whereby Federal financial assistance under Title I of WIOA, Wagner Peyser and UI is made available. (29 CFR Part 38.20)**

Each application for financial assistance under Title I of WIOA, Wagner Peyser and UI as defined in 38.4, include the following assurance:

As a condition to the award of financial assistance from the Department of Labor under Title I of WIOA, Wagner Peyser and UI programs, the grant applicant assures that it has the ability to comply with the nondiscrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the award of federal financial assistance:





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- Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I, Wagner Peyser and UI financially assisted program or activity.
- 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, 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, as a recipient of WIOA Title I, Wagner Peyser and UI financially assisted programs, they will comply with 29 CFR part 38 and all other regulations implementing the laws listed above. The assurance applies to the grant applicant's operation of the WIOA Title I, Wagner Peyser and UI financially assisted programs or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I, Wagner Peyser and UI financially assisted programs or activities. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance. The grant applicant also understands that the Commonwealth of Virginia has the right to seek judicial enforcement of this assurance.

**§38.26 Duration and scope of the assurance**

VEC, VCCS, LWDAs and recipients will comply where WIOA Title I, Wagner Peyser and UI financial assistance is intended to provide, or in the form of, either personal property, real property, structures on real property, or interest in any such property or structures. The assurance will obligate the recipient or (in the case of a subsequent transfer) the transferee, for the longer of the period during which the property is used either for a purpose for which WIOA Title I, Wagner Peyser and UI financial assistance is extended or for another purpose, involving the provision of similar services or benefits or the period during which either the recipient retains ownership or possession of the property or the transferee retains ownership or possession of the property without compensating the departmental grant-making agency for the fair market value of that ownership or possession. In all other cases, the assurance will obligate the recipient for the period during which WIOA Title I, Wagner Peyser and UI financial assistance is extended.



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§38.27 Covenants

VEC, VCCS, LWDA and its recipients ensures when WIOA Title I, Wagner Peyser and UI financial assistance is provided in the form of a transfer of real property, structures, improvements on real property or structures, or interests in real property or structures, the instrument effecting or recording the transfer must contain a covenant assuring nondiscrimination and equal opportunity for the period described in §38.25(a)(1). Where no Federal transfer of real property or interest therein from the Federal Government or VEC, VCCS or LWDA is involved, but real property or an interest therein is acquired, improved under a program of WIOA Title I, Wagner Peyser and UI financial assistance; the recipient must include the covenant described in this section. In addition, the covenant may include a condition coupled with a right of return to the VEC, VCCS or LWDA in the event of a breach of the covenant.

**Each grant applicant, each training provider seeking eligibility, is able to provide programmatic and architectural accessibility for individuals with disabilities. (Subpart C of 29 CFR Part 32.28)**

Accessibility for Individuals with Disabilities

Contracts between VEC, VCCS, LWDA and any contracting agency accepting WIOA Title I, Wagner Peyser or UI funds also contain a provision that:

“The Contracting Agency assures that it and its sub-recipients will comply with Section 504 of the Rehabilitation Act of 1973, as amended (including the Americans with Disabilities Amendments Act of 2008), and U.S. Department of Labor’s implementing regulations at 29 CFR Part 32, which prohibit discrimination and require provision of equal opportunity on the basis of disability.”

Programmatic and Architectural Accessibility

The state-level Equal Opportunity (henceforth referred to as “EO”) officer and VCCS EO officer will enforce Section 504 of the Rehabilitation Act of 1973 with local workforce regions, including programmatic and architectural accessibility.

Additionally, Virginia’s Strategic Plan for implementation of WIOA Title I, Wagner Peyser and UI ensures that all one-stop services are available and accessible to individuals with disabilities through assistive technologies and the availability of brochures and other materials in multiple formats within the Virginia Workforce Board State Plan. The VCCS EO officer also reviews and approves each local workforce development area (LWDA) local plan for implementing WIOA Title I monitoring for assurances of full programmatic and architectural accessibility.



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**State and local level policy issuances, or issuances from other recipients, are not discriminatory either in intent or in effect. (29 CFR Part 38.54)**

The State-level EO officer (or designee) checks the policies developed during the annual monitoring to ensure they are not discriminatory either in intent or in effect.

**Policies on WIOA Title I, Wagner Peyser and UI nondiscrimination and/or equal opportunity issues are developed and implemented in a timely manner.**

Virginia has made a concerted effort to ensure all nondiscrimination and/or equal opportunity policies are published as quickly as possible. EO officers throughout the state have made a commitment to ensure that all recipients are in full compliance with all parts of Section 188 of WIOA and the requirements of 29 CFR Part 38.

State and Local level Policies and Issuances

A comprehensive Accommodation Policy, Harassment, and Discrimination Policy remain in full force and effect for all VEC, VCCS and LWDA employees. The State-level EO officer and VCCS EO officer have reviewed the policies, as well as all others applying to VEC, VCCS and LWDA staff or registrants and found that they are not discriminatory in intent or effect.

To ensure that all LWDA and subcontractor policies are also not discriminatory in intent or effect, VCCS has required all recipients of WIOA Title I funds to have their own Accommodation and Harassment policies assessed through monitoring reviews by the VCCS Equal Opportunity Officer. VEC also has comprehensive Equal Employment Opportunity policies that prohibit unlawful discrimination and harassment. The State-level EO officer have reviewed these policies and deemed the policies not discriminatory in intent or effect. Compliance with assurances language requirements is monitored on an annual basis via EO and nondiscrimination monitoring.

**Sample Assurance Language:**

**NONDISCRIMINATION AND EQUAL OPPORTUNITY COMPLIANCE CERTIFICATION**

This certification is required by regulations implementing Section 188 of WIOA, "Nondiscrimination," as promulgated in 29 CFR Parts 31 and 32.

**§38.25 A grant applicant's obligation to provide written assurance.**

(a) *Grant applicant's obligation to provide a written assurance.* (1) Each application for financial assistance, under Title I of WIOA, as defined in § 38.4, must include the following assurance:



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(i) 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 has the ability to comply with the nondiscrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the award of federal financial assistance:

(A) Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I-financially assisted program or activity;

(B) Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin;

(C) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

(D) The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

(E) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

(ii) The grant applicant also assures that, as a recipient of WIOA Title I financial assistance, 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.

(2) The assurance is considered incorporated by operation of law in the grant, cooperative agreement, contract or other arrangement whereby Federal financial assistance under Title I of WIOA is made available, whether it is explicitly incorporated in such document and whether there is a written agreement between the Department and the recipient, between the Department and the Governor, between the Governor and the recipient, or between recipients. The assurance also may be incorporated in such grants, cooperative agreements, contracts, or other arrangements by reference.

(b) *Continuing State Programs.* Each Strategic Four-Year State Plan submitted by a State to carry out a continuing WIOA financially assisted program or activity must provide the text of the assurance in paragraph (a)(1) of this section, as a condition to the approval of the Four-Year Plan and the extension of any WIOA Title I assistance under the Plan. The State also must certify that it has developed and maintains a Nondiscrimination Plan under § 38.54.



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Attachments Element Three - Contracts, Assurances and Other Agreements

- 3-(a) VCCS Guidance on Equal Opportunity Assurances to Local Workforce Development Area (LWDA)
- 3-(b) Sample of VEC, VCCS and LWDAs Contract/Applications with assurance
- 3-(c) Sample of LWDA programmatic and architectural Accessibility Requirements
- 3-(d) Virginia Workforce Board State Plan
- 3-(e) Sample of LWDA local plan for implementing WIOA (VWL 12-03)
- 3-(f) Sample of State and Local level Policies (Nondiscrimination, Accommodation, Accessibility, Prevention of Sexual-Harassment policies, Workplace Civility Policy)



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## **Element Four: Affirmative Outreach**

Virginia addresses how it and its recipients are complying with and will continue to comply with the requirements of 29 CFR 38.40 relating to the provision of affirmative outreach and equal access to programs and activities.

### **Narrative Explanation of Activities**

All workforce development service providers are complying with and will continue to comply with the requirements of 29 CFR Part 38.40 relating to the provisions of affirmative outreach for programs and activities.

In implementing WIOA Title I, Wagner Peyser and UI programs, Virginia is working to improve coordination between and among agencies through integrated service delivery (comprehensive workforce centers). This is done so that workers and job seekers have more seamless access to a system of high-quality career services, education, and training through the one-stop service delivery system and partners. It is also improving access to education and workforce services for individuals with significant barriers to employment – some veterans, individuals with disabilities, out-of-school and at-risk youth, and other populations – to help ensure that everyone has an opportunity to get a good job. Performance measurement also will take into account differences in the populations served in order to remove any disincentives to serving those who need the most help.

All recipients have communicated the obligations to Virginia Career Works Centers and affiliate sites to take reasonable efforts to include members of the various groups protected by regulations including but not limited to persons of different sexes, various racial and ethnic/national origin groups, various religions, individuals with limited English proficiency, individuals with disabilities, and individuals in different age groups through:

- Advertising the recipient's program and/or activities in media, such as the newspaper or radio programs that specifically target various populations,
- Sending notices about openings in the recipient's programs and/or activities to schools or community service groups that serve various populations, and
- Consulting with appropriate community service groups about ways in which the recipient may improve its outreach and service to various populations.

The recipients have advertised programs and activities in the media, on Podcast, Facebook, Twitter, Instagram, and YouTube. Partners collaborating on activities like job fairs and informational fairs marketing a wide range of services. Recipients have sent notices about openings, programs and/or



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activities to schools, community service groups that serve various populations such as African American Heritage festival, Lucy Sims Center, and Hispanic festivals. Examples are veteran programs, military spouses, women organizations, LGBTQIA2S, ex-offenders, low-income individuals, and other individuals with barriers to employment. Recipients have consulted with community service groups to include Chamber of Commerce, Korean Community Centers, Ticket to Work, Bridges to Process, United Way, Hispanic Community Centers, Department on Aging and Rehabilitative Services, and Department for Blind and Visual Impaired.

Virginia Workforce Connection (VAWC) is Virginia's electronic one-stop, workforce development system, which is an online source to connect with potential employers, search for jobs, find training opportunities, and research wage data along with industry and occupational trends. It has been developed to reach out universally to all individuals interested in employment and training services.

VAWC is a customer service network designed to assist a broad range of job seekers and employers. It includes job listings for job seekers, a venue to post their resumes for employers to review; request referrals to listed job openings; obtain information on apprenticeship programs, training benefits and labor market information. The site can be accessed any time and offers opportunities for targeted populations to benefit from WIOA Title I, Wagner Peyser and UI services.

The website ([vawc.virginia.gov](http://vawc.virginia.gov)) includes a link to our EO and Nondiscrimination notice. We have continued our efforts to ensure inclusion of the EO tagline language in all official websites, job announcements, brochures, and advertisements. The availability of this network and its volume of resources to the public offers opportunities for targeted populations to access, use, and benefit from the services. To assist in providing electronic access for all, computers with internet access have been set up at all Virginia Career Works Centers and affiliate sites throughout the Commonwealth. VAWC can be translated into Spanish by selecting preferred settings at the bottom of the web page and then selecting page preferences at the bottom of the web page, which gives you an option to select Spanish.

Virginia Workforce Connection is accessible and in compliance with Section 508 standards of the Rehabilitation Act of 1973, as well as the accessibility standards of W3C Web Content Accessibility Guidelines. Our score on site improve is "green" at 88.6 / 100 for WCAG (Web Content Accessibility Guidelines). The LWDA's website are powered by User Way Website Accessibility Widget. The software allows LWDA's to comply with the web content accessibility guidelines (WCAG 2.0).

VEC's website ([www.vec.virginia.gov](http://www.vec.virginia.gov)) also provides the same volume of resources and can be translated from English into thirteen (13) different languages (Amharic, Arabic, Bengali, Chinese (Simplified), French, German, Italian, Korean, Nepali, Punjabi, Spanish, Urdu, and Vietnamese). Various LWDA's have translated their websites at a minimum to Spanish, based on the demographics for their respective areas.



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The Virginia Career Works Centers are co-located with a statewide network of centers that provide employment, education, and training services to both individuals and employers, all in one place. These centers include programs such as Unemployment Insurance, Job Services, Vocational Education, Vocational Rehabilitation, and Youth services through a partnership with local, state, and national organizations. VEC, VCCS, LWDAs and all recipients are aware of their obligation to provide appropriate language assistance to individuals with limited English proficiency in order to ensure meaningful access to programs and services, in accordance with U.S. Department of Labor (USDOL) requirements and guidance. The Career Works Centers and affiliate sites also provide language interpreting and translation to all customers and employers seeking services. Recipients are also aware of the responsibilities to ensure that individuals with disabilities are receiving equal access to services. Virginia's Relay Service is used in local offices where phone numbers are provided to ensure communications for individuals with hearing impairments.

Customers are able to access services at the Virginia Career Works Centers and affiliate sites through self-service, staff-assisted service, workshops, and training classes, and through one-on-one staff directed-services. Levels of services are based on the needs of the customer and employers.

The VEC's primary access and communication methods for UI claimants is normally through the internet and call center, but local offices provide assistance as needed. Claimants seeking services in-person receive forms and information to assist with accessing their benefits. Career centers liaison staff receive formal classroom training to assist walk-in customers needing basic UI assistance. Claimants may be limited in English proficiency or an individual with a disability and may require special assistance. The career work center staff work with providing information and assisting claimants with reaching the call center regarding their unemployment benefits. They also provide training and assistance to UI claimants in developing training plans and job searches.

Virginia was a recipient of the UI equity grant and one of the projects focused on customer outreach and issue mitigation. Virginia established a Chief Customer Advocate position and fourteen (14) customer advocates that are located throughout the Commonwealth. These positions are responsible for developing educational materials that explain UI programs (Claimant + Employer), seminars are presented to agency stakeholder groups and workforce partners with emphasis on disadvantaged and underserved communities, regarding the availability of and access to UI programs and services. Additional duties include identifying issues and trends, making recommendations to improve efforts in promoting equitable access to the UI programs.





