

**STATE OF SOUTH CAROLINA
METHODS OF ADMINISTRATION
FOR ENSURING
EQUAL OPPORTUNITY IN PROGRAMS
UNDER THE WORKFORCE INVESTMENT ACT**

**Element # 1: Designation of State and Local Workforce Development Areas (LWIA)
Equal Opportunity Officers (EOO) (37.54(d) (1) (ii))**

- A. Effective January 13, 2006, the State designated EOO is Ms. Tudy Newsom. Correspondence from Mr. Tim Dangerfield, Chief of Staff with the SC Department of Commerce, designating Ms. Newsom as State EOO is attached. The Director of the Civil Rights Center (CRC) will be notified whenever there is a change in Ms. Newsom's duties as they relate to EO issues or should another staff person be designated to perform the duties of the State EOO.
- B. Ms. Newsom reports to the Director of Workforce Development, South Carolina Department of Commerce, Mrs. Pat Sherlock. However, Ms. Newsom has access to Mr. Joe E. Taylor, Jr., Secretary of Commerce, as necessary or advisable. Workforce Development Division Staff are responsible for investigating and reporting alleged or suspected acts of fraud, program abuse, or criminal misconduct relative to WIA programs and activities. This staff also monitors, reviews, and provides technical assistance relative to WIA program management and grants management. Ms. Newsom coordinates EOO issues with the twelve (12) local EOOs in the state. EO compliance monitoring will be conducted in conjunction with other program management monitoring in a customer friendly and efficient manner. Appropriate technical assistance will be provided in advance of compliance monitoring to minimize significant findings. Reports will be issued, as necessary, and follow up provided, as indicated.
- C. As the State EOO, Ms. Newsom is responsible for implementing a system that ensures equal opportunity in WIA Title I funded programs throughout the state in accordance with 29 CFR Part 37. She is specifically responsible for:
- (1) Serving as the State's Liaison with the CRC. This includes coordination of the CRC's monitoring visits/activities with appropriate state and subrecipient staff, gathering data, preparing and submitting required reports and responses to the CRC;
 - (2) Monitoring the activities of the entities that receive WIA Title I funds from the State to ensure that the State and its subrecipients are not violating the nondiscrimination and equal opportunity obligations under WIA Title I;
 - (3) Reviewing written policies to make sure that those policies are nondiscriminatory;
 - (4) Developing and publishing procedures for processing discrimination complaints under 37.76 through 37.39, and ensuring that those procedures are followed;

- (5) Reporting directly to the appropriate official about EO matters;
- (6) Providing technical assistance and training; assisting LWIA EOOs to more effectively meet their EO responsibilities with an emphasis on the right to file a complaint and complaint processing;
- (7) Training in the use of managerial and organizational practices to support EO objectives;
- (8) Providing recommendations for correcting practices which could lead to discrimination and/or complaints of discrimination; providing assistance in developing solutions to EO problems faced by minority groups, women, and individuals with disabilities;
- (9) Helping to identify potential problems that may be inherent in apparently neutral agency actions; and
- (10) Developing and implementing the State MOA.

D. The State EOO's name, position title and phone number are made public through:

- (1) notices (posters);
- (2) audio tapes;
- (3) handouts provided to individuals applying for WIA, to WIA staff and participants; and
- (4) State WIA Instructions and Guidance Letters.

E. Resources and support are made available to the EOO as required. Resources for training are available for the EOO to attend, as necessary, national and regional training as well as conferences where EO and related topics are on the agenda.

Local EO Officers receive on-site technical assistance from the State EOO and are encouraged to attend state and national Equal Opportunity Professional training.

F. Ms. Newsom will keep abreast of changing laws, regulations and procedures relative to equal opportunity and nondiscrimination matters.

Ms. Newsom has earned the 'Equal Employment Opportunity Professional' Certification conferred by the South Carolina Human Affairs Commission (October 5, 2006). She attended "The Latino Experience: National & State Perspectives" 2007 Statewide Hispanic/Latino Issues Conference sponsored by the South Carolina Commission for Minority Affairs (August 2007). Ms. Newsom attended the annual National Equal Opportunity Professional Development Forum sponsored by the Civil Rights Center, U.S. Department of Labor, in 2006 and 2007. She will be scheduled to attend future EO Professional Development Forums.

G. The Local EOOs are responsible for monitoring programs funded under WIA at their respective local area. Funded by WIA, their responsibilities are linked to WIA programs and activities. A list of the LWIA EOOs in our state follows.

South Carolina LWIA EOO List

Julia Hoyle, Director
WorkLink
PO Box 587, Pendleton, SC 29670
P: 864-646-1827
TTY: 711
F: 864-646-2814
jhoyle@worklinkweb.com

Dorothy Washington - Compliance Monitor/EEO
Waccamaw Workforce Investment Area
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TTY: 711
F: 843-520-0642
dorothy2you@yahoo.com

Sandy Fowler, Workforce Development Director
Lowcountry Workforce Investment Area
PO Box 98
634 Campground Road
Yemassee, SC 29945-0098
P: 843-726-5536
TTY: 711
F: 843-726-5165
sfowler@lowcountrycog.org

Angela J. Bryant, Customer Services Program Manager
Trident Workforce Investment Area
Trident One Stop Career Center
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North Charleston, SC 29406
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TTY: 711
F: 843-574-1856
angelab@toscc.org

Sally C. Sharpe, Supervisor of Contracts and One-Stop Activities
Lower Savannah Workforce Investment Area
PO Box 850, Aiken, S.C. 29802
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TTY: 711
F: 803-649-2248
ssharpe@lscog.org

