

South Dakota’s WIOA Title I Non-Discrimination Plan



123 W. Missouri Ave., Pierre, SD 57501
dlr.sd.gov

Element 2 – Notice and Communication of Nondiscrimination and Equal Opportunity Policies

29 CFR 38.34 through 38.40

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Element 2 – Notice and Communication of Nondiscrimination and Equal Opportunity Policies

29 CFR 38.34 through 38.40

I. Element 2 Criteria

A. Equal Opportunity Employer/Program Notice

WIOA Title I funded recipients must provide initial and continuous notice they do not discriminate on any prohibited ground. DLR employees go over the Notice and Acknowledgement form, (see Element 2, Exhibit A) with all registrants, applicants, and eligible applicants/registrants for WIOA Title I programs or services, explaining equal opportunity is the law and their right to file a discrimination complaint if they feel they have been subjected to discrimination through a DLR financially assisted program or activity. The Acknowledgement form must be signed by the registrants, applicants, or eligible applicants/registrants for WIOA Title I programs or services and kept in his or her file. All contracts with subrecipients receiving federal or state funding from DLR includes DLR policy statement on nondiscrimination and equal opportunity. All LWIOA locations have the “Equal Opportunity Is The Law” poster displayed prominently in a reasonable number of places (see Element 1, Exhibit B).

B. Equal Opportunity Is the Law Poster

DLR offices, including contractors, subcontractors and administrative complexes, must post the “Equal Opportunity Is the Law” poster, which outlines the prohibitive factors and the recourse available.

1. Specific Wording Contained in Equal Opportunity is the Law Poster

The notice contains the following specific 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.*
- *Against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1988 (WIOA) or any participant in any South Dakota Department of Labor and Regulation (DLR) program, on the basis of the beneficiary’s citizenship status as a lawfully admitted immigrant authorized to work in the United States.*

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

- *Deciding who will be admitted, or have access, to DLR programs or activities;*
- *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 you have been subjected to discrimination under a WIOA Title I 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 Equal Opportunity Officer
South Dakota Department of Labor and Regulation
123 W. Missouri Ave.
Pierre, SD 57501*

605.773.5395 or 605.773.3101

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

Derek.Gustafson@state.sd.us

OR

*The Director
Civil Rights Center
U.S. Department of Labor
200 Constitution Avenue NW
Room N-4123
Washington, DC 2021*

If a complaint is filed with the recipient, the recipient has 90 days to issue a written Notice of Final Action, before a complaint can be filed with the CRC (see address above).

If the recipient does not give written Notice of Final Action within 90 days of the day on which the complaint was filed, a complaint can be filed with the CRC without receiving a Notice from the recipient. However, the CRC complaint must be filed within 30 days of the 90-day deadline (in other words, within 120 days after the day on which the complaint was filed with the recipient).

If the recipient files an unsatisfactory written Notice of Final Action on the complaint, a complaint with the CRC may be filed. The "appeal" complaint must be filed with the CRC within 30 days of the date on which the Notice of Final Action is received.

2. Required Locations for Notice

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

3. Required Notice Dissemination

- a. Upon employment with DLR, employees are provided with the "Equal Opportunity is the Law" Poster (see Element 1, Exhibit B), New Employee Welcome Manual (Element 2, Exhibit B), the DLR Discrimination Complaint Policy and Procedure (Element 8, Exhibit A), and the South Dakota Employee Handbook (Element 2, Exhibit E), which provides the information relative to DLR as an equal opportunity employer. The State EO Officer and/or EO Coordinators provide all DLR employees with initial orientation and ongoing training relative to DLR policy and procedures for nondiscrimination and equal opportunity. This information must be communicated in appropriate languages as required in 29 CFR 38.34 and in formats accessible for individuals with disabilities as required in 29 CFR 38.9.
- b. Upon enrollment in WIOA programs, participants are provided with information relative to the non-discrimination including the "Equal Opportunity is the Law" Poster (see element 1, Exhibit B) and Equal Opportunity Notice and Acknowledgment Form (See Element 2, Exhibit A) describing how to file a complaint and/or grievance, and other rights as a WIOA participant. 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. This information must be communicated in appropriate languages as required in 29 CFR 38.34 and in formats accessible for individuals with disabilities as required in 29 CFR 38.9.