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Virginia has a call center that provides primary service delivery of the unemployment insurance program. The call center and the internet receive initial claims, weekly claims, and adjudication of issues. Claimants needing LEP services can call a toll-free number and select #2 for Spanish and #3 for all other languages. Claimants can use [uidirect.vec.virginia.gov](http://uidirect.vec.virginia.gov) to complete their registration with the state, update personal information, apply for benefits, file a weekly claim, file appeal, or withdraw their registration or appeal.

We have expanded efforts to our call center's Internet Voice Response system (IVRs), applying plain language to the scripts and translating the scripts. Callers can access the IVRs in ten (10) languages (Arabic, Chinese, Tagalog/Filipino, Persian/Farsi, Korean, Urdu, Amharic, French, Vietnamese and Hindi) in addition to English and Spanish.

English and Spanish options are available through the internet for online filing. Individuals with language needs other than English and Spanish can access the Language Access Coordinator and identify their language and receive services via email or phone. Claimant's calling by telephone have the option of #1 English, #2 Spanish and #3 all other language options that provide claimants and employers access to services. Once the caller has selected the option #3 for all other languages, they will hear ten (10) language options. If their language is not listed, they can select option #8 for "all other languages". The representative knows to ask the caller what language they speak and will immediately get an interpreter on the line. Language options are available in initial claims intake, adjudications, benefit payment control and eligibility reviews in English and Spanish and other languages upon request.

Claimants can receive free interpretation of any unemployment insurance document. Claim instructions and forms are readily available in English, Spanish, Vietnamese, and Korean but upon request can be provided in any language. Unemployment Insurance claims can be filed online at [uidirect.vec.virginia.gov](http://uidirect.vec.virginia.gov). We currently have online information in other languages with calling instructions to get basic information and questions answered about Unemployment Insurance claims. The Claimant Handbook and Benefit Rights and Responsibilities include information on filing a discrimination complaint. The Claimant Handbook sections are translated into Amharic, Arabic, Bengali, Chinese (simplified), French, German, Italian, Korean, Nepali, Punjabi, Spanish, Urdu and Vietnamese. All documents and information contained on the [www.vec.virginia.gov](http://www.vec.virginia.gov) website can be received in thirteen (13) different languages other than English which were officially translated.

Virginia's First Level Appeals (FLA) and Commission Appeals (CA) offer different language options for communicating with claimants and employers in accordance with the two UIPLs cited below. For simple correspondence, FLA and CA sometimes use web-based multilingual translator applications such as Babel Fish to interpret customers' letters. Propio offers telephonic interpretation services. All of the notices (agency-generated Notice of Appeal or Notice of Hearing) contain instructions that "If you feel you need an interpreter, immediately notify the Clerk of the Commission (for FLA or CA) contact number is provided on the notice." If an individual contacts and requests an interpreter for a scheduled appeal



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hearing or a call to agency staff, one will be arranged through Propio. These language options are offered in the functional areas of appeal as follows:

- First Level Appeals' two notices: (1) Notice of Appeal and (2) Notice of Hearing before an Appeals Examiner in English and Spanish, and
- Commission Appeal's notices (1) Notice of Appeal and (2) Notice of Commission Hearing.

VEC regularly reviews interpreter service call data to identify customer language needs. Notices regarding Unemployment Insurance filing are posted in the local offices in Spanish and English. Filing instructions and information for Unemployment Insurance (UI) is online in Spanish, and prompts are available by phone to select the option to hear filing and information regarding UI program in Spanish and other languages as requested. VEC has UI Benefits Program flyers with instructions on how to contact the UI claims center for information and how to apply for benefits. In addition to the toll-free number, it also provides numbers for assistance in the customer's preferred language.

In the past, ineffective communication has made it difficult to ensure equal and equitable services to all individuals in navigating the unemployment program. Even with the various options of translating and interpreting the forms and applications into various languages and offering auxiliary aids to the customers with disabilities the unemployment process was confusing and overly complex which made it difficult for the average person to understand. With this grant, Virginia is reviewing all unemployment documents, applications, letters, correspondence and applying clear and easy to understand language. Virginia also applied plain language to the Internet Voice Response System (IVRs) scripts and is now translating into the top eleven (11) languages other than English.

### **Ensuring Accessibility**

Virginia is committed to making all services, facilities and information accessible and usable by individuals with limited English proficiency (LEP) and individuals with disabilities to ensure that they have equal access to all services and facilities. Virginia continues efforts to ensure that services are made to provide equal access to different genders, racial and ethnic groups, and individuals with disabilities.

### **LEP Individuals**

VEC, VCCS and LWDA's have taken specific steps to broaden the composition of its participant pool to include individuals with limited English proficiency (LEP) skills. Statewide LEP training is provided to staff to ensure that all staff and partners are knowledgeable and capable of providing services to LEP individuals. A LEP customer is an individual whose primary language for communication is not English and who has a limited ability to read, speak, write, and/or understand English.



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Bilingual positions have been established throughout the recipient's programs in an effort to ensure effective communication with LEP customers. The recipient's HRMS section approves the establishment of these positions based on program needs, applicant's skills, abilities, and other identified criteria.

VEC bilingual database of employees with foreign language skills and American Sign Language (ASL) is available to all employees. The VEC currently has thirty-eight (38) employees providing over ten languages (Chinese, French, German, Italian, Portuguese, Spanish, Tagalog, Punjabi, Hindi, and Urdu) for non-vital information and two (2) employees have signage abilities. This listing is available to all employees. Virginia has implemented the certified translate application to the website to aid LEP individuals. The certified translation services enhance fourteen (14) languages throughout the website.

Propio (language translation services) is a contract service used to interpret (in-person/over the phone) and provide translation services of vital documents for all LEP customers. Service is provided in more than 225 languages and a direct, 4-digit language codes/keys for the 25-30 most popular language requests. For all others, one would press #99 to be connected with an appropriate interpreter. The LWDAs use Language translation services (Propio and Language line) to ensure customers receive accurate translated information.

All recipients' managers have been made aware of their obligation to provide appropriate language assistance to persons with limited English proficiency (LEP) in order to ensure meaningful access to programs and services. The recipients have LEP policies and LEP Plans in place to ensure compliance with our obligations. Assessments are conducted by the recipients to determine significant language groups emerging and dwelling in their area of coverage that may require assistance.

Current census statistics for Virginia indicate a significant population of persons who speak Spanish representing 4.5% of the population in Virginia and 14.9% of that Hispanic population that speak English "not well" and 4.7 that speak English "not at all." The next top five languages that have been identified were French (Patois, Cajun) at 0.6%, Korean at 0.6%, Tagalog, Vietnamese, and German at 0.5%.

An assessment of Propio interpreting and translation service shows which languages are in-demand in Virginia. This assessment reflects that Spanish is the top language being translated at 62% of languages service delivered; the next highest languages being requested were Amharic at 9%, Vietnamese at 6%, Arabic at 5.6%, Korean 3.5%, Mandarin 2% and Urdu at 0.87%.

Recipient's limited English proficiency (LEP) policies have been developed throughout the Commonwealth and VEC and several LWDAs because of the diverse demographics that have developed unique LEP plans for their programs. The program year from 7/1/2021 through 6/30/2022 reflects one thousand and ninety-eight (1,098) customers have identified that their preferred language as Spanish 43.26%, Arabic 6.38%, Persian 6.10%, Tagalog 4.19%, French 3.55% and Korean 2.91%.



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The current program year from 7/1/2022 through 2/13/2023 reflects nine hundred and fifty-seven (957) customers have identified that their preferred languages as Spanish 44.20%, Arabic 6.60%, Persian 9.82%, Amharic 3.34% and French 4.28%. Interviews were conducted in each of Virginia Career Works Centers and affiliate sites annually to determine if the staff knew what to do if a request was made, how to request services, what languages were being used and whether staff needed additional training. Customer surveys are also conducted annually to assess the level of service that is being delivered and any concerns that were identified. As a result of the surveys, additional training was provided to all staff and several customary forms were identified for translation in Spanish. An Accessibility Policy has been developed and implemented to ensure that all employees understand our obligation to provide equal and meaningful access to all participants. Each LEP policy provides resources and information to employees to assist with providing meaningful access to LEP persons.

The State-Level EO officer established a limited English proficiency (LEP) Policy and plan template that LWDAs can use in setting up their specific policy or plan. The Language Access Coordinator (LAC) assists each LWDA with formalizing their policy and plan upon request. The Language Access Coordinator (LAC) also assists with developing points of contact with advocacy groups, community organization, developing surveys, monitoring of the plan, and conducting a quality assessment of each LWDA LEP plan annually to ensure that initiatives, programs, services, and activities are made available to participants seeking the LAC and various committees address several key requirements in the LEP guidance issued by the USDOL Civil Rights Center. The State-Level EO officer serves as chair of the language access committee. Individuals on the committee are charged with updating the LEP plans and policies that provides guidance on:

- Conducting the required assessment of LEP demographics and language needs using the “four factor” analyses provided by USDOL,
- Developing guidance and timetables for EO officers of the LWDAs, and
- Identifying documents in each program that require written translation and the priority for completing the translation.

The LEP Guidance for full participation for Limited English proficient customers provides requirements and guidance for providing language services for programs and services. LWDAs use the LEP Guidance as a model to develop their own. However, Virginia and its recipients have continually provided meaningful access to LEP customers. The State-Level EO officer has monitored for access to language services through EO and nondiscrimination compliance reviews.

Census statistics continue to indicate that Spanish is the primary language used among the LEP population in Virginia. The LWDA and VEC LEP committees will continue to assess and identify any additional assistance required in the changes of demographic growth throughout the state.



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### **Individuals with Disabilities**

VEC, VCCS, LWDAs and recipients have collaborated with the Virginia Assistive Technology department to increase employee awareness of assistive technology for all types of disabilities. Several training sessions and video conferencing have been held to provide the available support in the form of technical assistance and equipment for partners. This partnership has been made valuable to ensure services provided to customers with disabilities are as effective as those provided to other customers. The Virginia WIOA Accessibility Taskforce Group has been working with The LEAD Center led by the National Disability Institute to integrate a seamless one-stop service delivery system that is welcoming and fully accessible to everyone, in which every individual has the opportunity to reach their potential. All program materials (including posters, brochures, flyers, pamphlets, and other materials) are printed in languages other than English and in alternate formats, as applicable. TTY/TDD's are available in all of the VA Career Works Centers and affiliate sites along with the Virginia Relay Services to ensure effective communication for all customers. This ensures that the maximum number of citizens in the Commonwealth are able to participate in the services offered and the websites are compatible with software that assists the visual and hearing-impaired individuals. The website is also approved for compliance with Section 508.

Virginia Department for Aging and Rehabilitative Services (DARS) has been instrumental in the delivery of training to VEC, LWDAs and VCCS staff through a series of ZOOM sessions to include DARS Disability Awareness Training.

Virginia's partners (VEC, VCCS, LWDAs, DARS, DSS, DBVI, VDDHH), and Independent Living system continue to work with the LEAD Center to ensure equal access for persons with disabilities and to provide training for staff. The taskforce continues to identify needs and develop programs and resources to provide effective employment and training services for people with disabilities and build capacity within the Virginia Workforce Connection system to serve job seekers with disabilities. This taskforce was instrumental in developing and implementing the statewide initiative of accessibility certification to all career workforce centers and affiliate sites. The team will continue to work on efforts to ensure that all individuals with disabilities have equal and effective access to services, activities and programs.

For individuals with hearing impairments, telecommunication devices, Virginia Relay, teletypewriters (TTY), services are provided through the Virginia Department for the Deaf and Hard of Hearing. VDDHH CART services (Communication Access Real-time Translator) are available whenever necessary upon request for scheduled hearings requiring such services. All adjudication notices and correspondences are sent with a "tagline" explaining that auxiliary aids and services are available upon request to individuals with disabilities. (See attached Interpreter Request Procedures).



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### **UI Customer Outreach Initiatives**

Virginia's customer outreach initiatives are focusing on enhancing our customer communications and issue resolution. A number of these opportunities for improvement involves claims from customers with disabilities, LEP, disadvantaged and underserved communities or those who had other access to service issues. To address these opportunities for improvement and improve the experience for all customers, Virginia created the position of Chief Customer Advocate and (14) fourteen local customer advocates that will be located throughout the Commonwealth of Virginia.

### **Statewide Initiatives**

#### **Virginia Transition Assistance Program (VTAP)**

VTAP offers transitioning service members and their spouse the best Virginia has to offer, by providing peer-to-peer support through the transition process. VTAP works alongside the transitioning service member or spouse to make referrals that address specific needs. The referral services could include, but is not limited to resume review, introduction to the Virginia Labor Market index, connection with the Virginia Values Veterans (V3) program, certified companies for employment and other programs. The VTAP core areas of focus are those seeking employment, education, and entrepreneurship, but we will also assist those with needs outside those three core areas. Virginia's V3 program brings veterans and employers together across the Commonwealth. The V3 program not only aims to educate and train companies on why it is a good business decision to recruit, hire, train, and retain veterans, but also to help those committed companies meet their hiring goals. The program helps employers develop and implement long-term strategies and nationally recognized best practices in recruiting, hiring, and retaining veterans. Currently, we have 2,388 certified companies, 997 enrolled companies and 108,464 Veterans hired.

#### **Improving Employment Opportunities and Outcomes for People with Disabilities**

Virginia's agencies are required to establish a Disability Employment plan and to provide a person to serve on the Disability Employment Taskforce. DHRM provides resources to assist with the initiative to include "A Guide to Increasing the Successful Recruitment and Hiring of People with Disabilities." (February 2009). This guide was developed as a result of a grant funded by the Virginia Board for People with Disabilities. The project entitled "Promoting Partnership and Employment for Virginians with Disabilities," was developed and implemented as an initiative promoting public – private partnerships to increase employment in state government agencies for people with disabilities. This initiative included training and resources to state approved staffing agencies, state hiring managers, community rehabilitation programs, and staff with the state rehabilitation agencies on the benefits of recruiting and hiring people with disabilities. The program provided training opportunities as well as a system of recruitment of jobseekers with disabilities for the state approved staffing vendors. The Affirmative Action use report shows 21% of employees have been identified as persons with disabilities.