Michael Caulder, Senior Planner
Midlands Workforce Investment Area
100 Executive Center Drive Suite 218, Columbia, SC 29210
P: 803 744-1670 X 105
TTY: 711
F: 803 744-1671
mcaulder@mwdb.org

Nicole Lawing, WIA Employment and Training Specialist
Catawba Workforce Investment Area
PO Box 450, Rock Hill, SC 29731
P: 803-327-9041
TTY: 711
F: 803-327-1912
nlawing@catawbacog.org

Joette R. Dukes, Assistant Workforce Development Director
Pee Dee Regional Council of Governments
PO Box 5719, Florence, SC 29502
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Ann Fesperman, Executive Director
Upstate Workforce Investment Board
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145 North Church Street (street zip 29306)
Spartanburg, SC
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TTY: 711
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Shelia Harper, Program Coordinator
Greenville LWIA
Greenville County Workforce Development
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Gwen Davis, Workforce Development Deputy Director
Santee-Lynches WIB
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gdavis@slcog.org

Linda Lagroon, Information Systems Coordinator
Upper Savannah Council of Governments
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P: 864-941-8062
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llagroon@uppersavannah.com

- H. Copies of the State and LWIA EO Officer job descriptions are attached.
- I. The type and level of training to be provided to LWIA EOs includes:
- (1) State Level: The State will provide EO training to LWIA EOs emphasizing the role of the Local WIA EO:
 - (a) how to recognize and analyze EO problems;
 - (b) how to determine under which procedure a complaint should be handled;
 - (c) how to recognize and determine whether or not a particular pattern or practice can adversely impact a protected class or classes of individuals; and
 - (d) techniques of monitoring EO (use of static and dynamic formulas to test for adverse impact).
 - (2) The State will also provide:
 - (a) training in the use of managerial and organizational practices to support EO objectives;
 - (b) recommendations for correcting practices which could lead to discrimination and/or complaints of discrimination;
 - (c) assistance in developing solutions to EO problems faced by minority groups, women and individuals with disabilities; and
 - (d) training to help LWIA EOs identify potential problems which may be inherent in apparently neutral agency actions.
 - (3) LWIA EOs will be informed of any EO training at state, regional and national levels with an emphasis on that which targets local level EOs.
 - (4) LWIA EOs' names, position titles and telephone numbers are made available to the public through:
 - (a) LWIA Instructions to all subrecipients;
 - (b) Orientation sessions; and
 - (c) Applicants/registrants rights handout made available to all applicants and registrants.
 - (5) The LWIA EOs have the support of their respective WIA administrative entity staff as needed. Resources for training are set aside and made available whenever appropriate and necessary training is offered.
- J. If an individual is hearing impaired, the notice is presented in printed form, if an individual has impaired vision, the notice is presented through the use of an audio cassette. State WIA Instruction No. 00-07 transmitted posters and audio cassettes. The EO poster is distributed to the local area staff in electronic format and is printed, upon request, for any unable to do so themselves. The State government has Text Telephone (TTY) service available, as does BellSouth. (See Element #5 relating to the implementation of section 504 of the Rehabilitation Act of 1973.)

- K. State WIA Instruction No. 99-05 dated May 8, 2000, requires LWIAs to disseminate the policy in accordance with the notice requirement in 29 CFR Part 37.29, including the notice in publications and brochures and presentations to orient new employees and applicants/registrants. The instruction also requires LWIAs to ensure that applicants/registrants and employees are notified of their rights under 29 CFR part 37.31.

Registrants, applicants, applicants for employment, employees and interested members of the public are made aware of the recipient's obligation to operate in a nondiscriminatory manner, and further, the extent of the right of members of these groups to file complaints of discrimination by the use of several methods. State WIA Instruction No. 00-06, issued December 13, 2000, and transmitted the Rights Handout to LWIAs. This Instruction informed them of their responsibility to provide initial and continuing notice to registrants, applicants, and participants that they do not discriminate on any prohibited ground (under Section 188 (a)(2) of the Act) and to advise them of their right to file a grievance/complaint.

The Department of Commerce will distribute and provide updated posters, audio tapes, Rights Handouts as required by 29 CFR 37.26 as they are developed or amended to the LWIAs.



Element #2: Notice and Communication (37.54(d)(1)(iii)).

- A. Registrants, applicants, applicants for employment, employees and interested members of the public are made aware of the recipient's obligation to operate in a nondiscriminatory manner, and further, the extent of the right of members of these groups to file complaints of discrimination by the use of several methods. These methods include the continuing distribution of posters and brochures, issuances, training sessions, and orientations. Through monitoring, the State ensures that notices are posted. Posters and cassettes also are provided to each workforce investment area.
- B. If an individual is hearing impaired, the notice is presented in printed form; if an individual has impaired vision, the notice is presented through the use of an audiocassette. State WIA Instruction Number WIA 00-07 transmitted posters and audiocassettes.
- C. State WIA Instruction Number WIA 99-05, dated May 8, 2000, requires LWIAs to disseminate the policy in accordance with the notice requirement in 29 CFR Part 37.29, including the notice in publications and brochures and presentations to orient new employees and registrants/applicants. LWIAs are monitored to ensure compliance.

This Instruction requires LWIAs to ensure that registrants/applicants and new employees are notified of their rights under 29 CFR part 37.31. Each registrant/applicant is required to sign the Receipt of Information Form (ROI) and the rights handout for registrants/applicants/participants, at the time of application, to prove that he/she was informed of his/her rights and was given a copy of the grievance procedure. The individual is also given a copy of the rights handout to keep. The rights handout provides notification of the right to file a complaint and the names of EO officers at the various levels whom one may contact for assistance. LWIAs are monitored to ensure compliance.

