

Documentation:

See attachments.

2. Notice and Communication

Reference: 29 CFR 37.54 (d) (1) (iii)

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 37.29 through 37.36. State should ensure the establishment of a notice and communication system that makes all registrants, applicants, eligible applicants/registrants, 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:

The state of South Dakota complies, and will continue to comply, with the requirements of 29 CFR Part 37 related to the establishment of a notice and communication system. DLR has established a notice and communication system that makes registrants, applicants, eligible applicants/registrants, applicants for employment, employees and interested members of the public aware of both the State'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.

The DLR policy statement on nondiscrimination and equal opportunity is distributed to employees and service providers in a policy letter; included in the Contractor's Guide, Policy and Procedures Manual, and Operations Manuals. (See MOA Element 2 documentation.)

All DLR offices including contractors, subcontractors and administrative complexes must post the official complaint poster (see MOA Element 2 documentation), which outlines the prohibitive factors and the recourse available. The notice contains the following prescribed language:

Equal Opportunity is the Law

It is against the law for this recipient of Federal financial assistance to discriminate on the following basis:

- Against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, pregnancy, childbirth, and related medical conditions in accordance with the Pregnancy Discrimination Act of 1978 and related case law; and
- Against any beneficiary of programs financially assisted under Title 1 of the Workforce Investment Act of 1988 (WIOA), on the basis of the beneficiary's citizenship status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any DLR program or activity.
- Against the access to the workforce system for people with disabilities in violation of regulations in accordance with the American's with Disability Amendment Acts of 2008 and subsequent Department of Justice guidance.
- To not fully disclose to a participant and other recipients the full scope of their rights and responsibilities.
- To fail to provide protections for transgender and gender non-conforming people.

The recipient must not discriminate in any of the following areas:

- Deciding who will be admitted, or have access, to any DLR 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.

What To Do If You Believe You Have Experienced Discrimination

If you think that you have been subjected to discrimination under a WIOA Title 1 financially assisted program or activity, you may file a complaint with 180 days from the date of the alleged violation with either:

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

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

OR

The Director
Civil Rights Center (CRC)
U.S. Department of Labor
200 Constitution Avenue NW
Room N-4123
Washington, DC 20210

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).

If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with the CRC. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).

If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision of resolution, you may file a complaint

with the CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

The notice will be posted prominently, in reasonable numbers and places, so that all registrants, applicants, eligible applicants/registrants, applicants for employment, employees, and interested members of the public are made aware of the DLR policy statement of nondiscrimination, and equal opportunity. The notice must be provided in appropriate formats to individuals with visual impairments.

Upon employment with DLR, employees are provided with information relative to the DLR being an EO employer. The State EO Officer and/or EO Coordinator provide all DLR employees with initial orientation and ongoing training relative to the DLR policy and procedures for nondiscrimination and equal opportunity.

Upon enrollment in WIOA programs, participants are provided with information relative to the non-discrimination that includes the complaint and grievance procedures, how to file a complaint and/or grievance, and other rights as a WIOA participant. An acknowledgement of such is maintained in each participant's file. (See MOA Element 2 documentation.) When the notice is given in an alternative format to a participant with a visual impairment, this must be documented in the participant's individual record.

In recruitment brochures and materials distributed to the public to describe programs funded under WIOA or the requirements for participation by recipients and participants, the Department of Labor and its grantees state that the DLR program or activity in question is an "equal opportunity employer/program" and that "auxiliary aids and services are available upon request to individuals with disabilities." (See MOA Element 2 documentation.)

The DLR, through the USDOL delivery system, is committed to ensuring DLR programs and services are accessible to all people including individuals with disabilities. Program staff will work with all appropriate DLR partners and other entities, as appropriate, in providing services for eligible individuals. Special efforts will be made to coordinate services with other partner agencies to assist the DLR in ensuring that communications with individuals with disabilities are as effective as communications with others.

For those individuals needing interpreter services, contracts with community-based service providers are established. Interpreters for the deaf are available to assist in the delivery of services to customers with hearing impairments. For brochures and other materials that contain a telephone number, the DLR utilizes a relay service used by the recipient for communication with individuals with hearing impairment. All recipients must

ensure all brochures, publications, and broadcasts include a TDD/TTY number or provide an equally effective means of communication with individuals who are hearing impaired, e.g. relay service. (See MOA Element 2 documentation.)