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An on-line course, “Employing People with Disabilities: A Business Perspective” provides participants the abilities to be able to build a more diverse and inclusive culture by implementing a number of practical and forward-thinking strategies.

Virginia’s diverse, action-oriented WIOA taskforce, which is partnering with the LEAD Center, is influencing policy, clarifying roles of partners, and leveraging promising practices from the State’s Diversity Opportunity Inclusion (DOI) to improve programmatic access and outcomes for individuals with disabilities. Our mission is to ensure an inclusive work environment where people with disabilities can flourish, where their talents and abilities are valued and recognized, and they feel safe and welcomed to contribute to making a difference for our customers.

### **Gender Transition Guidance**

The Department of Human Resources Management (DHRM) has issued a guidance document on Gender Transition in the Commonwealth. The document can be accessed at link: [gender-transition-guidance-revised.pdf \(virginia.gov\)](#).

### **Priority of Service**

VEC has implemented procedures regarding the priority of service for veteran customers of the Virginia Career Works (Proud Partner of American Job Centers) centers. The Jobs for Veterans Act (JVA) of 2002 created a priority of service requirement for all qualified DOL job-training programs. “Qualified job training programs,” are defined by the law as “any workforce preparation, development or delivery program or service that is directly funded, in whole or in part, by the agency.”

### **Outreach and Recruitment**

Efforts to provide services to a substantial segment of the population are based on census data, labor market analysis, service need assessments, and information from community and social service organizations, educational institutions, employers, and labor and community service advocates. LWDAAs are made up of representatives of public and private agencies, educators, employers, and community-based organizations that provide services to the disadvantaged, underserved, underemployed and targeted groups within their communities. They share a mutual interest in improving employment opportunities to meet the needs of employers and in improving the economic conditions in their communities. Through the development of local strategic plans, cooperative efforts are now in place for all recipients in the workforce development system.

Ongoing activities continue to provide universal access to programs, activities and services. Samples of demographic information can be found in the attached local area strategic plans for local workforce development areas. The plans include samples of data such as:

- Current and future workforce,
- School dropout rates,



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- Percent of population by gender, race, and Hispanic origin; state and county population by age; Public school enrollment by race/ethnic origin; persons with disability status,
- People of all ages in poverty, and
- Other data used by the LWDAs to help determine program priorities and provide equal access for all.





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### **Outreach to Target Groups**

The State WIOA Plan requires local areas to reach out to specific target groups including women, minorities, older individuals, individuals with limited English proficiency, and persons with disabilities. Virginia requires each local area to ensure that outreach and recruitment plans are implemented to broaden the composition of the applicant, registrant, and participant pools.

Several communications have been established to disseminate messages to minority populations most likely to be disenfranchised, including but not limited to:

- Producing flyers on topics such as worker protection, how to file wage complaints, how to file discrimination complaints, how to report a workplace injury, discrimination in the workplace, how to file for unemployment benefits, and many more.
- Developing a Q&A Guide to help answer frequently asked questions for those collecting unemployment benefits, to provide information about housing rights to those who are most likely to be discriminated against, to inform workers who make minimum wage aware of their rights, and many more.
- The VEC website offers alternate languages: "Do you prefer to speak another language? Translation services are available!".
- A link has been established on the VEC's website, "Do you need an ADA Accommodation? Auxiliary aids and services are available to individuals with disabilities."

### **Demographic Information to Target Underserved Populations**

Virginia is able to gather and conduct statistical data analysis by the required demographics (race, ethnicity, gender, age and English-proficiency) and conduct an assessment. This information is available to each LWDA to assist in their limited English language proficiency (LEP) assessment and planning efforts, and to develop service in accordance with specific regional population growth. Local workforce development areas are required to conduct their statistical data analysis annually. Local level EO officers may also obtain data from VAWC and EIA data reporting system to enhance their capacity to perform region specific analysis. For programs, services and activities that are not captured in VAWC, they must be analyzed by the local workforce development areas annually, or as needed.

### **Communication of Effort to LWDBs, One-Stop Operators and Service Providers**

In an effort to broaden the composition pool of those considered for participation in programs and activities, Virginia has made region-specific demographic information available to LWDBs, as well as local managers in Virginia Career Works Centers. It has also required outreach to target groups through the State WIOA Plan and local plan. This effort must include individuals with limited English-language proficiency (LEP), individuals with disabilities and minority groups.



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### **The Employment Applicant Pool**

Virginia has also taken steps to broaden the composition of its employment applicant pool. The agencies regularly place job advertisements in local newspapers catering to Hispanic, African American and women viewers, local colleges and universities, local organizations and outreach centers. As vacancies occur, agencies are able to recruit from the merit register by classifications maintained by their HR Department.

Recipients have made efforts and will continue to extend outreach to broaden the composition of those considered for participation or employment in their programs or activities. Examples of outreach efforts are as follows:

- Seventeen (17) Virginia Career Works (Proud Partner of American Job Centers) Centers are designated as comprehensive one-stops that are widely advertising program, activities and services with flyers posted and distributed in locations easily accessible to all the public. Examples include flyers sent to social service agencies, public health clinics, community action programs, rehabilitative services, mental health agencies, and other community-based organizations. Notices are sent for posting in public schools, libraries, and local community grocery stores catering to members of target populations.
- Television, radio and social media are used to advertise employment opportunities, and that WIOA programs and services are available to the public. Examples include TV broadcasts; information is also available via a website that offers an online listing of jobs for many companies and career information for job seekers and employers. Local newspapers routinely publish featured articles on the Virginia Workforce Center programs and the services that are available. Many TV stations announce job fairs and job openings regularly, free of charge.
- Virginia Career Works Centers and affiliates managers interact regularly with partners such as the Department of Social Services, DARS, and the Health Department interagency activities to exchange programs, services, and referral information. All agencies promote public relations by providing forums to educate customers about programs and services that are available.
- Representatives of diverse populations are included in announcements, advertisements, or media program promotions.
- Newspapers, journals, and other media publications primarily representative of diverse or targeted populations are used for recruitment and/or program advertisements to provide public information about the available services and opportunities.



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### **Monitoring**

LWDAs continue to monitor their customer composition by comparing the local labor market information with data from the Virginia Workforce Connection database such as Efforts to Outcomes (ETO). These reports show the makeup of their participants, including members of both sexes, various racial and ethnic groups, individuals with disabilities, and individuals in differing age groups. They work with their recipients and other community organizations to share information, sponsor job fairs, and provide outreach to target various populations.

Through onsite compliance reviews, the State-Level EO officer continually monitors and evaluates efforts by VEC, VCCS and LWDAs to broaden representation of persons in programs, services, and employment. Training is provided annually and quarterly on specific topics to ensure that we are providing equal access of services to customers with limited English-language proficiency (LEP) and individuals with disabilities.



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**Attachments Element Four - Affirmative Outreach**

- 4-(a) State WIOA Combined Plan 2020 - 2024
- 4-(b) LWDA Demographics
- 4-(c) Languages of Virginia
- 4-(d) Virginia Performs Data Analysis
- 4-(e) Equal Opportunity is the Law Poster
- 4-(f) Assuring Equal Access to Job Seekers with Disabilities and limited English proficiency customers in Virginia's One Stops
- 4-(g) Priority of Services Veterans
- 4-(h) Equal Opportunity Plan
- 4-(i) Job Seeker Services/Resources
- 4-(j) VAWC.gov Home Page
- 4-(k) VAWC.gov Training Page
- 4-(l) Sampling LWDA Strategic Plan
- 4-(m) Sampling LEP Policies and Plans
- 4-(n) UI Benefit Rights and Responsibilities (English & Spanish)
- 4-(o) LAA/HAA Appeals letters in Spanish (Samples)
- 4-(p) Veterans Transition Support  
[Virginia Values Veterans \(V3\) Program - Virginia Department of Veterans Services](#)
- 4-(q) DHRM Gender Transition Guidance
- 4-(r) DHRM Guidance for Alternative Hiring Process (AHP) Code 2.2-203.2:3.
- 4-(s) Registered Apprenticeship Program
- 4-(t) Sampling DOI Initiatives
- 4-(u) Sampling of WIOA Training
- 4-(v) Sampling of Outreach Plans
- 4-(w) Sampling of Translated Documents
- 4-(x) Registered Apprenticeship Program



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## **Element Five: Compliance with Section 504 of the Rehabilitation Act of 1973, as amended and 29 CFR Part 38**

Virginia addresses how it and its recipients are complying with and will continue to comply with the requirements of the disability-related requirement of Section 188 of WIOA; Section 504 of the Rehabilitation Act of 1973, as amended; and their implementing regulations, including but not limited to 29 CFR 38.12 through 38.17; Subparts B and C of 29 CFR Part 32; the American with Disabilities Act of 1990, as amended; and Virginia HRA Title 2.2.

### **Narrative Explanation of Activities**

Virginia is committed to making all services, facilities, and information accessible and usable by individuals with disabilities. This applies to all programs, services and activities provided by or made available within the Virginia Workforce Connection ([vawc.virginia.gov](http://vawc.virginia.gov)) to customers, potential customers, job applicants, employees, volunteers, and recipients.

Virginia ensures nondiscrimination on the basis of disability by:

- Providing opportunities for participation or benefits equal to that afforded to others.
- Providing financial aid, benefits, services or training equal to that provided to others.
- Ensuring that qualified individuals with disabilities are offered the option of participating in the same programs or activities offered to non-disabled individuals.
- Denying assistance, either directly or through contractual licensing or other arrangements, to any agency, organization or person that discriminates on the basis of disability.
- Ensuring that licensing and/or certification programs operate in a matter that does not discriminate against qualified individuals with disabilities.
- Ensuring that eligibility criteria do not screen out individuals with disabilities from fully and equally enjoying any aid, benefit, service, training, program, or activity, unless such criteria can be shown to be necessary for the provision of the aid, benefit, service, training, program, or activity being offered, and
- Eliminating barriers to employment and providing accommodations in the workplace.

During monitoring reviews, the State-Level Equal Opportunity (EO) Officer and LWDAs EO officers evaluate employment practices to ensure there are no barriers to employment.

### **Reasonable Accommodation for a Disability**

Virginia is committed to providing reasonable accommodations to qualified individuals with disabilities in all aspects of its programs, services, activities, and employment, unless providing the accommodation would cause undue hardship. Reasonable accommodations are modifications or adjustments made that



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enable a qualified individual with a disability to perform the essential function of a job, or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities. [See the glossary of terms for a comprehensive definition/explanation of reasonable accommodations.]

Accommodations may include, but are not limited to, qualified sign language interpreters (provided real-time interpreting services via Propio; or in person ASL interpreting), auxiliary aids, and alternate formats. Reasonable modifications in policies, practices, or procedures are made, when necessary, to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity. Throughout the Commonwealth the various workforce career centers and affiliate sites have TTY/TDD machines, accessible workstations (desk, keyboard, mouse, headphones), amplified phone, Captel phone, Video Remote interpreting (VRI), video relay services, screen magnifier, JAWS, MAGIC and MS Speech Recognition, access to sign language interpreter, written materials, Purple, LED lightening, text size, pause animations, tooltips, dyslexia font, braille documents and staff can serve as readers. These are just a sampling of auxiliary aids for our individuals with disabilities seeking services.

### **Program Accessibility**

Virginia takes the necessary steps to ensure that services, programs and activities are readily accessible by individuals with physical, mental, or sensory impairments, include the following:

- Recipients have developed and implemented policies and procedures to ensure that staff are trained on our obligation to ensure equal access to services and programs. The Reasonable Accommodation, Accessibility and Nondiscrimination Policy and training have been provided to all staff, which reflects our commitment to providing timely, reasonable accommodations to the known physical, mental or sensory limitations of an otherwise-qualified employee or customer with a disability. The accommodations may include adjustments and modifications that allow a person with a disability to perform the essential functions of the job, enjoy the benefits and privileges of employment, or participate in programs, services, and activities. Qualified sign language interpreters, readers, and other auxiliary aids are provided upon request.
- Virginia Workforce Connection operates each service, program, or activity so that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. All programs, services and activities are offered to individuals with disabilities in the most integrated setting appropriate to them. To achieve program accessibility, Virginia Career Works Centers considers the redesigning of equipment and the provision of appropriate auxiliary aids and services, including assistive technology and sign language interpreters. [VaWC.virginia.gov](http://VaWC.virginia.gov) site meets or exceeds the requirements of Section 508 standards of the Rehabilitation Act of 1973, as well as to the accessibility standards of W3C Web Content Accessibility Guidelines.
- The Workforce Innovation and Opportunity Act (WIOA) Equal Opportunity and Nondiscrimination Policy states that recipients funded under WIOA, whether in whole or in part, are responsible for ensuring equal opportunity and nondiscrimination in programs and activities. Each program or



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activity, when viewed in its entirety, must be operated in a manner that makes it readily accessible to qualified individuals with a disability.

The U.S. Department of Labor (USDOL) Office of Disability Employment Policy's Section 188 Disability Checklist has been distributed to all Local Workforce Development Areas (LWDAs).

Virginia continues to assist registrants, applicants, eligible registrants, and participants with disabilities by providing the following:

- Comprehensive accessibility assessments — Surveys of the comprehensive and affiliate Virginia Career Works Centers using the ADA Accessibility Guidelines have been completed through annual monitoring.
- Individual disability access improvement plans — Plans have been developed by each center based on the results of their assessment. Policies and procedures for serving customers with disabilities have been developed and disseminated.
- Staff training — Customer Service awareness and training on issues related to serving people with disabilities has been incorporated into all the major conferences and training events held in the Commonwealth.
- Technical assistance — Video conferencing and classroom training is provided by DARS (Assistive Technology (AT) our partner. They demonstrate the use of assistive tools to ensure staff is ready to help the customers seeking services.
- State Initiative - Virginia's Disability Employment Plan "Promoting Partnership and Employment for Virginias with Disabilities" provides training opportunities as well as a system of recruitment of jobseekers with disabilities for state approved staffing vendors.
- Partnerships – Joint partnerships (DSS, IL, DARS, VR, VCCS, DOE) continue to identify and implement strategic goals and processes to ensure equal access for persons with disabilities and providing uniform training for all staff. The workforce taskforce continues to identify needs and develop programs and resources to provide effective employment and training services for people with disabilities.