- D. Notices are posted in One Stop Workforce/Career Centers, service provider's offices, and training/work sites in both English and Spanish. When it is necessary for information relating to equal opportunity in WIA programs to be provided in a language other than English or Spanish, the foreign language department at the University of South Carolina and its statewide campus network are available to provide translation services.

SCDOC fully embraces the intent of the January 17, 2001 Policy Guidance on the Prohibition Against National Origin Discrimination as it Affects Persons with Limited English Proficiency. We are currently studying and reviewing the LEP Plan of Action developed and implemented by the Employment Security Commission to determine its transferability and utilization by the Department of Commerce as a system to satisfactorily address LEP needs. South Carolina Census data breaking down the current demographic outlay is

expected to be available in the near future and will be the most up to date assessment information available. Due to the significant increase in the Hispanic/Latino population in our state, we know that we will need to provide vital language in documents in Spanish. We anticipate using a language line for other LEP individuals on an as-needed basis until we are able to substantiate pocket population needs. Additionally, we are asking each LWIA to contribute data relevant to the various populations in their area. This data is coming from client files, statistics from school systems and community agencies and organizations.

LEP persons will be notified of their rights under law by posters in Spanish and any other significant languages identified. We will also use cards, with statements available in multiple languages, to assist individuals in self-identifying the language they are fluent in so that employees can correctly choose a suitable translation source.

Once we have studied, reviewed, and analyzed the LEP Plan of Action that was implemented and issued in February 2003, we will be able to determine if changes and revisions are necessary in order to have a written policy that fully addresses the issues of language access to provide assistance and better serve these individuals. We anticipate completing this study and analysis no later than October 1, 2005. We will notify the Director of the Civil Rights Center of the results of our analysis and submit changes and revisions to the LEP Plan of Action, if necessary.

- E. State WIA Instruction Number WIA 99-05 requires that publications, recruitment brochures, and other materials made available to the public contain the required language.
- F. Each grant application request, RFP or bidder's package contains requirements for EO assurances (General Assurances, 3.14.1). The State assures that all publications and broadcasts relating to WIA will contain the required language in 29 CFR Part 37.
- G. The statewide training agenda for LWIA EO Officers has not been finalized. As we plan and develop the agenda for the annual state workforce partners conference, we anticipate offering a couple of workshops on equal opportunity and nondiscrimination topics. Training needs surveys will be conducted on an ongoing basis to enable us to more effectively structure our EO training and target specific areas where weaknesses exist.

Training and technical assistance are provided during monitoring visits and are available by request at any time. State staff remains available to assist and answer questions and/or to review documents upon requests from the LWIAs' EOOs. The State and LWIAs work closely to ensure equal opportunity to applicants, participants and staff.

- H. The SCDOC EO Officer can be contacted through the Relay Operator available through a voice telephone at 711 or 1-800-735-2905, a TTY/TDD device at 771 or 1-800-735-8583, or through a computer equipped with ASCII at 711 or 1-800-735-7293. These numbers are published in the current BellSouth telephone books.

Should a new EO Officer be selected for any reason, the notice and all relevant documents will be updated and reissued to accurately reflect the name of the new Officer and all pertinent information.

Several State WIA Instructions have been issued directing the LWIAs to include the statements "equal opportunity employer/program" and "auxiliary aids and services are available upon request to individuals with disabilities" as well as the telephone numbers for TDD/TTY access and/or telephone relay services. These instructions are Numbers WIA 99-004,99-05,99-06,00-06,00-07,and 00-08. Copies are found as attachments to various "elements" of this document as they apply.

Element #3: Review assurances, job training plans, contracts and policies and procedures (37.54(d)(1)(i), and (2)(i), (iii) and (iv)).

- A. State WIA Instruction Number WIA 99-05 requires that each application for financial assistance under Title I of WIA incorporates the nondiscrimination assurance from 37.20(a)(1).
- B. All publications, recruitment brochures and other materials must incorporate the EO assurance that the program or activity is an "equal opportunity employer/program" and the 'auxiliary aids and services are available upon request to individuals with disabilities' in accordance with 29 CFR 37. Copies of the State Terms and Conditions have been made available for the LWIAs' use in grants, contracts, and agreements for training and services (General Assurances, 3.14).
- C. State WIA Instruction Number WIA 99-04 requires that each LWIA ensures program and facility accessibility to individuals with disabilities, and provides a self-evaluation instrument.
- D. LWIA plans are reviewed for compliance with WIA, state and federal regulations, and State Planning Instructions. As required by State Instruction Number 99-05, all LWIA training plans, publications, recruitment brochures and other materials distributed to the public are required to contain an EO policy statement.
- E. State policy dictates that all state and local-level policy issuances will not discriminate in either intent or effect and will be developed and implemented in a timely manner.
- F. The SCDOC Sexual Harassment Policy is outlined in Agency Policy 140 of the agency's personnel manual. The general EO policy is expressed within the Affirmative Action Policy Statement in Human Resource Policy 310 of the same manual and is communicated to applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment through the posting of that statement in common areas.
- G. Religious accommodation is provided through the SCDOC Attendance and Leave Policy contained in Human Resource Policy 330 of the personnel manual. Further, the SCDOC Overtime Policy contained in Human Resource Policy 400 of the personnel manual attributes to the protection of religious freedoms and accommodations.