Limited English proficient (LEP) individuals must be able to access and participate in job training activities in a manner equally consistent and effective to that offered to non-LEP persons. Although South Dakota has a relatively low number of LEP individuals, DLR ensures that LEP persons have access to its programs and activities on an equal basis to that of those who are proficient in English. The DLR and its grantees must take reasonable steps to ensure that such persons receive the language assistance necessary to afford them meaningful access to the programs, services, and information, free of charge.

The DLR contracts with CTS Language Link to provide over-the-phone interpretation services in the event that a local service provider is in need of immediate help with a person that speaks limited or no English. Through assessment and review of available South Dakota data, Spanish is the primary language for which assistance may be needed. Front line staff who are proficient in Spanish are accessible to provide services when the need arises. Endeavors are made to identify whether a concentrated population of LEP customers exists in a specific area and if equal services are being provided to the LEP population. Service providers use existing staff whose bilingual ability is known and documented to interpret for LEP customers. Should bilingual staff not be available to deliver equal services to LEP customers, qualified interpreters are contacted for assistance.

To ensure that all LEP persons can also avail themselves of the services provided, DLR and its grantees must take reasonable steps to provide services and information to these groups. To accomplish this, recipients are asked to follow a model language assistance program that is potentially useful for all recipients, but is particularly appropriate for recipients that serve a significant and diverse LEP population. The model plan incorporates a variety of options and methods for providing meaningful access to LEP beneficiaries including:

- a formal written language assistance program reviewed annually. An updated Language Assistance Plan (LAP) is included as part of this Element in attachments;
- identification and biennial assessment of the languages that are likely to be encountered and estimating the number of LEP persons that are eligible for services and that are likely to be affected by its program or

activity through a review of census, customer utilization data and statistics from school systems, community agencies and organizations;

- outreach to LEP communities, advertising program eligibility and the availability of free language assistance;
- posting of signs in lobbies and in other waiting areas, in languages other than English, informing applicants/customers of their right to no-charge interpreter services and inviting them to identify themselves as persons needing language assistance;
- use of “I speak cards” by intake staff and other client contact personnel so applicant/customers can identify their primary language;
- requiring the intake staff to note the language of the LEP in his/her record so that all subsequent interaction will be conducted in the appropriate language;
- employment of sufficient number of staff, bilingual in appropriate languages, in applicant and client contact positions;
- contracts with interpreting services that can provide qualified interpreters in a wide variety of languages, in a timely manner;
- formal arrangements with community groups for qualified and timely interpreter services by community volunteers;
- an arrangement with a telephone language interpreter line;
- translation of application forms, instructional, informational and other key documents into appropriate languages other than English. Oral interpretation of document for persons who speak languages not regularly encountered.
- procedures for effective telephone communication between staff and LEP including instructions for English-speaking employees to obtain assistance from bilingual staff or interpreters when initiating or receiving calls from LEP;

- notice to and training of all staff, particularly applicant and client staff, with respect to the recipient's Title VI, Section 188 and 29 CFR Part 37 obligation to provide language assistance to LEP, and on the language assistance policies and procedures to be followed in securing such assistance in a timely manner;
- insertion of notices, in appropriate languages, about the right of LEP applicants and clients to no-charge interpreter services and other language assistance in brochures, pamphlets, manuals, and other material disseminated to the public and to staff;
- notice to the public regarding the language assistance policies and procedures, plus notice to and consultation with community organizations that serve LEP regarding problems and solutions, including standards and procedures for using their members as volunteer interpreters;]
- adoption of a procedure for the resolution of complaints regarding the provision of language assistance, and for notifying and education customers of the right to file a complaint of discrimination under Title VI, Section 188 and 29 CFR Part 37;
- appointment of a senior level employee to coordinate the language assistance program and ensure there is regular monitoring of the program, and;
- consideration of LEP peoples' needs when implementing new programs or activities, publishing new forms or notices, etc.