The Virginia IT Agency has adopted new standards for technology accessibility. Recipients need to adhere to the following standards:

- All covered technology must be accessible to and usable by individuals with disabilities, either directly or by supporting the use of assistive technology. Standard 188.10 - Minimum Accessibility Standard outlines the minimum levels for compliance. This includes all covered technology acquired, procured, developed, modified, or substantially enhanced after the effective date of the policy, including software available at no cost.
- Where a covered technology cannot be brought into compliance, the system or content owner is responsible to provide individuals with disabilities equivalent access.
- For each instance of non-compliance of a new covered technology, a waiver must be requested and approved.



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### **Architectural Accessibility**

State entities, including VEC, VCCS, and LWDAs recipients of WIOA Title I, Wagner Peyser, and UI are required to follow specific requirements of the Americans with Disabilities Act (ADA), as amended. LWDAs have been informed of their obligation to abide by USDOL EO and nondiscrimination provisions and other federal agency requirements of the ADA. Virginia Career Works Centers and affiliate sites that are not state-owned/leased must abide by local building codes and standards for accessibility as well.

Virginia has taken steps to ensure all programs and activities are architecturally accessible to individuals with disabilities that includes:

- Policy and Procedure - Reasonable Accommodation and Nondiscrimination on the Basis of Disability provides:
  - “Virginia ensures that VEC, VCCS and LWDAs operates its services, programs and activities so that, when viewed in their entirety, they are accessible to qualified persons with a disability.”  
“A program must be accessible to clients, or a comparable program must be made available at an alternate site that is accessible.”
- Each facility at lease renewal identifies and address any issues to ensure compliance with the requirements of the Americans with Disabilities Act of 1990, as amended. This checklist meets the requirements for barrier-free access per ADAAG standards and is used to evaluate new and existing facilities.
- The evaluation focuses on site access; signage at primary building entrances of inaccessible facilities; interior door and corridor widths; public restroom requirements; in addition to, other architectural specifications per the ADAAG standards. Copies of the facility evaluations are maintained in the facilities unit. The checklist and sample evaluations are included in attachments (Element 10).
- The LWDAs provide criteria that must be followed for Virginia Career Works Centers and affiliates certification. (Samples of ADA certifications are attached for each facility).
- Each EO Federal Program Monitor is provided with an ADA measuring device – a pressure gauge and an ADA tape measure. The instruments assist the monitors in conducting the EO and nondiscrimination reviews and Virginia Career Works Centers Administrators in keeping their centers accessible for individuals with disabilities.

### **Communication**

VEC, VCCS and LWDAs take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. Auxiliary aids and services are provided, when appropriate and necessary, to afford individuals with disabilities opportunities to participate in and enjoy the benefits of WIOA Title I, Wagner Peyser and UI financially assisted programs and activities. The Virginia Relay Service is used to communicate with individuals who are hard of hearing, deaf, or have speech impairments. Where site telephone numbers are provided, the relay service number is always provided.





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The websites are reviewed to ensure that tagline is provided to notify customers, participants, and clients that auxiliary aids are available upon request for individuals with disabilities. This is also monitored during the desk and onsite monitoring to ensure all documents, materials such as flyers, brochures, forms, emails, have the tagline in an effort to provide continuous notice of available auxiliary aids upon request.

The centers and affiliate sites have found ways to display that auxiliary aids are available upon request. For example, signs that indicate “How Can We Help You” and “Auxiliary Aids are Available” are highlighted throughout the centers resource rooms. Part of the annual monitoring includes identifying auxiliary aids that are available in each center or affiliate sites. The AT-AA-Matrix Checklist is completed during the reviews. This checklist is shared with each staff person and used to readily identify what is available when individuals with disabilities enter the facilities and request accommodations.

In completing these checklists, we have identified the following aids for vision impairment individuals such as screen magnifier, Zoom text, screen narrator, text to speech feature, JAWS, audiotape, braille “EO is the Law,” Fire Alarms with Visual Alerting System, large button telephone, large print, and staff as readers are some of the few auxiliary aids available.

For mobility impairments we offer ergonomic keyboards, trackball mouse, adjustable keyboard trays, adjustable height desks, adjustable worktables, chairs, and Dragon Naturally Speaking software are just a few available resources.

For hearing impairments, we offer telephone with volume control, amplified handset, TTY/TDD telephone, video text, relay services, closed caption, written materials, staff notetakers, Purple software, video remote interpreting services (Propio) and in person ASL interpreting services are just a few available resources.

VEC, VCCS and LWDAs are aware of their obligation to ensure that communications with members of the public, customers, and applicants with disabilities are as effective as communications with others. WIOA Equal Opportunity and Nondiscrimination Policy states that recipients must ensure programs are provided in the most integrated setting appropriate for the needs of individuals with disabilities, and that communications with individuals with disabilities are as effective as communications with others.

We are committed to ensuring that our programs, services, and activities, when viewed in their entirety, are readily accessible by individuals with physical, mental, or sensory disabilities. When requested, qualified sign language interpreters, readers, and other auxiliary aids will be provided. Documents and publications are made available in alternate formats to include audio recordings of “EO is the Law” in English and Spanish and “EO is the Law” braille documents.



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### **Records**

VEC, VCCS and the LWDA's ensure the confidentiality of information related to an individual's medical condition that may reveal the presence of a disability as noted at 29 CFR 32.15(d) and the Americans with Disabilities Act, as amended. Medical condition information is kept in a single, secured location separate and apart from other files. Electronic systems also support separate recordkeeping for medical condition information. Pre-employment/employment medical inquiries are conducted in accordance with Section 188 of WIOA and ADA regulations of Section 504 of the Rehabilitation Act of 1973, as amended. Specific guidance is referenced in recipients' policies. EO monitoring ensures adherence to these provisions.

The Reasonable Accommodation and Nondiscrimination on the basis of disability states in the employee section that upon completing the reasonable accommodation process, all supporting information needs to be forwarded to the Human Resource Division. It will be filed in a secure location and locked, separately from an employee's personnel file. Information about an individual's disability is limited to designated personnel and only provided on a "need-to-know basis."

All clients, participants or customer's medical documentation is maintained in an electronic case management system, password protected and accessible only by authorized staff. Participant medical information is maintained in a separate file, stored in a locked cabinet, and accessible only by authorized staff.

Staff utilizes the reasonable accommodation log to track requests for accommodations that are made by participants seeking services, programs, or activities. Requests are accepted verbally or in writing and policies are in place to provide staff with instructions on how to provide accommodations. Training is provided to staff periodically throughout the year on the available types of accommodations, the policy, and our expectation to provide equal access to services.

### **Employment Practices**

- Recruitment and hiring procedures and policies are established and followed to ensure that potential candidates are notified of accommodations for individuals with disabilities and the process to request is on all postings, job descriptions and applications.
- The procedures and policies also ensure that panels that conduct interviews are diverse, and panelists are provided training on appropriate behavior, and interview questions must have prior approval.
- Requiring the provision of reasonable accommodations in employment, when appropriate.
- Reviewing job qualifications to ensure that they do not use selection criteria that screen out or tend to screen out an individual with a disability on the basis of that disability unless the criteria is job related for the position in question and consistent with business necessity.



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- Prohibiting pre-employment inquiries regarding disability except to ask the individual to self-identify himself or herself as a person with a disability on a voluntary basis for reporting purposes that will be maintained confidentially.
- Staff are trained on ADA and EO upon hire and on a regular schedule thereafter.
- Advertising is supported with informational flyers, email blasts, social media such as LinkedIn, Facebook and Instagram, radio, podcasts and TV.



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**Attachment Element Five - Compliance with Section 504**

- 5-(a) Virginia's Career Works Certification
- 5-(b) ADA Checklist
- 5-(c) Sampling Reasonable Accommodation Policy/Attachments  
Reasonable Accommodation Log
- 5-(d) Sampling Accessibility Policy
- 5-(e) Sampling Walkthrough Reports
- 5-(f) Website Accessibility Statement
- 5-(g) WIOA Taskforce Action Plan
- 5-(h) Sampling Auxiliary Aids Checklist
- 5-(i) WIOA Taskforce Training
- 5-(j) Sampling of ADA Reports
- 5-(k) Sampling of Evacuation Plans
- 5-(l) Sampling of Procedures and Forms



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## **Element Six: Data and Information Collection and Maintenance**

Virginia addresses how it and its recipient are complying with and will continue to comply with the requirements of 29 CFR 38.41 through 38.45 and 29 CFR 38.53 related to data and information collection maintenance.

### **Narrative Explanation of Activities**

All workforce development service providers and sub-recipients are in full compliance with all data, information collection and the maintenance requirements of 29 CFR 38.41 through 38.45. Virginia uses a comprehensive case management system to collect demographic data and keep this data confidential. The State-level EO officer and the local EO officers maintain logs of complaints filed that allege discrimination for a period of three years.

Virginia has established policies and procedures on data collection that applies to job seekers, employers and agency employees for all Workforce Innovation and Opportunity Act (WIOA) programs.

### **Data Collection**

All agency systems have been modified to meet the requirements for capturing and reporting equal opportunity (EO) data elements. The unemployment insurance (UI) benefits program EO data reports are produced from the Virginia Unemployment Insurance System (VUIS). WIOA EO reports are available from the Virginia Workforce Connection (VAWC) system.

Cardinal is a software application used to store information on our employees. Data, including employee information, recruitment, actions, rewards, promotions, and salary information, is captured in Cardinal.

Virginia Unemployment Insurance System (VUIS) is a system for tracking UI benefits and claimant activities. Each claimant is asked to voluntarily provide his or her:

- Race/ethnicity,
- Sex,
- Age,
- Disability status,
- LEP status, and
- Preferred language.

PageUp replaces the Commonwealth's previous Recruitment Management System (RMS). PageUp is a modern system for recruitment management, and offers recruitment management, recruitment marketing, and onboarding. PageUp is a statewide system, for capturing and maintaining data on state agency employees.



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Virginia Workforce Connection (VAWC), a management information system for tracking WIOA Title I and Wagner Peyser programs. All customers are registered through VAWC. The VAWC helps employers, job seekers, and patrons connect through this platform. When participants complete their registration to use VAWC, optional information that is collected is ethnicity, race, gender, age, preferred language (spoken at home), and disability. Registration can be conducted through on-line registration remotely or within the career workforce centers. All parties expressly agree to abide by all applicable federal, state, and local laws and regulations regarding confidential information, including Personally Identifiable Information (PII) from educational records, such as, but not limited to, 20CFR Part 603, 45 CFR Section 205.50, 20 USC 1232g and 34 CFR part 99, and 34 CFR 361.38, as well as any applicable state and local laws and regulations. In addition, in carrying out their respective responsibilities, each party shall respect the confidentiality policies and legal requirements of all of the other parties. Each party ensures that the collection and use of any information, systems, or records that contain PII, and other personal or confidential information will be limited to purposes that support the programs and activities and will comply with applicable law.

This is a job matching case management and information-tracking system that supports the collection of data used for reporting purposes. Each person is asked to voluntarily provide his or her:

- Race/ethnicity,
- Sex,
- Age,
- Disability status,
- LEP status, and
- Preferred language.

This information is confidential and is used for the purpose of recordkeeping, reporting and determining program compliance with nondiscrimination requirements. Medical documentation is maintained in an electronic case management system, password protected and accessible only by authorized staff. Participant medical information is maintained in a separate file and stored in a locked cabinet and accessible only by authorized staff.

### **Collecting Demographic Data**

Virginia uses the Virginia Workforce Connection (VAWC), which is Virginia's system of record for WIOA programs and its online source to connect with potential employers, search for jobs, find training opportunities, and research data with industry and occupational trends. VAWC is created to track information on job seekers and employers who participate in Labor Exchange, Self-Sufficiency, and/or WIOA programs. All staff, contractors and subcontractors are required to enter data into the VAWC case tracking system.



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The system is designed to collect and maintain records on every registrant, applicant, eligible applicant, participant, terminnee, employee, and applicant for employment. Through VAWC, Virginia and the State-level EO officer are able to monitor recipients' equal opportunity performance, identify instances or areas of discrimination, and identify individuals or groups of individuals who have been discriminated against on a basis prohibited by Section 188 of WIOA and 29 CFR Part 38. VAWC is designed to collect demographic information, including race, ethnicity, sex, age, preferred language (spoken at home), and disability status, where known, as required by 29 CFR Part 38, as well as, selective service registration, veteran information, employment status, low-income information, custodial and non-custodial parental information, education level, dislocated worker information, and identified barriers.

Virginia uses the Virginia Unemployment Insurance System (VUIS) to develop a family of reports to use in monitoring UI and RESEA claims. It stores EO demographic information as required by the US Department of Labor Civil Rights Center. The information is collected voluntarily when applying online or using the touchtone pad of a telephone. Each claimant is asked to voluntarily provide his or her race, ethnicity, sex, age, disability status, and LEP status and preferred language. In compliance with the guidance provided in Unemployment Insurance Program Letter (UIPLs) 46-89 and 29 CFR Part 38.41:

- Overall single-claimant claims processed, new initial claims, additional initial claims, and total initial claims.
- Single-claimant monetary determinations: total number made, total number resulting in ineligibility.
- Single-claimant nonmonetary determinations: total number made, total number denying benefits.
- Separation issues: total number made because of voluntary quits, discharge for misconduct, other; total number denying benefits because of these issues.
- Nonseparation issues: total number made because of able, available, and actively seeking work, disqualifying or deductible income, refusal of suitable work, reporting requirements, and others; total number denying benefits because of these issues.
- Single-claimant appeals: total number of lower authority appeals decisions made by separation issues (voluntary quits, discharge for misconduct, and others) and by nonseparation issues (able, available, and actively seeking work, disqualifying or deductible income, refusal of suitable work, reporting requirements, and others); total number of lower authority decisions in favor of claimants, total number of lower authority decisions not in favor of claimants; total number of higher authority appeals decisions made; total number of higher authority decisions made in favor of claimants; total number of decisions not in favor of claimants.