Element #4: Make efforts to provide equitable services among substantial segments of the eligible population (37.54(d)(1)(vi))

- A. State WIA Instruction Number WIA 00-08 requires each LWIA and one stop include in their agreements with subrecipients or service providers a provision that the subrecipient or service provider will make efforts to develop programs which contribute to occupational development, upward mobility, development of new careers, and opportunity for nontraditional employment. These agreements shall contain specific goals for providing access to substantial segments of the eligible population. Recipients, subrecipients, and service providers must take appropriate steps to ensure that they are providing universal access to their programs and activities. These steps should involve reasonable efforts to include members of sexes, various racial and ethnic groups, individuals with disabilities, individuals with Limited English Proficiency, and individuals in differing age groups.
- B. Monitoring instruments provide for review of actual performance of each service provider toward meeting the service goals in regards to the composition of applicant, registrant and participant pools.
- C. It is the goal of SCDOC to ensure that persons of limited English- speaking ability have access to its programs and activities on a basis equal to that of those who are proficient in English. Within the State Two Years Plan of the Strategic Five-Year Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act that was submitted to the USDOL on May 26, 2005 and subsequently approved by USDOL on June 23, 2005, various methods of targeting LEP populations are identified in the One-Stop Policies Section; Grievance Procedures Section; Policies related to displaced homemakers, nontraditional training for low income individuals, older workers, disabled individuals, and others with multiple barriers to employment and training Section; and the entire Service Delivery Strategy Section. SCDOC will continue its bilingual promotion of the One-Stop Workforce/Career Centers and will utilize the published results of the 2000 census to expand outreach efforts within specific communities or regions containing a significant number or proportion of persons with limited English proficiency. SCDOC will continue to make use of the State Level Partners Group and encourage all partners with an interest in the workforce development system in the state to promote and encourage enhanced services to limited English speaking populations.

Preliminary census data indicates a significant increase in the Hispanic/Latino population in our state. Continuing interaction with Hispanic community based organizations, such as Hispanic Resources in the Midlands area, has led to increased Hispanic Community Based Organization representation on Local Workforce Investment Boards. Further, the new appointment of an individual to the State Workforce Investment Board who is Hispanic and active in the

Hispanic/Latino community and services, is expected to enhance the promotion of services to those with limited English speaking abilities.

Element #5: Compliance with section 504 of the Rehabilitation Act of 1973, as amended and 29 CFR part 37 (29 CFR 37.54(d)(2)(v))

- A. State WIA Instruction Number WIA 99-04 informs LWIAs of the requirement to ensure program and facility accessibility to individuals with disabilities and transmits an accessibility self-evaluation instrument. The Instruction letter also requires the LWIAs to establish procedures for ensuring their subrecipients comply with section 504 of the Rehabilitation Act of 1973, amendments thereto, the equal opportunity provisions in WIA and 29 CFR part 37 as they apply to individuals with disabilities.
- B. State WIA Instruction Number WIA 99-05 transmits to the LWIAs 29 CFR part 37 implementing the nondiscrimination and equal opportunity requirements under WIA.
- C. Reasonable accommodations are provided for individuals receiving intensive services through the LWIA One-Stop centers or Youth program activity once the need for such accommodations is determined through a mandatory needs assessment. The needs assessment reveals what accommodations are necessary for a disabled individual to meet the objectives of his/her individualized services strategy.
- D. State WIA Instruction Number WIA 99-04 issued May 1, 2000, informed the LWIAs of the program and facility architectural accessibility requirements, provided US Department of Labor Disability Initiative accessibility materials, and transmitted a self-evaluation instrument to assist LWIAs in addressing accessibility issues effectively. Appropriate training and schedules for recipient staff for training will continue and be developed and scheduled as indicated by changes and needs.
- E. The State staff will review and evaluate all new job descriptions and will systematically review and evaluate all other job descriptions on a regular basis to ensure that the qualifications do not discriminate on the basis of disability in accordance with 29 CFR 32.14.
- F. Pre-employment/employment medical inquiries are limited to those permitted by and in accordance with section 504 and the Americans with Disabilities Act of 1990. All medical information provided by registrants, applicants, eligible applicants/registrants, participants, employees, and applicants for employment is confidential and will be maintained and managed in a confidential manner.
- G. While there may be pre-vocational training programs designed specifically for those with certain physical, emotional, cognitive, or other learning disabilities, this does not preclude an individual from being considered for other, integrated training settings. All efforts are expended to provide reasonable

accommodation to ensure that the disabled individual receives the same benefits from WIA Title I funded programs and activities as any other participant.

- H. TDDs or relays are available for the hearing impaired. Recruitment is conducted through schools, churches, and community-based organizations as well as through flyers and brochures.
- I. Two documents are used for monitoring (the Local Workforce Development Area EO Monitoring Guide and the ADA Checklist for Existing Facilities) in order to evaluate the programmatic/architectural accessibility of One-Stop Workforce/Career Centers and LWIAS. Samples of monitoring reports resulting from recent local visits and a sample corrective action plan are enclosed.

