

South Dakota's WIOA Title I Non-Discrimination Plan



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Element 6: Collection and Maintenance of Equal Opportunity Data and Information *29 CFR 38.41-38.45; 29 CFR 32.15 (d)*

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I. Criteria for Element 6

The Department of Labor and Regulation (DLR) has developed a standardized record data collection by means of a management information system called SDWORKS (See Element 4, Exhibit D). The system allows for statistical or other quantifiable data analyses to verify DLR compliance with section 188 of WIOA and 29 CFR 38.

A. Responsibilities to Collect and Maintain Data and Other Information

1. Required Data

DLR shall collect specific information during the intake process and update, as needed, paper files and SDWORKS data pertaining to an individual's participation in the WIOA Title I programs. SDWORKS must contain information on the quality and quantity of services provided to: program applicants, applicants for program employment, registrants, eligible applicants/registrants, participants, terminees, and employees. This data must provide demographic information which shall include:

- a. Race/ethnicity
- b. Sex
- c. Age
- d. Disability status, if known
- e. Limited English proficiency and preferred language

2. Statistical/Quantifiable Data

The data collected in the DLR management information system allows the CRC, SD Governor, and Equal Opportunity Officer to:

- a. Conduct statistical or other quantifiable data analyses to verify DLR compliance with section 188 of WIOA and 29 CFR 38 (see Element 7, Exhibit E and F);
- b. Monitor DLR equal opportunity performance;
- c. Identify instances or areas of discrimination; and
- d. Identify individuals or groups who have been discriminated against.

3. Confidentiality

Information must be stored in a manner that ensures confidentiality, and must be used only for the purposes of recordkeeping and reporting; determining eligibility, where appropriate, for WIOA Title I-financially assisted programs or activities; determining the extent to which DLR is operating its WIOA Title I-financially assisted program or activity in a non-discriminatory manner; or other use authorized by law.

All related electronic records are maintained in a confidential manner using SDWORKS. The system assigns passwords and entry codes for access to predetermined areas of the computer system and provides access to authorized users only. Data security and confidentiality of information are emphasized at all levels. Service-delivery staff receives training in the proper collection and reporting of required information.

4. Complaint Log

The DLR shall maintain a log of complaints filed alleging discriminations on the grounds of (see Element 6, Exhibit A and B and Element 8, Exhibit A):

- a. Race
- b. Color
- c. Religion
- d. Sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity)
- e. National Origin (including limited English proficiency)

- f. Age
- g. Disability
- h. Political affiliation or belief
- i. Citizenship
- j. WIOA Participation

The following information will be included in the Discrimination Complaint Log:

- a. Name and address of complainant.
- b. Ground or basis of complaint.
- c. Description of the complaint.
- d. Date the complaint was filed.
- e. Disposition of complaint and date of issuance.
- f. Any other pertinent information.

A complaint log form (see Element 6 Exhibit C) is available on DLR's Field Operations SharePoint page for each job service office to file an employment law or job service-related complaint. When a complaint log form is submitted, the required data is automatically transferred to a master complaint log form (see Element 6 Exhibit B). The complaint log form can be accessed, at any time, by the State EO Officer. All complaints are maintained and processed according to the DLR Discrimination Complaint policy and procedure (see Element 8, Exhibit A). The Discrimination Complaint Log, and actions taken regarding the complaints, must be maintained for three (3) years from the date of the resolution of the complaint.

5. Data Retention Period

The records of applicants, registrants, eligible applicants/registrants, participants, terminees, employee, applicants for employment, and other required records must be maintained for a period of three (3) years from the close of the applicable program year.

B. Medical or Disability-related Information

The medical information from a participant shall be collected only when necessary to fulfill the intent of the program. Any medical or disability-related information obtained about a particular individual, including information that could lead to the disclosure of a disability, must be collected on separate forms. All such information, whether in hard copy, electronic, or both, must be maintained in one or more separate files, apart from any other information about the individual, and treated as confidential. Whether these files are electronic or hard copy, they must be locked or otherwise secured (for example, through password protection).

Persons in the following categories may be informed about an individual's disability or medical condition and have access to the information in related files under the following listed circumstances:

1. Program staff that are responsible for documenting eligibility, where disability is an eligibility criterion for a program or activity.
2. First aid and safety personnel who need access to underlying documentation related to a participant's medical condition in an emergency.
3. Government officials engaged in enforcing this part, any other laws administered by the Department, or any other Federal laws.

Supervisors, managers, and other necessary personnel may be informed regarding restrictions on the activities of individuals with disabilities and regarding reasonable accommodations for such individuals.

C. DLR Obligation on Notification of Action

1. The DLR EO Officer and the Director of the CRC shall be promptly notified when any administrative enforcement actions or lawsuits are filed against DLR alleging discrimination on the grounds of race, color, religion, sex (including pregnancy, childbirth or related medical conditions, transgender status, and gender identity), national

origin (including limited English proficiency), age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIOA Title I financially assisted program or activity. This notification must include:

- a. The Names of the parties to the action or lawsuit;
 - b. The forum in which each case was filed; and
 - c. The relevant case numbers.
2. In addition, the DLR EO Officer and the CRC Director have the discretionary authority to request any information and data necessary from recipients for the purpose of investigating complaints and conducting compliance reviews.
3. Whenever any information the State EO Officer and/or the CRC asks a recipient to provide is in the exclusive possession of another agency, institution, or person, and that agency, institution, or person fails or refuses to furnish the information upon request, the recipient will certify to the EO Officer and/or the CRC that it has made efforts to obtain the information and the agency, institution, or person has failed or refused to provide it. This certification will include the name and address of the agency, institution, or person in possession of the information, and the specific efforts the recipient made to obtain it. Considerations of privacy or confidentiality are not reasons for withholding information from the State EO Officer and/or the CRC.

I. Element 6 Documentation

Exhibit A – Discrimination Complaint Form

Exhibit B – Discrimination Complaint Log