These reports are generated and show a year's worth of cumulative data. The report shows data for claimants living within the jurisdiction of each Virginia Career Works Centers and affiliate sites and are cumulative for the Commonwealth of Virginia.



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The Equal Opportunity officers can generate this report through VAWC. These reports are analyzed for practical statistical significance or trends in identifying evidence of systemic discriminatory activities affecting diverse population/protected categories as outlined in federal and state civil rights statutes. These reports are stored electronically on the VUIS system, which is confidential, and password protected.

This information is confidential and is used for the purposes of recordkeeping, reporting, and determining program compliance with nondiscrimination requirements. Claimant information is automatically transferred to our job registration system unless the claimant requests to be excluded. Access to this information is limited to those persons with a legitimate business need to access the systems. Access and use of information is maintained by the Unemployment Insurance Department, such as:

- UI Public Record Request,
- Online or Bulk Data/Information Sharing Policy, covering the confidentiality of information obtained by UI,
- UI Automated System Security, and
- DHRM- Standards of Conduct Policy: 1.60, states that the penalty for failure to comply with these privacy protection requirements will be grounds for nothing less than disciplinary action, up to and including dismissal, and/or legal actions against the individual.

### **Analyzing EO Demographic Data**

To verify compliance with Section 188 of WIOA and 29 CFR Part 38, every recipient upon collecting all the necessary data, is required to conduct a statistical or quantifiable analysis by race/ethnicity, sex, age and disability (if known). After conducting the analyses, any significant differences in participation for programs, activities, services, and employment practices must be investigated. Two quantifiable methods to be applied are 80% Rule (four-fifths) and the Two Standard Deviation Analysis Test. Using 80% rule (four-fifths) or “rule of thumb” is one of the typical ways of conducting impact ratio analysis. This application suggests the fact that “a selection rate for any race, sex, or ethnic group which is less than four-fifth (or 80%) or the rate for the group with the highest rate will generally be regarded as evidence of adverse impact and possible discrimination.” Since the 80% test does not involve probability distributions to determine whether the disparity is a “beyond change” occurrence, it is usually not regarded as a definitive test for adverse impact. For this purpose, Virginia has also been involved in using the two standard deviations to augment the process of conducting statistical data analysis to identify adverse impact. Data is collected, analysis to capture information on participants visiting centers, and participating in program, activities, and services as compared to the demographics of the area being served. This data is used to address disparities and identify outreach.





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### **Confidentiality of Demographic Data**

Pursuant to 29 CFR 38.45, demographic data regarding race/ethnicity, sex, age, and disability status (where known) is stored in a manner that ensures confidentiality, and that data is used only for the purposes of recordkeeping and reporting. This data is not available to potential employers seeking program participants as potential employees and cannot be used as a category to match job requirements. Furthermore, all staff with access to information contained in the system are subjected to Information Security Policies, Procedures, and Standards, which are intended to protect the confidentiality, integrity, and availability of participant and program related data. The policies define any information "that identifies or describes an individual or employer, including, but not limited to, name, social security number, ethnicity, age, data of birth, {or} gender" as "Confidential Information." All users must then sign an attestation that they will comply with the policy. All staff users must complete an Information Technology Services Access Request form and have their immediate supervisor's approval. All users must submit a VAWC access form, to the administrator for approval. All EO related data that is collected, relating to potential program applicants, participants and applicants for employment is maintained and stored in a confidential manner.

### **Medical or Disability Related Information**

Any medical or disability-related information obtained about a particular individual, including information that could lead to the disclosure of a disability, is collected on separate forms. All such information, whether in hard copy, electronic, or both are maintained in one or more separate files. These files are apart from any other information about the individual and treated as confidential. Whether these files are electronic or hard copy, they are locked or otherwise secured (for example, through password protection or a locked file cabinet).

Persons in the following categories may be informed about an individual's disability or medical condition and have access to the information in related files under the following listed circumstances:

- Program staff who are responsible for documenting eligibility, where disability is an eligibility criterion for a program or activity.
- First aid and safety personnel, who need access to underlying documentation related to a participant's medical condition in an emergency.
- Government officials (Department of Labor (DOL)+Civil Rights Center (CRC)) engaged in enforcing this part, or any other Federal laws.

Supervisors, managers, and other necessary personnel may be informed regarding restrictions on the activities of individuals with disabilities and regarding reasonable accommodations for such individuals.

### **Data Storage and Report**

All managers and LWDA's have access portals to VAWC to analyze compliance with the nondiscrimination provisions of Section 188 of the WIOA and 29 CFR Part 38. VAWC produces several reports, including EO reports.



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VAWC allows EO data to be downloaded and forwarded to CRC upon request to allow CRC to conduct its own statistical/quantifiable data analyses. The State-Level EO officer, VCCS EO and LWDA EO officers use the WIOA and Labor Exchange EO data reports to analyze customer participation by race/ethnicity, sex, age, disability status, and LEP individuals their preferred languages and/or language spoken at home. Certain data is reported to the USDOL (ETA) quarterly according to the individual program's reporting requirements.

The State-Level EO officer receives automated statewide EO reports by race/ethnicity, gender, age, preferred language, and disability to analyze pass/fail rates in various steps of the benefits process. When significant differences in participation exist, as measured by the 80% Rule and the Two-Standard Deviation Test for Statistical Significance, the disparities are discussed among the UI benefits program management and State-Level EO officer. The differences are investigated and justified or mitigated.

### **Self-Service and Monitoring**

Clients who sign-in to use the resource room computers (self-service features of the Virginia Workforce Connection), must provide basic information to create a profile on [vawc.virginia.gov](http://vawc.virginia.gov). PII files are secured by software on VEC computers. An initial registration is automatically created in VAWC if a client record does not already exist. This data allows tracking of resource room self-service and is necessary to meet customer-tracking requirements. When PII is collected, such as address or Social Security Number, EO demographic information is also collected on a voluntary basis. All PII files are secured by software on the VEC computers. The information is maintained and stored confidentially, and password protected.

LWDA EO officers observe self-service activity, meet with, interview staff members regarding their observations, and identify corrective action, if necessary. The State-Level EO officer, VCCS EO officer, in conjunction with the LWDA EO officers, will also monitor self-service.

### **Complaint Log**

Each LWDA EO officer, VCCS EO officer and the State-Level EO officer maintains a log of discrimination complaints filed on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIOA Title I, Wagner Peyser and UI financially assisted program or activity. The WIOA State EO officer maintains a log of complaints of alleged discrimination reported to the State or Local EO officers. Local EO officers are required to submit logs to the State-level EO officer during monitoring visits.

Each recipient must maintain and submit to Civil Rights Center (CRC), upon request, a log of complaints filed with the recipient that alleged discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, citizenship,



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and/or participation in a WIOA financially assisted program or activity. The log must include:

- The name and address of the complainant,
- The basis of the complaint,
- A description of the complaint,
- The date the complaint was filed,
- The disposition and date of disposition of the complaint. and
- Other pertinent information.

Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential.

### **Records Retention**

Records containing medical condition information that may reveal the presence of a disability are stored, secured, and kept separate and apart from other information. If an entity is found to be out of compliance, corrective actions are administered.

Records are maintained for a period of not less than three (3) years (from the date of resolution of the complaint), in compliance with state and federal regulatory requirements with Records Management Policy, 29CFR Part 38.43 (*Required maintenance of records of Recipient*) and the Virginia Public Records Act (VPRA). All customer's and recipient's staff discrimination complaints are maintained for three (3) years after the cases are closed.

### **Enforcement Actions**

The Director of CRC will be informed of all administrative enforcement actions or lawsuits brought against the VEC, VCCS, or any LWDA or subcontractor, which alleges discrimination on one or more of the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIOA Title I, Wagner Peyser and UI financially assisted program or activity, prohibited by Section 188 of WIOA and 29CFR Part 38.



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**Attachments Element Six - Data and Information Collection and Maintenance**

- 6-(a) Sampling of Confidentiality and Information Security Policy  
VWL 19-05 Guidance on the Handling and Protection of Personally Identifiable Information
- 6-(b) Template Complaint Log
- 6-(c) Sampling of Records Management Policy  
VWL 11-03 Record Retention
- 6-(d) Sample Demographic Report (UI/Job Service) State 2021 & 2022  
Sample Demographic Report UI – FY- 2021 & 2022  
Sample Demographic Report JS – FY- 2021 & 2022  
Sample Trade Report on Participants – 2021 & 2022  
Sample Veterans Report on Participants – 2021 & 2022  
Sample RESEA Report on Participants – 2021 & 2022  
Sample MSFW Report on Participants – 2021 & 2022
- 6-(e) Sampling of Complaint Form
- 6-(f) Preferred Language Data Report
- 6-(g) Standards of Conduct Policy
- 6-(h) Sampling of Guidelines for Disclosure of Confidential Information
- 6-(i) Sampling of Records Retention Policies
- 6-(j) Automated System Security Form
- 6-(k) Sampling of PII Training
- 6-(l) VWL 20-07 change 1, VAWC and Electronic Case Files



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### Element Seven: Governor's Oversight and Monitoring Responsibilities

Virginia addresses how it and its recipients are complying with and will continue to comply with the requirements of 29 CFR 38.51(b). The State is required to establish procedures to annually monitor all aspects of the recipient's compliance with Section 188 of WIOA and 29 CFR Part 38.

#### **Narrative Explanation of Activities**

The State-Level EO officer conducts in-depth EO and nondiscrimination compliance monitoring reviews of each LWDA, Wagner Peyser and Unemployment Insurance programs. This is to assess their compliance with the EO and nondiscrimination provisions of Section 188 of the Workforce Innovation and Opportunity Act (WIOA) and 29 CFR Part 38 and provides training and technical assistance.

#### **Monitoring Elements**

The State-Level EO officer (or designee) conducts the following monitoring and oversight activities covering the nine elements of the Nondiscrimination Plan:

- **EO officer Designation** (29 CFR 38.28 through 38.33) - Ensure EO officers have been appointed, training is ongoing, assigned EO duties do not constitute a conflict of interest, EO duties are being carried out, and the name of the EO officer is identified.
- **Notice and Communication** (29 CFR 38.34 through 38.39) - Ensure "Equal Opportunity is the Law" posters have been distributed and posted in prominent locations for public viewing. Those recruitment brochures and other materials include the EO tagline and relay service number for individuals with disabilities. Additionally, any written materials (policies, notices, checklists, brochures, etc.) are reviewed to ensure the EO and nondiscrimination requirements have been met.
- **Assurances** (29 CFR 38.25 through 38.27) - Review training plans, contracts, agreements, and policies and procedures to ensure EO and nondiscrimination compliance.
- **Affirmative Outreach** (29 CFR 38.40) - In their recruitment efforts, recipients ensure that materials, brochures, and public service announcements are aimed at broadening the pool of those considered for employment or participation in programs and activities. This includes members of both sexes, various racial/ethnic groups, various age groups, individuals with disabilities and individuals with limited English proficiency.
- **Compliance with Section 504 of the Rehabilitation Act of 1973, as amended** (29 CFR 38.12 through 38.17) - Ensure compliance with the disability-related requirements of Section 188 of WIOA and Section 504 of the Rehabilitation Act.
- **Data and Information Collection and Maintenance** (29 CFR 38.41 through 38.45) - Ensure collection and maintenance of records or data necessary to determine compliance, e.g., EO and nondiscrimination recordkeeping procedures, policy issuances, reports, complaint logs, etc.



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- Development of a Monitoring System (29 CFR 38.51 and 38.53) - Ensure monitoring tools and program policies are developed to ensure their programs and activities are operating in a nondiscriminatory way and their recipients receive on-site monitoring reviews. Ensure data analysis and follow-up is conducted.
- Complaint Processing Procedures (29 CFR 38.69 through 38.85) - Ensure discrimination complaint procedures are adhered to and that complaint logs are maintained.
- Corrective Actions and Sanctions (29 CFR 38.54(c) (2)(vii)) - Ensure LWDAs impose corrective actions with time limits and considers sanctions if voluntary efforts at compliance fail.
- Sanctions - If deficiencies are identified, State-Level EO officers (or designee) provide on-site technical assistance. When the deficiencies are included in the compliance review report, the recipient or state program must comply by the due date. If compliance is not attained through voluntary means, a corrective action plan or conciliation agreement may be necessary. After attempts to obtain voluntary compliance fail, the matter is raised to the Commissioner or Title 1 Administrator. See Element Ten – Corrective Action/Sanctions.

A necessary component of conducting EO and nondiscrimination monitoring is conducting data analysis.

### **Data analysis consists of:**

- Comparing the percentage of eligible applicants or applicants in an EO demographic group to the percentage of the civilian labor force in your county or counties. This determines if we are reaching our eligible population.
- Using the 80% Rule and the Two-Standard Deviation Test for Statistical Significance to determine if there are significant differences in participation among EO groups. A comparison of the success rates of customers' participation, for example, eligible applicants to applicants, applicants to participants, participants to positive exits or participants to entered training and completed training.
- When significant differences are found, an investigation into the reasons for the disparity is determined to evaluate if it is caused by a neutral policy or practice. When the policy or practice is found to be a justifiable business necessity, what was found is documented. If there is no justifiable business necessity found, an attempt to mitigate the effects is undertaken.

Virginia Workforce Connection (VAWC) system collects information on applicants, registrants, eligible applicants/registrants, participants and terminees. Virginia Unemployment Insurance System (VUIS) is used to collect this same data for UI and RESEA. State-Level EO officer (or designee), local office managers, program managers and LWDAs (VAWC only) have access to these systems and regularly analyze data collected to determine whether any discrepancies based on race, disability, ethnicity, or sex have practical or statistical significance.