Element #5: Compliance with section 504 of the Rehabilitation Act of 1973, as amended and 29 CFR part 37 (29 CFR 37.54(d)(2)(v))

- A. State WIA Instruction Number WIA 99-04 informs LWIAs of the requirement to ensure program and facility accessibility to individuals with disabilities and transmits an accessibility self-evaluation instrument. The Instruction letter also requires the LWIAs to establish procedures for ensuring their subrecipients comply with section 504 of the Rehabilitation Act of 1973, amendments thereto, the equal opportunity provisions in WIA and 29 CFR part 37 as they apply to individuals with disabilities.
- B. State WIA Instruction Number WIA 99-05 transmits to the LWIAs 29 CFR part 37 implementing the nondiscrimination and equal opportunity requirements under WIA.
- C. Reasonable accommodations are provided for individuals receiving intensive services through the LWIA One-Stop centers or Youth program activity once the need for such accommodations is determined through a mandatory needs assessment. The needs assessment reveals what accommodations are necessary for a disabled individual to meet the objectives of his/her individualized services strategy.
- D. State WIA Instruction Number WIA 99-04 issued May 1, 2000, informed the LWIAs of the program and facility architectural accessibility requirements, provided US Department of Labor Disability Initiative accessibility materials, and transmitted a self-evaluation instrument to assist LWIAs in addressing accessibility issues effectively. Appropriate training and schedules for recipient staff for training will continue and be developed and scheduled as indicated by changes and needs.
- E. The State staff will review and evaluate all new job descriptions and will systematically review and evaluate all other job descriptions on a regular basis to ensure that the qualifications do not discriminate on the basis of disability in accordance with 29 CFR 32.14.
- F. Pre-employment/employment medical inquiries are limited to those permitted by and in accordance with section 504 and the Americans with Disabilities Act of 1990. All medical information provided by registrants, applicants, eligible applicants/registrants, participants, employees, and applicants for employment is confidential and will be maintained and managed in a confidential manner.
- G. While there may be pre-vocational training programs designed specifically for those with certain physical, emotional, cognitive, or other learning disabilities, this does not preclude an individual from being considered for other, integrated training settings. All efforts are expended to provide reasonable

accommodation to ensure that the disabled individual receives the same benefits from WIA Title I funded programs and activities as any other participant.

- H. TDDs or relays are available for the hearing impaired. Recruitment is conducted through schools, churches, and community-based organizations as well as through flyers and brochures.
- I. Two documents are used for monitoring (the Local Workforce Development Area EO Monitoring Guide and the ADA Checklist for Existing Facilities) in order to evaluate the programmatic/architectural accessibility of One-Stop Workforce/Career Centers and LWIAS. Samples of monitoring reports resulting from recent local visits and a sample corrective action plan are enclosed.

Element # 6 - Data and Information Collection and Maintenance (29 CFR 37.54(d)(1)(iv) and (vii))

- A. The State ensures that race/ethnicity, sex, age and disability status of each applicant, registrant, eligible applicant/registrant, participant, terminnee, employee, and applicant for employment are collected at time of application. Information is collected and entered into the State Workforce Investment Act "South Carolina Virtual One-Stop System" (SCVOS), the data collection, reporting, case management, and program management system for the state workforce development system. Data on employees is maintained in the SCDOC personnel database. The information is also maintained in the employee personnel file. Voluntary submission of EO data is requested on a detachable section of the employment application. This information is for statistical purposes only and is not made available to the hiring officials.
- B. Confidentiality of records is ensured as all records are maintained in a computer database system accessed only by limited LWIA administrative staff and WIA State Administrative staff. Medical information, when recorded, is maintained in a separate, secure file at the local level. State Instruction WIA 00-09 addresses the confidentiality of EO records.
- C. The State EO Officer maintains a log of complaints in a locked file cabinet with other confidential EO records. Logs and other EO records are to be maintained for at least three years from date of resolution.
- D. State policy requires that the CRC Director be notified of administrative enforcement actions and lawsuits brought against grant applicants and recipients that allege discrimination on one or more of the bases prohibited by WIA section 188.
- E. The SCDOC will notify the Director of the CRC of any administrative enforcement actions or lawsuits filed against a grant applicant or recipient alleging discrimination on a prohibited ground and will provide the Director a brief description of the findings in any civil rights compliance review or complaint investigation conducted by another Federal agency where a grant applicant or recipient was found in noncompliance. The Agency will, maintain a log containing certain information regarding complaints filed with it under this part and will submit the information in accordance with the procedures determined by the Director of the CRC.



Element #7: Monitoring recipients for compliance (29 CFR 37.54(d)(2)(ii))

- A. State WIA Instruction Number WIA 99-05 transmits to each LWIA 29 CFR Part 37 implementing the nondiscrimination and equal opportunity requirements under WIA and delineating the LWIA's role in complying with the administrative obligations including assurances, EO officers, notice and communication, conducting monitoring reviews, and ensuring that programs and activities operate in a nondiscriminatory manner. The State requires LWIAs to act with due diligence to monitor EO. If discrimination is found during a monitoring visit, the LWIA must demonstrate that it takes prompt and appropriate corrective action to effect compliance.

Each LWIA and its subrecipients have completed a program and facility accessibility survey in accordance with State WIA Instruction Number WIA 99-04.

Discrimination complaints are logged and reviewed by the State EO Officer and then referred to the South Carolina Human Affairs Commission, the agency retained by the EEOC for this purpose. LWIAs do not handle complaints of discrimination. The State provided a copy of the State's procedures for handling complaints of discrimination with instructions for providing a copy to staff/applicants/participants via State WIA Instruction Number WIA 00-06. Compliance is monitored through file and document review.

State WIA Instruction Number WIA 99-07 informs LWIAs of the sanctions that may be imposed and outlines procedures to achieve corrective action/remedy.

State WIA Instruction Number WIA 00-09 provides directions regarding data and information collection and maintenance. The State monitors data collection by reviewing documents that prove that the information reported is true, and that the data required by USDOL is gathered.

- B. The State EO officer and/or other State Workforce Development Program staff will conduct annual monitoring visits to ensure LWIA compliance with: the administrative obligations under WIA section 188 and 29 CFR Part 37; the responsibilities assigned through the MOA; dissemination of the notice; and nondiscrimination within programs and activities. Desk-top reviews are conducted internally in preparation for the annual on-site review, on an as-needed basis during resolution of monitoring findings, and for follow-up.

