

# South Dakota’s WIOA Title I Non-Discrimination Plan



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

## Element 3 Assurances – DLR Obligation to Provide Written Assurance

*29 CFR 38.25 through 38.27*

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## Element 3 Assurances – DLR Obligation to Provide Written Assurance

*29 CFR 38.25 through 38.27*

### I. Element 3 Criteria

The State of South Dakota assures it will comply with 29 CFR 38 and all other regulations implementing the laws listed below. This assurance applies to DLR operation of the WIOA Title I-financially assisted program or activity, and to all agreements DLR makes to carry out the WIOA Title I-financially assisted program or activity. DLR utilizes and incorporates the nondiscrimination assurance statement in all documents providing WIOA Title I-financial assistance including contracts, agreements, grants, cooperative agreements or other arrangements under which DLR or WIOA Title I funds are available. In order to maintain compliance, DLR communicates these requirements to all sub-recipients, suppliers, and service providers. DLR and its sub-recipients are obligated to maintain assurances for the period during which DLR and WIOA Title I-financial assistance is extended as stated in 29 CFR Part 38. (Element 3, Exhibit A and B)

### A. Required Assurance

Each request for proposal and application for financial assistance under WIOA Title I shall contain the following assurance as required by 29 CFR Part 38 (See Element 3, Exhibit A, B, and C):

As a condition to the award of financial assistance from the Department of Labor and Regulation under Title I of WIOA, the grant applicant assures it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

**Section 188 of the Workforce Innovations and Opportunities Act of 2014 (WIOA)**, which prohibits discrimination against all individuals 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 beneficiaries on the basis of either citizenship status as a lawfully admitted immigrant authorized to work in the United States or participation in any of DLR programs or activities;

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

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

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

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

**Pregnancy Discrimination Act of 1978** and related case law as it pertains to non-discrimination to pregnancy, childbirth, and related medical conditions.

The grant applicant also assures it will comply with 29 CFR part 38 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I-financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The grant applicant understands the United States has the right to seek judicial enforcement of this assurance.

## **B. Notice of the Assurance Requirement**

Every grant applicant and training provider seeking eligibility under Title I of the WIOA must include in its application for financial assistance the above written assurance of nondiscrimination. Every grant, cooperative agreement, contract, or other arrangement whereby federal financial assistance is made available under Title I of the WIOA must include the assurance statement. DLR will inform, in writing, all recipients of federal financial assistance under Title I of WIOA of the necessity of including this language in all contracts, grants, cooperative agreements, applications, or other arrangement. DLR will also inform all recipients the nondiscrimination assurance is considered incorporated by operation of law in the grant, cooperative agreement, contract or other arrangement whereby federal financial assistance under Title I of the WIOA is made available, whether or not it is physically incorporated in such document and whether or not there is a written agreement between the department and the recipient or between recipients. The assurance also may be incorporated by reference in such grants, cooperative agreements, contracts, or other arrangements.

## **C. Assurance Reviews**

All agreements and contracts between DLR and its grantees are reviewed by the EO Officer prior to issuance to ensure the required assurances and certifications have been signed by the applicant/recipient. During scheduled compliance reviews of recipients, the EO Officer monitors job training plans, contracts, and other similar agreements to ensure they are nondiscriminatory and contain the required nondiscrimination assurance statement (See Element 7, Exhibit A). The EO Officer also reviews recipient's policies to ensure timeliness and compliance with nondiscrimination and equal opportunity provisions of Section 188 of the WIOA. DLR ensures all training providers seeking eligibility comply with program and architectural accessibility.

## **D. Assurance with Covenants**

DLR includes and requires all recipients to include the covenant required by 29 CFR 38.27 in any instrument effecting or recording a transfer of property acquired or improved under any WIOA Title-I-financially assisted programs and/or activities for the period during which WIOA Title I-financial assistance is extended.

## **II. Element 3 Supporting Documentation**

Exhibit A – DLR Conditions and Assurances – Form 10A

Exhibit B – DLR Conditions and Assurances – Form 10B

Exhibit C – Sample WIOA Assurance Agreement