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To perform this analysis, a comparison is done of the applicants' race, ethnicity, sex, and disability status with participants and terminees' characteristics to ensure these protected applicants are being equitably enrolled into basic, individualized, and training services. Additionally, a comparison is done to compare the applicant pool to census civilian labor force data and unemployment data for each local area to ensure protected groups are recruited in proportion to the population at large and the unemployed population.

The State-Level and LWDA EO officers then conduct an analysis of the data pursuant to the "80% Rule" and the two-standard deviation formula by the following four-step process:

- Calculating the rate of selection for each racial, ethnic, sex or disability group.
- Observing the group with the most favorable rate.
- Comparing each of the other rates with the most favorable rate.
- Observing the selection rate for all groups.

The State-Level and LWDA EO officers analyze employment data to determine whether any differences based upon disability, race, ethnicity, or sex has practical or statistical significance. Prior to monitoring any recipient for compliance, State-Level EO officer or designee requires that the recipient submit a list of its employees, all employment applicants and the employees and applicants of each of their recipients to the EO officer. These lists include the race, ethnicity, sex, and disability status of employees and applicants for employment. The state and local EO officer analyzes these lists and compares them to Civilian Labor Force Data or Census Data for the county where the facility is located to ensure that state and local sub-recipients hiring practices are not discriminating against these protected segments of the population.

### **State-level EO Monitoring**

The State-Level EO officer (or designee) conducts a comprehensive EO and nondiscrimination monitoring review annually of the UI Benefits program and Wagner Peyser program using the Virginia Monitoring Tool. These reviews cover all sections and elements described in Section 188 of WIOA. This includes reviewing recipients on the following:

- Notice and Communication,
- Data Collection and Maintenance,
- Affirmative Outreach,
- Recordkeeping,
- Accessibility (Programmatic/Architectural),
- Policies and Procedures (Equal Access for LEP & Individuals with disabilities), and
- Review language translation services for in-person, phone, documents.



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### **UI BENEFITS PROGRAM**

The State-Level EO officer (or designee) conducts annual UI Benefit program EO and nondiscrimination monitoring reviews. Reviews of the UI Benefits program normally consist of, but are not limited to:

- An interview with claim center managers using a questionnaire covering the elements of the Nondiscrimination Plan,
- Data analysis and investigation of monetary determinations, non-monetary determinations, separation and non-separation issues, lower level, and higher-level appeals,
- Data analysis using the “80% Rule” and Two-Standard Deviation Test for Statistical Significance,
- Interviews with staff using a questionnaire to determine staff knowledge of EO and nondiscrimination requirements,
- A walkthrough of claim centers using a checklist,
- Services to LEP customers and customers with disabilities,
- Management and staff EO and nondiscrimination training,
- Benefits accuracy, and
- EO tagline and posters.

### **Written Report**

Within 60 workdays of the completion of the review, the State EO officer (or designee) will prepare a written report to be disseminated to the appropriate administrators regarding areas of compliance and non-compliance.

### **EMPLOYMENT SERVICE PROGRAM**

The State-Level EO officer (or designee) monitors employment services programs annually including:

- UI Reemployment (RESEA),
- Veteran/Job Services,
- Migrant and Seasonal Farmworker, and
- Rapid Response Program.

Reviews of the employment service programs normally consist of, but are not limited to:

- An interview with managers using a questionnaire covering the elements of the Nondiscrimination Plan,
- A walkthrough using a checklist of the facility,
- A review of data analysis using the “80% Rule” and Two-Standard Deviation Test for Statistical Significance,
- Participant file reviews and medical/disability records file review,
- A review of job orders,





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- Interviews with staff and customers using a questionnaire,
- Services to LEP customers and customers with disabilities,
- Translation of vital documents for LEP customers,
- Management and staff EO and nondiscrimination training, and
- EO tagline and posters.

Following the monitoring review, the State-Level EO officer (or designee) conducts an exit meeting with the manager and/or district manager to discuss the findings. Follow-up monitoring may be scheduled if deficiencies are found or corrective action is needed. The State-Level EO officer (or designee) is responsible for developing a report of each visit. The office manager and district manager receive a copy of the report.

### **Written Report**

Within 60 workdays of the completion of the review, the State EO officer (or designee) will prepare a written report to be disseminated to the appropriate administrators regarding areas of compliance and non-compliance.

### **TRADE ADJUSTMENT ASSISTANCE PROGRAM**

The State-Level EO officer (or designee) will monitor the Trade Adjustment Assistance Program annually, which normally consists of, but is not limited to:

- An interview with managers using a questionnaire covering the elements of the Nondiscrimination Plan,
- Management and staff's EO and nondiscrimination training,
- Data analysis using the "80% Rule" and Two-Standard Deviation Test for statistical significance,
- Participant file reviews and medical/disability records file review,
- Services to LEP customers and customers with disabilities,
- EO tagline and posters,
- Translation of vital documents for LEP Customers, and
- Interviews with staff using a questionnaire to determine staff knowledge of EO and nondiscrimination requirements.

### **Written Report**

Within 60 workdays of the completion of the review, the State EO officer (or designee) will prepare a written report to be disseminated to the appropriate administrators, regarding areas of compliance and non-compliance.



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### **Rapid Response Program**

The State-Level EO officer (or designee) will monitor the Rapid Response Program annually, which normally consists of, but is not limited to:

- An interview with managers using a questionnaire covering the elements of the Nondiscrimination Plan,
- Interviews with staff using a questionnaire to determine staff knowledge of EO and nondiscrimination requirements,
- EO tagline and posters,
- Services to LEP customers and customers with disabilities,
- Translation of vital documents for LEP customers,
- Review participant surveys and analysis for any disparities, and
- Data analysis using the “80% Rule” and Two-Standard Deviation Test for statistical significance.

### **Written Report**

Within 60 workdays of the completion of the review, the State EO officer (or designee) will prepare a written report to be disseminated to the appropriate administrator regarding areas of compliance and non-compliance.

### **WIOA PROGRAMS**

The State-level EO officer (or designee) monitors the LWDA annually for compliance with EO and nondiscrimination compliance of program and services. These reviews assist the State-Level EO officer in determining if all LWDA recipients are adequately reviewed and in compliance.

Reviews of WIOA programs normally consist of, but are not limited to:

- An onsite or desk audit with LWDA Director or LWDA EO officer for the area using the LWDA monitoring tool covering the elements of the Nondiscrimination Plan,
- A review of data analysis using the “80% Rule” and Two-Standard Deviation Test for Statistical Significance,
- A review of LWDA’s EO Policies and Procedures,
- A review of the LWDA’s website for compliance and ensuring access to our LEP and individuals with disabilities,
- Participant file reviews and medical/disability records file review,
- Interviews with staff and customers using a questionnaire,
- An onsite or desk review of each LWDA center or affiliate site that is delivering any Title 1 (WIOA) services using the LWDA Walkthrough Report, and
- An auxiliary aid checklist completed for each center or affiliate site identifying tools that are available for individuals with disabilities.



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Following the LWDA monitoring review, the State-level EO officer (or designee) conducts an exit meeting with the LWDA EO officer to discuss the findings. Follow-up monitoring may be scheduled if deficiencies are found, or corrective action is needed. The State-level EO officer (or designee) is responsible for developing a report of each visit.

### **Written Reports**

Within 60 workdays of the completion of the review, the State-level EO officer (or designee) will prepare a written report to be disseminated to the LWDA EO officer regarding areas of compliance and non-compliance.

### **LWDA EO Officer Monitoring**

LWDA EO officers develop procedures and monitoring tools for monitoring their recipients' compliance with Section 188 of the WIOA, 29 CFR Part 38, and applicable WIOA State policies. Monitoring tools/instruments and guides are available. The tools include a questionnaire covering the elements of the Nondiscrimination Plan, a participant file review and medical/disability file review worksheet, staff and customer questionnaires, and a facility walkthrough checklist.

Each LWDA EO officer monitors the activities of recipients in the local workforce development area to ensure equal opportunity and nondiscrimination. Policies and procedures regarding monitoring and oversight requirements for compliance reviews have been disseminated to the local level. Those monitoring and oversight requirements together with EO monitoring instruments are the methods and processes used to conduct and organize the review.

### **Eligible Training Provider (ETP) Monitoring**

The LWDA EO officers have responsibility of monitoring the ETPs to ensure compliance with Section 188 of the WIOA, 29 CFR Part 38 and applicable WIOA State policies. Training providers include schools, community colleges and four-year colleges.

The local level EO officer is responsible for monitoring and will begin with conducting data analysis for schools and training providers. The local level EO officer will follow-up with training providers when the results of the review indicate a potential issue or if there is a discrimination complaint involving the provider. The follow-up may involve a discussion, request for additional information, and/or a full review. The VCCS EO officer monitors the LWDA areas for compliance with ETP monitoring.

Even when records provide small numbers for analysis, the LWDA EO officer will compare the percentages of the demographic groups in each step of the training delivery process against each other. They will also compare the percentages of the civilian labor force against the percentages of eligible applicant(s) to determine if the percentages or numbers are sensible. If there is a small but diverse group of eligible applicant(s) but only members of one group go on to be participants and positive exiters, this will be examined to determine whether there is a justifiable reason for the occurrence.



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**Sanctions**

If deficiencies are identified, the State-Level and VCCS EO officer will provide on-site technical assistance. When the deficiencies are included in the compliance review report, the recipient or State program must comply by the due date. If compliance is not attained through voluntary means, a corrective action plan or conciliation agreement may be necessary. After attempts to obtain voluntary compliance fail, the matter is raised to the Commissioner and Title I Administrator (as appropriate). See Element Ten.



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Attachments Element Seven - Monitoring Recipients for Compliance

- 7-(a) Virginia's Monitoring Schedule
- 7-(b) Sample LWDA Monitoring Reports
- 7-(c) Sample VEC Monitoring Reports
- 7-(d) VWL Monitoring Requirements
- 7-(e) LWDA Monitoring Templates
- 7-(f) VEC Monitoring Templates
- 7-(g) Virginia's SOP for Monitoring WIOA Recipients



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## **Element Eight: Complaint Processing Procedures**

Virginia addresses how it and its recipients are complying with and will continue to comply with the requirements of 29 CFR 38.72 and 38.73 regarding complaint processing procedures.

### **Narrative Explanation of Activities**

It is against the law for recipients of Federal financial assistance to discriminate in any of the following areas: against any individual in the United States on the basis of race, color, religion, sex (including pregnancy, child birth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any financially assisted program or activity.

The VEC, VCCS, LWDAs and its recipients must not discriminate in any of the following areas: deciding who will be admitted or have access to any WIOA Title I, Wagner Peyser and UI 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.

VEC, VCCS, LWDAs and its recipients of federal financial assistance take reasonable steps to ensure that communication with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

All recipients have policies that:

- Prohibit employees and non-employees from harassing or discriminating against staff, customers, and partner employees,
- Prohibit retaliation against harassment or discrimination complainants, and
- Provide reasonable accommodations to employees, job applicants or participants with disabilities.



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### **Who May File?**

Any person who believes that either he/she, or any specific class of individuals, has been or is being subjected to discrimination prohibited by WIOA or its implementing regulations may file a written complaint, either by him/herself or through an authorized representative.

### **Time and Place for Filing**

Complainants may file within one hundred and eighty (180) calendar days of the alleged discrimination.

- Discrimination complaints may be filed by contacting one of the following or at <http://www.vec.virginia.gov/equal-employment-opportunity>.
  - State-Level EO officer- [Shirley.bray-sledge@vec.virginia.gov](mailto:Shirley.bray-sledge@vec.virginia.gov).
  - VCCS EO officer- [vtanner@vccs.edu](mailto:vtanner@vccs.edu).
  - Any LWDA EO officer within the area of the alleged discrimination.
  - The Director of the Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Ave. NW, Room N-4123, Washington D. C. 20210.  
<https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/external>

### **Initial Review of Written Complaints**

Any VEC, VCCS, LWDA or sub-recipient's employee may take a written discrimination complaint from a complainant or a complainant's designated representative. A written complaint must include:

- The complainant's name and address,
- The identity of the individual or entity the complainant alleges is responsible for the discrimination,
- A description of the complainant's allegations in enough detail to allow an initial determination of jurisdiction, timeliness, and the apparent merit of the complaint, and
- The complainant's signature or the signature of the complainant's authorized representative.

### **Time Limits**

State-Level EO, VCCS or LWDA's EO officers will attempt to complete processing the discrimination complaint and issue a written notice of final action within ninety (90) calendar days from the date the complaint was filed. If they are not able to complete the investigation or ADR/Mediation within ninety (90) calendar days, an extension will be requested from the complainant that more time will be needed to process the complaint. Complainant will be notified of their rights to file with the Civil Rights Center (CRC) if they are not satisfied with an extension.

### **Complaint Routing and Record Keeping**

A VEC, VCCS, LWDA or sub-recipient's employee who takes a discrimination complaint must immediately route discrimination complaints to the State-Level EO, VCCS EO officer or LWDA's EO officer within two (2) workdays from when the complaint was received.



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State-Level or local level EO officers will log all complaints on the WIOA Discrimination Complaint Log. The log includes:

- The name and address of the complainant,
- The basis for the complaint; a description of the complaint; the disposition and date of disposition of the complaint, and
- Any other pertinent information.

State and local level EO officers are responsible for keeping any information that could lead to the identification of the person filing the complaint, confidential. Immediately upon receiving and logging a discrimination complaint, the local level EO officer will notify the VCCS EO officer of any issues regarding jurisdiction for a determination and further processing.

### **Notice of Lack of Jurisdiction**

If the State-Level EO officer or VCCS EO officer determines Virginia has no jurisdiction to process a discrimination complaint under Section 188 of WIOA, he/she will send a notice of lack of jurisdiction to the complainant within ten (10) workdays of receipt. This notice will include the reason for the determination and indicate to the complainant their rights to file a complaint directly with CRC within thirty (30) calendar days from receipt of the notice of lack of jurisdiction.

If the State-Level EO officer or VCCS EO officer determines that the EO officer does have jurisdiction to process the complaint, the EO officer will send written notice to the complainant within ten (10) workdays of receipt stating that the complaint has been accepted or rejected. The notice will list the issues raised in the complaint and state for each issue whether it has been accepted or rejected for investigation providing an explanation for any rejection. The notice will indicate the complainant has the right to be represented by an attorney or another person of the complainant's choice and give the complainant the right to choose between mediation or investigation.