LWIA EO officers will annually review EO as a part of their routine on-site monitoring of subrecipients.

- C. The State appointed Ms. Tudy Newsom as EO Officer effective January 13, 2006. The EO Monitoring Policy and Procedures and Monitoring Guide will continue to be reviewed and revised on an ongoing basis.

The EO Monitoring Policy and Procedures provide for three types of monitoring: pre-award survey, desk-top review, and on-site review. Equal Opportunity and Grievance Procedures will be monitored at the LWIA, the One-Stop, and the service provider levels.

Monitoring schedules will be developed at the beginning of each program year in conjunction with other program and systems monitoring and will be disseminated. Further, copies of the EO Monitoring Policy and Procedures and copies of the EO Monitoring Guide outlining the process and enumerating the items to be reviewed will be disseminated:

- (1) Designation of EO Officer (29 CFR 37.23-37.28);
- (2) Communicating EO policy and training staff (29 CFR 37.29-37.36);
- (3) EO provisions and nondiscrimination assurance in agreements (29 CFR 37.2);
- (4) Equitable services among substantial segments of the eligible population (29 CFR 37.42);
- (5) Program and site accessibility (29 CFR 37.4, 37.8, 37.9);
- (6) Collecting and maintaining EO Data (29 CFR 37.37);
- (7) Monitoring subrecipients for compliance (29 CFR 37.54);
- (8) Handling discrimination complaints (29 CFR 37.30, 37.70-37.77); and
- (9) Corrective actions or sanctions for discrimination (29 CFR 37.52, 37.95).

The State EO officer and/or other State Workforce Development Program staff monitors LWIAs to determine if LWIA EO officers are carrying out their responsibilities in accordance with State instructions and to see if EO posters are displayed in accordance with State instruction.

During monitoring, the State EO officer reviews LWIAs' RFPS, contracts, and publications to ensure that EO assurances are included in accordance with 29 CFR part 37.34.

The State EO officer conducts interviews, looks at programs and reviews applicant/participant characteristics to determine if equitable services are

being provided in accordance with Section 188 (a)(2) of the Act and State WIA Instructions WIA 99-04 and WIA 00-08. The State EO officer also evaluates programs to ensure efforts have been made toward eliminating sex stereotyping in training and employment placements.

The State EO officer monitors to determine whether any protected group or groups of individuals have been adversely affected by the selection process or by their treatment in WIA.

On-site follow-up is conducted when necessary.

State monitoring procedures require that written reports are provided to the LWIA/grantee.

- D. The State EO Officer is responsible for conducting mathematical data analysis to determine whether any differences based upon race/ethnicity or sex have practical or statistical significance. The data and records have recently become available through the State Participant Data System, SCVOS.
- E. The state EO Officer is responsible for conducting statewide data analysis or investigations. At the local level, this responsibility rests with the LWIA EO Officers previously mentioned in Element 1. These same individuals will annually review EO as a part of their routine on-site monitoring of subrecipients and their respective local one-stop system.
- F. Within 30 days after each monitoring visit, the EO Officer issues an official report to the signatory official. The report references the time and scope of the review, identifies any deficiencies noted during the monitoring, and offers recommendations for corrective action. The recipient is requested to respond with a corrective action plan for any deficiencies noted within 30 days of the date of the transmittal letter.

The State EO Officer reviews the response to determine whether the proposed corrective action is satisfactory to correct the deficiencies. Should the proposed corrective action be determined unsatisfactory, the recipient is asked to submit a revised corrective action plan or additional documentation within 15 days of the date of the determination letter. Failure of the recipient to respond within the established time frame will result in sanctions being imposed against the recipient in accordance with the State's sanctions policy.

The State EO Officer conducts follow-up (to include records review, interviews and other appropriate investigative techniques), whenever necessary, within 90 days of date of resolution of the report. Additional follow-up visits may be scheduled on an as-needed basis. For each follow-up visit, a formal report is issued and resolved through the aforementioned procedure.

- G. As outlined in the EO Policy and Procedures, a desk-top review is conducted prior to each monitoring visit. Internal agency documents, to include but not be limited to personnel policies, legal status documents, signatory authority, agreements, participant data, complaint logs, and instruction letters, are reviewed to ensure that the policies and procedures do not violate the prohibitions contained in 29 CFR 37.5 through 37.10.
- H. Sample copies of monitoring reports are enclosed. At the conclusion of each monitoring visit and prior to the issuance of a written report, the EO Officer conducts an exit conference to review all findings/observations and discuss all concerns. It is the common practice of the LWIAs to review the findings and observations of the monitoring visit with the subrecipients, as it is in their best interests to do so. However, future monitoring reports will include a directive to make the results of the review available to the subrecipients.
- I. State and Local level EO Officers and/or State Workforce Development Program staff conduct all monitoring reviews; therefore, there are no other persons required to receive training in monitoring procedures.
- J. The EO Officer is required to monitor all LWIAs and One-Stop Workforce/Career Centers annually. Subrecipients are to be monitored by the LWIA EO officers annually. The State EO Officer may elect to review subrecipients during the monitoring of LWIAs. The selection may be based on the number or type of complaints received, the number of applicants/participants/employees, or the size/dollar value of the contract involved or any combination of these variables.

Sample monitoring reports, including findings and the status of follow-up actions, are enclosed. (Refer to Element 5.)