4. Required Notice in Publications, Broadcasts, and Other Communications

The Department of Labor and Regulation and its grantees state WIOA Title I-funded programs or activities in question are an "equal opportunity employer/program" and "auxiliary aids and services are available upon request to individuals with disabilities." (Element 2, Exhibit B) in recruitment brochures and materials distributed to the public to describe programs funded under WIOA or the requirements for participation by recipients and participants.

5. Auxiliary Aids and Services

DLR, through the U.S. DOL delivery system, is committed to ensuring DLR programs and services are accessible to all people including individuals with disabilities and limited English proficiency (LEP). DLR Program staff will work with all 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 DLR in ensuring communications with individuals with disabilities and LEP are as effective as communications with others.

- a. DLR uses Relay South Dakota for those individuals who are deaf, have hearing impairments, or speech disabilities needing interpreter services (see Element 2, Exhibit G). Relay South Dakota Telecommunication Relay Service is a free service providing telephone access to people who are deaf, hard-of-hearing, deaf-

blind, and speech disabled. This service allows text-telephone (TTY) users to communicate with standard telephone users through specially training relay operators. DLR provides SD Relay service contact information on all WIOA Title I brochures and other materials containing a telephone number (See Element 2, Exhibit B).

- b. 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. DLR has a cooperative agreement between South Dakota state government and Western States Contracting Alliance (WSCA) which allows every state government department in South Dakota to enter into an agreement with an interpretive services company called CTS Language Link (see Element 2, Exhibit K). Each division within DLR will have its own CTS account number. Each job service office will be provided with a “Point to Your Language” poster (Element 2, Exhibit J). DLR and its grantees must take reasonable steps to ensure such persons receive the language assistance necessary to afford them meaningful access to the programs, services, and information, free of charge.
- c. Subrecipients who receive funds from or through DLR must take reasonable steps to provide services and information to LEP beneficiaries of WIOA Title I programs and services. To accomplish this, recipients are asked to follow a model Language Assistance Plan (LAP), particularly useful for recipients serving a significant and diverse LEP population. The DLR LAP (see Element 2, Exhibit H) incorporates a variety of options and methods for providing meaningful access to LEP beneficiaries including:
 - A written LAP reviewed annually (see Element 2, Exhibit H).
 - Identification and biennial assessment of the languages likely to be encountered and estimating the number of LEP persons eligible for services and 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 immigrant communities by advertising WIOA programs and partners and providing access to free language assistance to assist in enrolling in those programs;
 - 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 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 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 WIOA Title VI, Section 188 and 29 CFR Part 38 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 38;
- 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.

6. DLR Responsibility to Serve Individuals with LEP

Through assessment and review of available South Dakota data (See Element 2, Exhibit M and Element 4, Exhibit G), Spanish is the primary language for which assistance is needed. When available, front line employees 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. DLR utilizes the services of CTS Language Link (see Element 2, Exhibit K) when bilingual staff are not available to deliver equal services to LEP customers. The process for using Language Link is provided in Element 2, Exhibit N and tips can be found in Element 2, Exhibit L.

II. Element 2 Supporting Documentation

Exhibit A – Notice and Acknowledgement Form
Exhibit B – New Employee Welcome Manual
Exhibit C – Removed
Exhibit D – Removed
Exhibit E – South Dakota Employee Handbook
Exhibit F – Facts about Unemployment Insurance Benefits
Exhibit G – Relay South Dakota
Exhibit H – DLR Language Assistance Plan (LAP)
Exhibit I – DLR Complaint Information and Consent Form
Exhibit J – Point 2 Your Language Poster
Exhibit K – Memo: CTS Language Link
Exhibit L – CTS Language Tips
Exhibit M – SD Labor Market Information – EEO Data
Exhibit N – Language Link Process