The State-Level EO officer, VCCS and LWDA EO officer have jurisdiction over complaints that:

- Are filed against a WIOA recipient, UI or employment services,
- Allege a basis for discrimination that is prohibited by Section 18 of WIOA and 29CFR Part 38, and
- Are filed within one hundred and eighty (180) calendar days of the alleged discrimination.





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### **Alternative Dispute Resolution: Mediation Process**

If the party filing the complaint requests to use mediation to resolve the complaint, the State-Level EO officer or VCCS EO officer will arrange mediation to attempt to resolve the complaint. The EO officer will schedule mediation by written notice that will be mailed to all interested parties at least seven (7) calendar days prior to the first mediation session. This notice will include the date, time, and place of the mediation. The mediation process must be concluded within thirty (30) calendar days from the date the complaint was filed. The complaint is considered resolved when all parties to the complaint enter into a written agreement resolving the issues raised in the complaint. The written agreement will give notice that if the terms of the agreement are breached; the complainant may file a complaint with CRC within thirty (30) calendar days of the date the non-breaching party learns of the breach. If the parties do not reach an agreement, the State-Level EO officer, VCCS or Local EO officer will investigate.

### **Investigation Process**

If mediation does not resolve the discrimination complaint, or if the complainant elects to forego mediation, the State-Level EO officer (or designee), VCCS or LWDA EO officer will conduct a fact-finding investigation of the allegations contained in the complaint. The investigation may include interviews with the complainant, respondent, and any witnesses; requests for pertinent documents; on-site inspection; and/or research of applicable policies and procedures.

Throughout the investigation process, the EO officer will keep the identity of any individual who furnishes information relating to or assisting in the investigation, including the identity of the individual who filed the complaint, confidential to the extent possible, and when such handling is consistent with a fair determination of the issues.

### **Notice of Final Action**

Within approximately ninety (90) calendar days of receipt of the complaint, the State-Level EO officer, or local level EO officer will issue to the complainant a Notice of Final Action. The Notice of Final Action will contain the decision on each issue and the reasons for the decision, a description of the resolution, and notice that the complainant has the right to file a complaint with CRC within thirty (30) calendar days from the date the Notice of Final Action is issued if they are dissatisfied with the final action.

Sample Letters for Discrimination Complaints:

- Notice of Receipt,
- Notice of Acceptance,
- Notice of Alternate Dispute/Mediation,
- Notice of Settlement, and/or
- Notice of Final Action.



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### **Intimidation and Retaliation Prohibited**

It is prohibited for any WIOA Title I, Wagner Peyser or UI recipient to discharge, intimidate, retaliate, threaten, coerce, or discriminate against any individual because the individual has filed a discrimination complaint or otherwise participated in the investigation of a discrimination complaint.

### **LOCAL LEVEL GRIEVANCE AND COMPLAINT PROCESSING**

All local level (LWDA) recipients must provide participants and other interested parties, including one-stop partners and service providers, their grievance and complaint process. The local areas must make reasonable efforts to ensure that affected participants, including persons who have limited English proficiency, can understand the policy. Such efforts must comply with the language requirements of 29 CFR Part 38 regarding the provisions of services and information in languages other than English. These steps may include oral interpretation and written translation of both hard copy and electronic materials in non-English languages.

Recipients must also take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others. Such efforts must comply with the requirements of 29 CFR Part 38.14-17. These steps may include ASL interpreters for individuals with hearing impairments or audio recordings for individuals with visual impairments.

#### **b. Recipient's Procedures**

The policy provides:

- i. A process for dealing with grievances and complaints,
- ii. An opportunity for an informal resolution to be completed within sixty (60) calendar days of the filing of the grievance or complaint,
- iii. A process that allows an individual alleging a labor standards violation to submit the grievance to a binding arbitration procedure if a collective bargaining agreement covering the parties to the grievance so provides, and
- iv. An opportunity for the grievant or complainant to appeal the local level decision to the Commonwealth of Virginia exists when:
  - a. No decision is reached within sixty (60) calendar days,
  - b. Either party is dissatisfied with the local decision, or
  - c. No decision.

Recipients shall include in orientations to employees and participants a discussion of their rights to file a grievance and/or complaint with the VEC, VCCS and LWDA and United States Department of Labor (USDOL). Communication of the policy is documented on a notification instrument for employees and program participants, and such notification instruments are retained in their individual files.



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c. Filing a Grievance or Complaint

The staff provides participants with the name, address, and telephone number of the VEC, VCCS or LWDA officials where grievances and complaints shall be directed. Examples of who may file a grievance or complaint include the following:

- i. Applicants or registrants for aid, benefits, service or training,
- ii. Eligible applicants/registrants,
- iii. Participants,
- iv. Applicants for employment under WIOA,
- v. Service providers, and/or
- vi. Eligible training providers.

Each grievance or complaint must be filed, in writing, within thirty (30) calendar days of the alleged violation and must contain the following information:

- i. The name, address and phone number of the person filing the grievance or complaint,
- ii. The date of the alleged violation and the date the grievance or complaint was filed,
- iii. The identity of the respondent,
- iv. A description of the allegations. This description must include enough detail to allow the reviewer to decide whether the allegations, if true, would violate any of the provisions of WIOA, and
- v. The signature of the person filing the grievance or complaint.

d. Methods of Resolution/Disposition of Complaints

Upon receipt of the grievance or complaint, the reviewer will provide written notice to the grievant or complainant. This correspondence will be sent within five (5) workdays and must include the following:

- i. A summary of the allegations submitted,
- ii. The date, time and place of the meeting or hearing with the reviewer (NOTE: The recipient may provide for an informal resolution of a grievance or complaint which, if provided, shall be completed in a meeting),
- iii. Notice that the grievant or complainant may be represented by an attorney, and
- iv. Notice that the grievant or complainant may present witnesses and documentary evidence.

Individuals in grievance and/or complaint investigations are protected from retaliation and are permitted to have translators, interpreters, readers and/or a representative of their choice during the grievance or complaint process. The recipient has a maximum of ninety (90) calendar days when investigating a discrimination complaint or sixty (60) calendar days when



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investigating a grievance. At the end of the ninety (90) calendar days for discrimination complaints, the complainant has the right to file with the USDOL Civil Rights Center. At the end of the sixty (60) calendar days for grievances, the grievant can file with the State WIOA Administrative entity.

e. Notice of Final Action

Once the investigation is complete and a decision has been reached, a Notice of Final Action must be sent to the grievant or complainant. If an informal resolution was provided, the Notice of Final Action must summarize the agreed upon resolution. If no informal resolution was provided, the Notice of Final Action must contain the following information:

- i. The reviewer's decision and the reasons supporting the decision,
- ii. A brief description of the investigation process employed to reach the decision,
- iii. Notice that, if dissatisfied with the decision, the grievant or complainant may appeal to USDOL Civil Rights Center for discrimination complaints and State WIOA Administrative entity for grievances, within thirty (30) calendar days of receipt of the Notice of Final Action, and
- iv. Notice that the grievant or complainant may seek a remedy authorized under another Federal, State, or local law.

### **Processing Appeals of Local level Grievance and Complaint Decisions at the State Level**

These grievances or complaints may be submitted by participants and other interested parties affected by the recipient, including one-stop partners and service providers to the State WIOA Administrative entity.

a. Filing an Appeal

The State WIOA administrative entity will review:

- i. Appeals of decisions made at the local area level during the grievance and complaint process,
- ii. Grievances or complaints alleging a violation of the requirements of the WIOA filed by interested parties who have no recourse to the grievance and complaint procedure of a local area, but who are affected by the Virginia workforce programs, and
- iii. Grievances or complaints from providers of training services who are denied eligibility by a local workforce development area (LWDA), denied eligibility as a provider of on-the-job training or customized training by a one-stop operator or whose eligibility is terminated, or otherwise adversely affected, by a LWDA.

Each direct grievance or complaint must be filed, in writing, within thirty (30) calendar days of the alleged violation. Each appeal must be filed, in writing, within thirty (30) calendar days from



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the date on which the Notice of Final Action is received. All grievances, complaints, and appeals must contain the following information:

- i. The name, address and phone number of the person filing the appeal,
- ii. The identity of the respondent,
- iii. A description of the allegations (This description must include enough detail to allow the reviewer to decide whether the allegations, if true, would violate any of the provisions of WIOA),
- iv. Pertinent dates, including the date on which the grievance or complaint was filed by the recipient,
- v. The date of the alleged occurrence for which the grievance of complaint was filed and the date a written decision was issued (or should have been issued),
- vi. If applicable, citations to the provisions of WIOA, the regulations, etc., which are believed to have been violated,
- vii. A statement disclosing other steps pursued at any level regarding the grievance or complaint in question,
- viii. A copy of the local Notice of Final Action if such was rendered, and
- ix. The signature of the person filing the appeal.

NOTE: Appeals must be accompanied by all documentation submitted to the recipient when filing the original complaint. Only information received by the recipient during the initial investigation will be allowed as evidence in the appeal process.

b. Methods of Resolution/Disposition of Complaints

Upon receipt of the written grievance, complaint, or request for appeal and all of the pertinent information outlined above, the reviewer for the State WIOA Administrative entity will provide the grievant or complainant and respondent with a written acknowledgment. This correspondence shall be sent within five (5) workdays and include both a summary of the allegations submitted and an offer to resolve the issue informally before rendering a decision based on the written records. Finally, the acknowledgment will include a notice that the reviewer will make their decision based on a review of the documentary evidence presented.

If the parties to the grievance or complaint decline the opportunity to resolve the issue informally, the reviewer will accept, reject, or modify the decision from the recipient based on a review of the evidence. The reviewer may also remand the grievance or complaint to the recipient for further investigation. In any case, the reviewer has a maximum of sixty (60) calendar days to review the allegations and offer a resolution.



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Individuals in grievance investigations are protected from retaliation and are permitted to have translators, interpreters, readers and/or a representative of their choice during the grievance process.

c. Notice of Final Action

Once the investigation is complete and a decision has been reached, a Notice of Final Action must be sent to the grievant or complainant. If an informal resolution was provided, the Notice of Final Action must summarize the resolution agreed upon. If no informal resolution was provided, the Notice of Final Action must contain the following information:

- i. The reviewer's decision and the reasons supporting the decision,
- ii. A brief description of the investigation process implored to reach the decision,
- iii. Notice that, if dissatisfied with the decision, the grievant or complainant may appeal to the USDOL within thirty (30) calendar days of receipt of the Notice of Final Action, and
- iv. Notice that the grievant or complainant may seek a remedy authorized under another Federal, State, or local law.

d. Remedies that may be Imposed at the Local and State Level

According to WIOA Section 181(c)(3), remedies that may be imposed under this section for a violation of any requirement of this title shall be limited to:

- a. Suspension or termination of payments under this title,
- b. The prohibition of placement of a participant with an employer that has violated any requirement under this title,
- c. Where applicable, the reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment, and/or
- d. Where appropriate, to other equitable relief.

e. Record Keeping Requirements

Records regarding grievances and complaints must be maintained by all recipients for a period of not less than three (3) years from the close of the applicable program year. All records must include the following:

- a. The name and address of the grievant or complainant,
- b. A description of the grievance or complaint,
- c. The date the grievance or complaint was filed,
- d. The disposition of the grievance or complaint, and
- e. Any other pertinent information.



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To the maximum extent possible, the identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation of the WIOA shall be kept confidential. The information may only be used for purposes of:

- a. Record-keeping and reporting,
- b. Determining the extent to which an entity is operating its WIOA-funded programs or activities in a nondiscriminatory manner, or
- c. Other use authorized by the nondiscrimination and equal opportunity provisions of WIOA.

The State-Level EO officer and VCCS EO officer has the designated responsibility for the development and implementation of a procedure for processing complaints alleging discrimination under the provisions of 29 CFR part 38.

Consistent with 29 CFR 38.54 (d)(1)(v) and 29 CFR 38.76 through 38.79, Virginia has adopted and published a procedure providing for the prompt and equitable resolution of complaints alleging violation of the nondiscrimination or equal opportunity provisions. The Equal Opportunity officer maintains a log of discrimination complaints filed. Such logs contain the name and address of the complainant, basis and description of complaint, date filed, and disposition of complaint. The EO officer has the authority to investigate claims made against our employees or participants in receipt of services. Claimants who express concerns about discrimination in the private sector or against other state/municipal employers, receive contact information for the Equal Employment Opportunity Commission (EEOC) or Virginia Human Rights Council, both external agencies, that have authority to assess and remedy employment discrimination claims.

The Discrimination Complaint Policy is followed in processing complaints as well as the Mediation Program Guidelines. All relevant internal publications reflect the timeframes associated with the filing of complaints and instructions for filing complaints directly with Civil Rights Center (CRC).

The complaint process provides for prompt and equitable resolution of complaints and includes the following elements:

- Initial written notice,
- An acknowledgement of receipt,
- Notice of right to representation,
- Issues raised in complaint,
- A period for fact-finding that includes Alternative Dispute Resolution (ADR)-Mediation, and
- A written Notice of Final Action.



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With regard to persons making claims against VEC, VCCS, and/or LWDAs, the EO officer investigates the claims, gathering and reviewing all relevant information. At the close of the investigation, the EO officer writes a letter to the claimant explaining the outcome of the investigation. Each letter contains instructions on how the claimant may contact the CRC directly. When necessary, the EO officer consults with senior management to ensure that all services are provided equitably and with excellent customer service.

Each employee is provided training for recognizing and understanding the processing of complaints. The State-Level EO officer and VCCS EO officer will oversee and provide directions and guidance to the investigations of all complaints raising allegations of discrimination to ensure they are complying with the regulations. The complaint procedures are published on the agency's website for customers and employees. "EO is the Law" notification is posted throughout Virginia Career Works (Proud Partner of American Job Centers), LWDAs, affiliate sites, and other work areas that provides detail instruction for filing complaints.