Element #8: Complaint Processing Procedures (29 CFR 37-45(d)(1)(v))

- A. State WIA Instruction Number WIA 00-11 transmits to each LWIA complaint procedures providing for:
- notice in writing of the next step of the process upon the filing of a complaint and at each step thereafter;
 - notice that the complainant has the right to be represented in the complaint process;
 - a written statement of the issue(s);
 - a period for investigation;
 - a hearing within 30 days from date of filing;
 - a written decision within 60 days from date of filing; and
 - the right to file with CRC within 30 days of the expiration of the 60-day period, if no decision is issued or if the decision is unsatisfactory.
- B. The State's Grievance/Complaint procedures offer the complainant the opportunity to elect to use an alternate dispute resolution.
- C. Except for complaints alleging fraud or criminal activity, complaints shall be made within 180 days of the alleged occurrence. The Director, US Department of Labor, Civil Rights Center (CRC), for good cause shown, may extend the filing time.
- D. LWIA compliance with the Grievance/Complaint Procedures will be reviewed as a part of the regular EO Monitoring.
- E. The State EO Officer can be contacted by TTYFTDD Relay Operator available through a voice telephone at 711 or 1-800-735-2905 or through a computer equipped with ASCII at 711 or 1-800-735-7293. These numbers are available in the current BellSouth telephone books.
- F. State Instruction Number WIA 00-11 was issued December 15, 2000, to address the grievance and complaint procedures. Later, State Instruction Number WIA 01-01, addressed to LWIAs and issued July 20, 2001, revised the grievance and complaint procedures in order to communicate three separate grievance/complaint procedures. A copy of each of these Instructions is enclosed.

Section I addresses Grievance and Complaint Procedures regarding WIA programs and activities pursuant to Section 181 (b) of the Act and 20 CFR Part 667 subpart F of the WIA regulations. Section 11 addresses Grievance and Complaint Procedures regarding violations of the Labor Standards pursuant to Section 181 (b) of the Act and 20 CFR Part 667 subpart F.

Section III addresses EO Complaint Procedures pursuant to Section 188 (a) of the Workforce Investment Act and 29 CFR Part 37.

The new Instruction more clearly delineates the procedures that have been developed for special handling of complaints alleging violations of the nondiscriminatory and equal opportunity provisions of the WIA and should eliminate any confusion.

Element #9: Corrective Actions/Sanctions (29 CFR 37.54 (d)(2)(vii))

- A. State WIA Instruction Number WIA 99-07 informs the LWIAs of the sanctions that may be imposed for violation of the nondiscrimination and equal opportunity provisions of WIA and outlines procedures for corrective action.
- B. The sanctions policy provides for written notice of any violation noted during an audit or monitoring visit. The subrecipient is given 30 days to respond by stating what voluntary action will be taken to remedy the situation or to make it whole.
- C. If the response to the written notice is not acceptable, a meeting between the grant recipient and State staff should be held within five days to arrive at a plan to assure voluntary compliance.
- D. If, during follow-up monitoring, corrective action has not been taken or is not effective, the subrecipient will be given 15 days to effect compliance; failure to comply will cause the State office to withhold or terminate funding.
- E. If the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance may be effected by the suspension or termination of, or refusal to grant or to continue federal assistance, or by any other means authorized by law.

Section 188 of the Workforce Investment Act

The Workforce Investment Act (WIA) reforms the federal job training programs and creates a new comprehensive approach providing workforce investment activities through statewide and local systems. Authorized workforce investment activities provided at the local level benefit job seekers, dislocated workers, youth, incumbent workers, new entrants to the workforce, veterans, persons with disabilities, and employers. These activities promote an increase in the employment, job retention, earnings, and occupational skill attainment by participants. This improves the quality of the workforce, reduces welfare dependency, and enhances the productivity and competitiveness of the nation. Section 188 prohibits discrimination on the basis of the disability in connection with these activities.

Section 188(a) provides:

(2) Prohibition of discrimination regarding participation, benefits, and employment

No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.)), national origin, age, disability, or political affiliation or belief.

Investment Area allocation guidelines governing distribution within the Awarding Entity's total jurisdiction. The Awarding Entity is in no way obligated for any funds not received nor any decrease in funding caused by required allocation formulas.

3.4 RECIPIENTS/SUBRECIPIENTS/SUBGRANTEES

3.4.1 Assurances of Compliance

3.4.1.1 It is the responsibility of the recipient/subrecipient/subgrantee to have, or to have access to, copies of the Workforce Investment Act of 1998, the applicable Federal Regulations (to include all CFRs and OMB Circulars) and other pertinent documents referenced in this Agreement and with which compliance is required.

3.4.1.2 The recipient/subrecipient/subgrantee shall comply with the requirements of the Act and with Federal Regulations (hereinafter called the Regulations) and any revisions thereof.

3.4.1.3 The recipient/subrecipient/subgrantee shall operate its programs under this Agreement, and shall otherwise comply with the terms of the Agreement in such a manner as to prevent or correct any breach of the Awarding Entity's agreement with the U.S. Department of Labor.

