

## **Element 1:**

### **Designation of State-and-local-level Equal Opportunity (EO) Officers**

*Reference: 29 CFR 37.54 (d) (1) (ii)*

*In this element, the State should address how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.23 through 37.28. The intent of this section is to ensure that any individual the recipient appoints as EO Officer has the education, training and experience, and is provided the necessary ongoing training and qualified staff, to perform his or her duties assigned under 29 CFR part 37. Additionally, the EO Officer should not be in a position that would constitute, or appear to constitute, a conflict of interest. Further, the State should ensure that he or she reports, on EO matters, directly to the appropriate official in the organization (see 29 CFR 37.25(e)). In summary, any individual appointed as 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:**

The state of South Dakota complies and will continue to comply with the requirements of 29 CFR Part 37 related to the designation of Equal Opportunity (EO) Officers. In South Dakota, all individuals appointed as EO Officers are required to have the skills, abilities, knowledge, and authority to properly oversee and direct the EO programs and/or activities to which those individuals have been assigned.

The South Dakota Department of Labor and Regulation (DLR) is the state-level agency designated to administer WIOA, employment services, and unemployment insurance services programs. EO Officers are senior-level state employees (see MOA Element 1 documentation) who are designated by and report directly to the Secretary of the DLR all matters concerning nondiscrimination and equal opportunity. These EO Officers are charged with the responsibility for coordinating the Department's nondiscrimination and equal opportunity policies.

The EO Officers' positions are filled at all times. If a position is vacated, the Secretary of the DLR will designate a new EO Officer and the Civil Rights Center (CRC) will be notified of this change. The DLR administrators for WIOA, employment services, and unemployment insurance services programs will ensure that the action is accomplished in a timely manner.

The identities of the EO Officers are made known to applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment, as well as interested members of the public. Their identity is made known externally through materials such as brochures and Equal Opportunity notices. Their identity is made known internally through new participant and employee orientations, a DLR policy statement on nondiscrimination and equal opportunity and distributed through a policy letter; and are included in materials such as the Contractor's Guide, Policy and Procedures Manuals, Operations Manuals, and Equal Opportunity notices. In addition, the EO Officers' names and contact information are located on the South Dakota Department of Labor Internet homepage at <http://www.sdjobs.org>. (See MOA Element 1 documentation.)

The designated State-level Equal Opportunity Officer is:

Derek Gustafson  
State EO Officer  
SD Dept. of Labor and Regulation  
123 W. Missouri Ave.  
Pierre, SD 57501

(605) 773-5395 or (605) 773-3101  
[Derek.Gustafson@state.sd.us](mailto:Derek.Gustafson@state.sd.us)

\*Deaf, Hard-of-Hearing, or speech-disabled: **Dial 711** (South Dakota Relay)

Henceforth when using the term EO Officer, reference is to the Governor's designated State EO Officer as appropriate to the Workforce Investment Act (WIOA), employment services, and/or unemployment insurance services programs.

As outlined in an EO Officer's position description (see MOA Element 1 documentation), responsibilities and duties of an Equal Opportunity Officer for the DLR include, but are not limited to the following:

- coordinating responsibilities under 29 CFR Parts 37 and 38;
- serving as the liaison with the Civil Rights Center;
- EO monitoring and investigations including conducting reviews of the program, services and activities;

- reviewing written policies to make sure those policies are nondiscriminatory;
- developing, publishing, and implementing procedures for processing discrimination complaints;
- reporting equal opportunity matters directly to the South Dakota Secretary of Labor;
- participating in training to maintain competency as an EO Officer;
- overseeing the development and implementation of the Methods of Administration;
- ensuring compliance with the nondiscrimination and equal opportunity provisions; and
- providing technical assistance and training in the nondiscrimination and equal opportunity provisions.

The State EO Officer is not assigned other duties, responsibilities or activities that would constitute a conflict of interest or appearance of such a conflict with the responsibilities of an EO Officer. The EO Officer is an effective member of the collaborative team who develops the State's vision, goals, strategies, policies and measures for the workforce investment system. As the State Plan for implementation of WIOA was developed and is implemented, the EO Officer continues to review plans, policies, and processes to build in equal opportunity in every aspect of DLR programs and activities. The EO Officer ensures compliance with the nondiscrimination and equal opportunity provisions.

Approximately 10% of the EO Officers' time is spent in performing equal opportunity duties. There is justification in not designating a full-time EO Officer position in South Dakota. With 814,000 people spread over 77,000 square miles, South Dakota is one of the most rural states in the nation. Thirteen American cities have more people than the entire state of South Dakota. Only one South Dakota city has a population over 100,000 people. Many of the functions performed at the local level in more populated states are carried out by state government in South Dakota.

South Dakota's single statewide local service area is designed to streamline oversight and planning functions, reduce redundancy and waste, and use funds to develop, articulate and advance comprehensive workforce development policies and priorities

including nondiscrimination and equal opportunity provisions. State staff serves in both the administrative and program delivery capacity.

The DLR has developed a network of DLR Comprehensive America's Job Centers (AJCs), also known internally as Local Offices, to better serve the greatest number of customers. The managers of these 16 Local Offices act as Equal Opportunity (EO) Coordinators with EO oversight maintained by the State EO Officer. In addition, recipients of WIOA funding designate a site EO Coordinator. The EO Coordinators assist the state EO Officer with local support to ensure DLR programs and activities operate in a nondiscriminatory way. The EO Officer is allocated sufficient clerical staff and resources to ensure compliance with the nondiscrimination and equal opportunity provisions. The budget for the department provides for state employee salaries (in accordance with the State's salary structure), mileage, other travel, materials, supplies, equipment and operating expenses to carry out the responsibilities of the EO Officer.

The EO Officer and EO Coordinators receive and will continue to receive appropriate training to ensure that he or she is capable of fulfilling his/her EO responsibilities. The EO Officer will participate in training and technical assistance as designated by the CRC. It is recommended that the EO Officer receive EO training from the CRC within 90 days after he/she assumes the responsibilities of the position. The EO Officer is to receive follow-up/continuing training from the CRC at least once annually.

Funds are available through the DLR budget for travel and participation in local, regional, and state conferences and workshops for DLR Local Office staff and managers/EO Coordinators and other recipient EO Coordinators and staff who are administrating and/or delivering DLR programs and activities. The state EO Officer provides training and technical assistance for recipient/grantees in a continuing effort to ensure that all staff are implementing their responsibilities relative to nondiscrimination and equal opportunity. Staff training on nondiscrimination and equal opportunity is an ongoing effort arranged and/or conducted by the EO Officer in coordination with service providers. Recipients develop, coordinate, schedule, and monitor EO training. Areas of training include, but are not limited to: EO laws and regulations; sexual harassment; MOA requirements; Section 504 of the Rehabilitation Act of 1973, as amended; Americans With Disabilities Act of 1990; Title IX of the Educational Amendments of 1972; Title VI and Title VII of the Civil Rights Act of 1964; and the and complaint procedures (see MOA Element 1 documentation). This training includes initial orientation as well as update and refresher training. Staff is required to attend, minimally, one annual training, as well as periodic regional and local training to maintain competency.