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Attachments Element Eight - Complaint Processing Procedures 29 CFR Part 38.69 through 38.85

- 8-(a) Virginia Workforce Letter (VWL) No. 16-09
- 8-(b) Sample of Discrimination Complaint Policy
- 8-(c) Sample of Discrimination Procedures for Complaint Investigation
- 8-(d) Sampling of EEO/EO Complaint Form
- 8-(e) Sample of Mediation Program Guidelines
- 8-(f) Nondiscrimination and Equal Opportunity Policy
- 8-(g) Sample of LWDA Grievance/ Complaint Policy
- 8-(h) Sample of LWDA EO Policy
- 8-(i) WIOA Discrimination Complaint Process (VWL) #15-05
- 8-(j) Equal Opportunity Complaint Information Form (VCCS)
- 8-(k) Equal Opportunity is the Law Statement
- 8-(l) EO Complaint Log
- 8-(m) Sample letters for Discrimination Complaints



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## **Element Nine: Governor Oversight Responsibilities Regarding Recipients' Recordkeeping**

Virginia addresses how it and its recipients are complying with and will continue to comply with the requirements of 29 CFR 38.53. Each recipient will collect and maintain records in a manner consistent with the provisions of §38.41 and any procedure prescribed by the Director of Civil Rights Center under §38.41(a). The recipient must provide data and reports in the manner prescribed by the CRC Director.

### **Narrative Explanation of Activities**

Virginia ensures that recipients collect and maintain records in a manner consistent with the provisions of §38.41 and any procedures prescribed in Section 188 of WIOA and 29 §38.41 (a). Virginia has provided more guidance for this section under Virginia's Nondiscrimination Plan, Element IV Data and Information Collection and Maintenance (§38.41 through §38.45). All WIOA recipients should refer to this section for guidance.

Virginia, through its State and Local EO officers, annually reviews the recipient's record keeping policies and procedures to ensure compliance with Section §38.53. VEC, VCCS and LWDA's have implemented an agency-wide records management policy that ensures that we are following the requirements of retaining all records for a period of not less than three (3) years from the close of the applicable program year {§38.43(a)}.

Compliance with Section §38.53 is measured through the annual reviews and reports prepared.



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Attachments Element Nine - Governor's Oversight Responsibilities Regarding Recipients' Recordkeeping

- 9-(a) Records Management Policy
- 9-(b) Records Management Procedures
- 9-(c) VWL 11-03 Record Retention
- 9-(d) VWL 14-02 Guidance on the Handling and Protection of Personally Identifiable Information (PII)
- 9-(e) LWDA Sample Retention Policy
- 9-(f) LWDA Sample Confidentiality and PII Policy



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## **Element Ten: Corrective Action/Sanctions**

Virginia addresses how it and its recipients are complying with and will continue to comply with the requirements of 29 CFR 38.54(c)(2)(vii).

### **Narrative Explanation of Activities**

The Commonwealth of Virginia, will seek corrective action from a Workforce Innovative Opportunity Act (WIOA) recipient or State program (as defined at 29 CFR 38.4) when a violation is identified in the following circumstances:

- The Nondiscrimination monitoring review using desk audits, on-site reviews or observations identify:
  - A technical deficiency,
  - A failure to follow through on written assurances, or
  - A barrier to equal access to, or disparate impact in, programs or services.
- The assessment of the circumstances surrounding a discrimination complaint and/or investigation, or other fact-finding tools reveals barriers to equal opportunity or equal access to WIOA, Employment Services, UI benefits or other State programs as defined at 29 CFR 38.4.
- A recipient refuses to implement voluntary corrective actions, submit requested data or documentation, or provide access to premises or records during a compliance review.

The recipients are notified of their responsibility to adhere to the nondiscrimination requirements of 29 CFR Part 38 through the issuance of the Nondiscrimination and Equal Opportunity Policy. LWDA is required to establish policy and procedures for obtaining prompt corrective action, or as needed, applying sanctions when a recipient does not comply with the EO and nondiscrimination provisions of Section 188 of WIOA, Title VI of the Civil Rights Act of 1964, as amended or related laws.

### **Voluntary Compliance**

#### **Step 1**

If the need for corrective action is identified by the State-Level EO officer, VCCS EO officer, or LWDA EO officer, the recipient is notified in writing of the violation(s) with recommendations for voluntary corrective action. The recipient is given a due date to comply. When feasible, corrective action should be completed within forty-five (45) calendar days from the date of initial notification of the violation. The State-Level EO officer or VCCS EO officer will provide technical assistance and consultation on the specific action(s) to correct the violation(s). Follow-up monitoring shall be conducted to determine whether compliance has been attained. Recipients shall provide access to information to include the provision of reports and other information pertaining to determined violations as requested.



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### Step 2

If step one fails, the recipient and the State-Level EO officer and VCCS EO officer enter into a conciliation agreement drafted by the State-Level EO officer based on 29 CFR Part 38, specifying the commitment the entity will undertake to correct the violation(s), behavior and/or practice and to ensure it will not reoccur. The conciliation agreement must:

- Be in writing,
- Address the legal and contractual obligations of the recipient,
- Address each cited violation,
- Specify the corrective action or remedial action to be taken with a stated period of time to come into compliance,
- Provide for periodic reporting on the status of the corrective and remedial action,
- State that violation(s) will not reoccur, and
- Provide for enforcement for a breach of agreement.

The State-Level EO officer or VCCS EO officer or designee conducts follow-up visits or monitoring if required.

### **Final Determination**

If the State-level EO officer or VCCS EO officer concludes that compliance cannot be secured through voluntary means, he or she will notify the Vice Chancellor of Workforce Development services and the VEC Commissioner (or their successor) in writing to include the following:

- Efforts made to achieve voluntary compliance, along with the areas of disagreement (if known),
- The apparent violation(s) and pertinent EO and nondiscrimination provision(s) of 29 CFR Part 38, and
- The corrective action the recipient must take to address the violation(s).

The Vice Chancellor of Workforce Development services may secure voluntary compliance with the recipient through a written assurance and/or conciliation agreement.

However, if voluntary compliance cannot be obtained, the Commissioner/VCCS (or their successor) shall issue a final determination that contains the following information:

- A statement of the efforts made to achieve voluntary compliance, and a statement that those efforts have been unsuccessful,
- A statement of the areas of disagreement,
- A list of any modifications to the findings of fact or conclusions that were set forth in the initial notice of findings by the State-Level EO officer,
- A statement of recipient's liability and, if appropriate, the extent of that liability, and
- A description of the corrective or remedial actions that the recipient must take to come into compliance.



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- A notice that, if the grant applicant or recipient fails to come into compliance within ten (10) calendar days of the date on which it receives the Final Determination, the recipient will first be given the opportunity for a hearing. The Commissioner/VCCS (or their successor) then considers the following sanctions:
  - Termination of future funding,
  - Disallowance of selected costs,
  - Restriction from bidding on competitive or discretionary funds, and/or
  - Reduction in funding.

Note: LWDA's model these procedures for ensuring compliance with their recipients.



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Attachments Element Ten - Corrective Actions/Sanctions

- 10-(a) Policy on Corrective Action or Sanctions for Discrimination
- 10-(b) Guidance Policy on Corrective Action or Sanctions for Discrimination
- 10-(c) LWDA Sample of Corrective Action template



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**Glossary of Terms**

**Alternative Dispute Resolution (ADR)** – the use of methods such as mediation and arbitration to resolve a dispute instead of litigation. A procedure for settling disputes without litigation.

**Calendar day(s)** – includes the time from midnight to midnight. Sunday or any day of the week specifically mentioned means a calendar day.

**Workday(s)** – is the common term for business day, which is considered to mean every official workday of the week. Days between and including Monday through Friday and do not include public holidays and weekends.

**Business day(s)** – is considered every official workday of the week. Typically, these are the days between and including Monday to Friday and do not include public holidays and weekends.

**Reasonable Accommodation Definitions (Element 5):**

**Auxiliary aids or services** include:

- Qualified interpreters on-site or through video remote interpreting (VRI) services, note takers, real-time computer-aided transcription services, written materials, exchange of written notes, telephone handset amplifiers, assistive listening devices, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, including real-time captioning, voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices, videotext displays, accessible electronic and information technology, or other effective means of making aurally delivered materials available to individuals with hearing impairments,
- Qualified readers, taped texts, audio recordings, materials and displays in Braille, screen reader software, magnification software, optical readers, secondary auditory programs (SAP), large print materials, accessible electronic and information technology, or other effective methods of making visually delivered materials available to individuals who are blind or have low vision,
- Acquisition or modification of equipment or devices, and
- Other similar services, devices, and actions.

**Disability** means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.





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**Employment practices** means a recipient's practices related to employment, including but not limited to:

- Recruitment or recruitment advertising,
- Selection, placement, layoff, or termination of employees,
- Upgrading, promotion, demotion, or transfer of employees,
- Training, including employment-related training,
- Participation in upward mobility programs,
- Deciding rates of pay or other forms of compensation,
- Use of facilities, and/or
- Deciding other terms, conditions, benefits and/or privileges of employment.

Employment-related training means training that allows or enables an individual to obtain skills, abilities and/or knowledge, designed to lead to employment.

**Facility** means all or any portion of buildings, structures, sites, complexes, equipment, roads, walkways, passageways, parking lots, rolling stock or other conveyances, or other real or personal property or interest in such property, including the site where the building, property, structure, or equipment is located. The phrase "real or personal property" in the preceding sentence includes indoor constructs that may or may not be permanently attached to a building or structure. Such constructs include, but are not limited to, office cubicles, computer kiosks and similar constructs.

**Fundamental alteration** means:

- (1) A change in the essential nature of a program or activity as defined in this part, including but not limited to, an aid, service, benefit, or training; or
- (2) A cost that a recipient can demonstrate would result in an undue burden.
  - a. Factors to be considered in making the determination whether the cost of a modification would result in such a burden include:
    - I. The nature and net cost of the modification needed, taking into consideration the availability of tax credits and deductions, and/or outside financial assistance for the modification.
    - II. The overall financial resources of the facility or facilities involved in the provision of the modification, including:
      - a. The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities; and
      - b. The effect the modification would have on the expenses and resources of the facility or facilities.



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- III. The overall financial resources of the recipient, including:
  - a. The overall size of the recipient.
  - b. The number of persons aided, benefited, served, trained, or employed by the recipient; and
  - c. The number, type, and location of the recipient's facilities.
- IV. The type of operation or operations of the recipient, including:
  - a. The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient; and
  - b. Where the modification sought is employment-related, the composition, structure, and functions of the recipient's workforce.
- V. The impact of the modification upon the operation of the facility or facilities, including:
  - a. The impact on the ability of other participants to receive aid, benefit, service, or training, or of other employees to perform their duties; and
  - b. The impact on the facility's ability to carry out its mission.

**Qualified individual with a disability** means:

- 1) With respect to employment, an individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.
- 2) With respect to aid, benefits, services, or training, an individual who, with or without auxiliary aids and services, reasonable accommodations, and/or reasonable modifications in policies, practices, and procedures, meets the essential eligibility requirements for the receipt of such aid, benefits, services, or training.

**Qualified interpreter** means an interpreter who can interpret effectively, accurately, and impartially, either for individuals with disabilities or for individuals who are limited English proficient. The interpreter must be able to interpret both receptively and expressively, using any necessary specialized vocabulary, either in-person, through a telephone, a video remote interpreting (VRI) service, or via internet, video, or other technological methods.

**Reasonable accommodation:**

- (1) The term "reasonable accommodation" means:
  - (i) Modifications or adjustments to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, training, or employment that the qualified applicant/registrant desires; or
  - (ii) Modifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job, or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities. These modifications or adjustments may be made to:



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- a. The environment where work is performed or aid, benefits, services, or training are given; or
  - b. The customary manner in which, or circumstances under which, a job is performed, or aid, benefits, services, or training are given.
- (iii) Modifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated individuals without disabilities.
- (2) Reasonable accommodation includes, but is not limited to:
- I. Making existing facilities used by applicants, registrants, eligible applicants/registrants, participants, applicants for employment, and employees readily accessible to and usable by individuals with disabilities; and
  - II. Restructuring of a job or a service, or of the way in which aid, benefits, services, or training is/are provided; part-time or modified work or training schedules; acquisition or modification of equipment or devices; appropriate adjustments or modifications of examinations, training materials, or policies; the provision of readers or interpreters; and other similar accommodations for individuals with disabilities.
- (3) To determine the appropriate reasonable accommodation, it may be necessary for the recipient to initiate an informal, interactive process with the qualified individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.
- (4) A recipient is required, absent undue hardship, to provide a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the “actual disability” prong (paragraph (q)(1)(i) of this section) or the “record of” a disability prong (paragraph (q)(1)(ii) of this section), but is not required to provide a reasonable accommodation to an individual who meets the definition of disability solely under the “regarded as” prong (paragraph (q)(1)(iii) of this section).

**Undue hardship** means, with regard to reasonable accommodation of individuals with disabilities, significant difficulty or expense incurred by a recipient, when considered in light of the following.

Factors to be considered in determining whether an accommodation would impose an undue hardship on a recipient include:

- A. The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions, and/or outside funding, for the accommodation.
- B. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, including:
  1. The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities, and
  2. The effect the accommodation would have on the expenses and resources of the facility or facilities.



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- C. The overall financial resources of the recipient, including:
  - 1. The overall size, type of operation, and financial resources of the recipient.
  - 2. The number of persons aided, benefited, served, trained, or employed by the recipient; and
  - 3. The number, type, and location of the recipient's facilities.
- D. The type of operation or operations of the recipient, including:
  - 1. The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient; and,
  - 2. Where the individual is seeking an employment-related accommodation, the composition, structure, and functions of the recipient's workforce.
- E. The impact of the accommodation upon the operation of the facility or facilities, including:
  - 1. The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties; and
  - 2. The impact on the facility's ability to carry out its mission.

**Virginia Career Works Center** – Branding name for Virginia’s Job Centers – Proud Partner of American Job Center.



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