3.4.1.4 The recipient/subrecipient/subgrantee must comply with the following federal regulations and requirements:

1. 29 CFR Part 17, dated 7/1/91 (Executive Order 12372) and any amendments thereto;
2. 35 Federal Regulations 32874 et seq. (1973) or any replacements and subsequent revisions or amendments thereof;
3. OMB Circular A-87 (applies to state and local governments and federally recognized Indian tribal governments);
4. OMB Circular A-21 (applies to public and private institutions of higher education);
5. OMB Circular A-122 (applies to nonprofit organizations including nonreservation Indian organizations but not to educational institutions and hospitals);
6. 48 CFR Part 31 (applies to commercial organizations);
7. 29 CFR Part 95 which codifies OMB A-122;
8. 29 CFR Part 97 which codifies OMB A-87;
9. "Jobs for Veterans Act," Public Law 107-288 and 20 CFR Part 1010 (Priority of Service for Covered Persons, Final Rule)
10. Section 504 of the Rehabilitation Act of 1973, as amended;
11. Section 508 of the Rehabilitation Act of 1973, as amended;
12. Age Discrimination Act of 1975, as amended;
13. Title IX of the Education Amendments of 1972, as amended;
14. Section 167 of the Job Training Partnership Act, as amended;
15. Section 188 of the Workforce Investment Act of 1998;

1. Section 504 of the Rehabilitation Act of 1973, as amended;
 - protects qualified individuals from discrimination based on their disability
 - forbids organizations and employers from excluding or denying individuals with disabilities an equal opportunity to receive program benefits and services.
2. Section 508 of the Rehabilitation Act of 1973, as amended;
 - requires access to electronic and information technology procured by Federal agencies.
3. Age Discrimination Act of 1975, as amended;
4. Title IX of the Education Amendments of 1972, as amended;
 - forbids any education program or activity receiving Federal financial assistance from excluded individuals on the basis of sex (gender)
5. Section 167 of the Job Training Partnership Act, as amended;
 - forbids discrimination on the basis of age, disability, sex, race, color or national origin by programs or activities receiving Federal financial assistance
6. Section 188 of the Workforce Investment Act of 1998;
 - forbids discrimination on the basis of age, disability, sex, race, color or national origin by programs and activities funded or otherwise financially assisted in whole or in part under WIA
7. Title II Subpart A of the Americans with Disabilities Act of 1990, as amended;
8. Title VI of the Civil Rights Act of 1964, as amended;
 - prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance
9. Title VII, Civil Rights Act of 1964, as amended, Section 2000e-16, employment by Federal Government;
 - prohibits employment discrimination based on race, color, religion, sex and national origin (equal pay)
10. Equal Pay Act of 1963, as amended;
11. 29 CFR Part 37: Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998 (WIA);
12. Executive Order 13160 Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs;
 - prohibits discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in federally conducted education and training programs
13. Executive Order 13145 to Prohibit Discrimination in Federal Employment Based on Genetic Information;
14. Executive Order 13166 Improving Access to Services for Persons with Limited English Proficiency;
 - to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP),
15. Executive Order 11478 Equal Employment Opportunity in the Federal Government
 - to provide equal opportunity in Federal employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, handicap, or age, and to promote the full realization of equal employment opportunity through a continuing affirmative program in each executive department and agency

Local WIA EO Officer Responsibilities:

- (1) Serve as the (local area's) liaison to the State WIA EO Officer. Coordinate the State EO Officer' monitoring visits/activities with appropriate Local Area and subrecipient and service provider staff, gather data, prepare and submit required reports and responses to the State EO Officer;
- (2) Monitor the activities of the entities that receive WIA Title I funds from the Local Area to ensure that the Local Area and its subrecipients are not violating the nondiscrimination and equal opportunity obligations under WIA Title I;
- (3) Review written policies to make sure that those policies are nondiscriminatory;
- (4) Ensure that the State procedures for processing discrimination complaints under 37.76 through 37.39 are followed;
- (5) Report directly to the appropriate official about EO matters;
- (6) Provide technical assistance and training on EO matters to subrecipient and service provider staff;
- (7) Train in the use of managerial and organizational practices to support EO objectives;
- (8) Provide recommendations for correcting practices which could lead to discrimination and/or complaints of discrimination; provide assistance in developing solutions to EO problems faced by minority groups, women, and individuals with disabilities; and
- (9) Help to identify potential problems that may be inherent in apparently neutral agency actions.

Disparate Treatment

Disparate Treatment is unfavorable or unfair treatment of a person in comparison to others similarly situated because of that person's protected status. This generally involves the inconsistent or unfair application of an employment rule, policy, or practice against a specific individual. This treatment also is referred to as "unequal" or "differential treatment."

Example: A male employee is reprimanded for returning late from lunch. A female employee who also returned late is not reprimanded (sex discrimination).

Disparate Impact

Disparate Impact is uniform application to all applicants or employees of certain personnel policies that have the effect of denying employment or advancement to members of protected classes. Business necessity would be the only justification for continuing these policies. This treatment also is referred to as "discrimination by effect" or "adverse impact."

Example: Word of mouth advertising of job vacancies in situations where women are underrepresented in the work force. If this is the only method of communicating vacancies, men probably will be informed about job openings at a higher rate than women (sex discrimination).

Discrimination does not have to be intentional to be unlawful. Some practices and actions unintentionally discriminate and are unlawful.

**BASES OF DISCRIMINATION PROHIBITED BY
SECTION 188 OF WIA AND CIVIL RIGHTS LAWS
ENFORCED BY FEDERAL GRANT –MAKING AGENCIES (FGA) AND/OR DOL-CRC**

	Section 188, WIA	Title VI, Civil Rights Act of 1964	Section 504, Rehabilitation Act of 1973	Americans with Disabilities Act	Title IX, Education Amendments Act of 1972	Age Discrimination Act of 1975
Race	CRC	FGA & CRC				
Color	CRC	FGA & CRC				
National Origin	CRC	FGA & CRC				
Disability	CRC		FGA & CRC	FGA & CRC		
Sex	CRC				FGA & CRC	
Age	CRC					FGA & CRC
Religion	CRC					
Political Affiliation or belief	CRC					
Citizenship (WIA beneficiaries only)	CRC					
Participation in any WIA program/activity (Beneficiaries)	CRC					