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**To:** WIOA Subrecipients of the Orange County  
Development Area

**From:** Brian Rayburn  
Interim Director 

**Subject:** Oversight and Monitoring of Nondiscrimination and  
EO Procedures  
Information Notice No. 17-OCDB-05  
Supersedes Information Notice 15-OCWDB-09

**PURPOSE:**

To provide the guidance and establishes the procedures regarding the oversight and monitoring of the nondiscrimination and equal opportunity (EO) procedures for Orange County Development Board (OCDB) subrecipients, including eligible training providers.

This policy supersedes Information Notice 15-OCWDA-09 (WIOA Biennial Self-Assessment) dated April 28, 2016.

**EFFECTIVE DATE:**

This notice is effective on the date of issuance.

**REFERENCES:**

- Civil Rights Act of 1964 (Public Law 88-352) Titles VI and VII
- Education Amendments of 1972 (Public Law 92-318) Title IX
- Rehabilitation Act of 1973 (Public Law 93-112) Title V, Section 504
- Age Discrimination Act of 1975 (Public Law 94-135)
- Americans with Disability Act of 1990 (Public Law 101-336)
- Workforce Innovation and Opportunity Act (WIOA) (Public Law 113-128) Sections 121(b), 183(c), and 188
- Title 29 Code of Federal Regulations (CFR) Part 38
- Title 20 CFR Section 658.400
- Title 28 CFR Part 35, Subpart A
- Title 29 CFR Parts 31, 32, 34, 38, and 1690-1691
- Title 41 CFR Parts 101-19, Subpart 101-19.6
- Title 45 CFR Part 90, Subpart D, Section 90.43(c)(3)
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP)
- Dymally-Alatorre Bilingual Services Act, California Government Code Sections 7290-7299.8
- Fair Employment and Housing Act, California Government Code Sections 12900 - 12996



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- Workforce Services Directive WSD17-01, Subject: Nondiscrimination and Equal Opportunity Procedures (August 1, 2017)
- EDD State Directive WSD17-05, Oversight and Monitoring of Nondiscrimination and EO Procedures

### **BACKGROUND:**

The nondiscrimination and equal opportunity provisions outlined in Section 188 of WIOA and 29 CFR Part 38 prohibit discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including LEP), age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only on the basis of citizenship status or participation in a WIOA Title I financially assisted program or activity.

Section 188 of WIOA and 29 CFR Part 38 require that annual monitoring reviews are conducted to determine whether each recipient is operating its WIOA Title I financially assisted program or activity in a nondiscriminatory way.

At the State level, the Employment Development Department (EDD) is responsible for the oversight and monitoring of all WIOA Title I financially assisted state programs, which is one of the components of the Nondiscrimination Plan as outlined in WSD17-01. At the local level, the OCDB is responsible for the oversight and monitoring of all WIOA Title I financially assisted programs. Consequently, the OCDB will conduct annual onsite compliance monitoring reviews of all subrecipients to ensure compliance with the nondiscrimination and equal opportunity provisions of Section 188 of WIOA and 29 CFR Part 38.

### **POLICY AND PROCEDURES:**

#### **Nondiscrimination and Equal Opportunity Self-Assessment**

On an annual basis, subrecipients must complete the Nondiscrimination and Equal Opportunity Self-Assessment (Attachment I).

The Nondiscrimination and Equal Opportunity Self-Assessment shall be reviewed by the OCDB and validated in the compliance monitoring review process:

- Eligible training providers will be limited to a desk review by OCDB staff. However, the OCDB may conduct an onsite compliance monitoring review of eligible training providers, if necessary.
- All other subrecipients will receive an annual onsite compliance monitoring review.

## **Compliance Monitoring Review Process**

The compliance monitoring review process includes the following steps:

1. Notification

Approximately two to four weeks prior to conducting onsite compliance monitoring review, the OCDB will notify each subrecipient about the upcoming review.

2. Request for Preliminary Information

The notification of the onsite compliance monitoring review will include a request for preliminary information such as applicants/clients demographic data, random sample applications, subrecipient monitoring records, discrimination complaint logs, etc. The request for preliminary information will also include a copy of the Compliance Monitoring Guide that OCDB staff will use to conduct the compliance monitoring review.

3. Desk Review

Upon receipt of the preliminary information and prior to the onsite compliance monitoring review, OCDB staff will conduct a desk review that will include an analysis of applicants/clients demographic data, random sample applications, subrecipient monitoring records, discrimination complaint logs, etc. The desk review will help identify potential items to be addressed during the onsite compliance monitoring review.

4. Onsite Compliance Monitoring Review

The focus of the onsite compliance monitoring review is to determine compliance with the WIOA nondiscrimination and equal opportunity requirements and to review significant differences or disparities identified during the desk review.

5. Entrance Conference

OCDB staff will meet with the appropriate subrecipient staff to discuss the scope of the review, make arrangements for client and staff interviews or file reviews, and to discuss preliminary findings of the data analysis.

6. Exit Conference

Immediately following the completion of the onsite compliance monitoring review, OCDB staff will conduct an exit conference with the appropriate subrecipient staff to discuss the findings and clarify areas in question. A preliminary compliance status may be given at this time and corrective action(s) suggested.

## **Corrective Action Process**

The corrective action process includes the following steps:

1. The OCDB will issue a list of observations within 30 days of completion of the onsite compliance monitoring review. The list of observations will be issued to the appropriate subrecipient staff. The list of observations will address potential areas of non-compliance. The subrecipient shall respond to the list of observations to address the potential areas of non-compliance.
2. The OCDB will issue a written report based the subrecipient's response to the list of observations. If areas of non-compliance are found, the OCDB will make recommendation(s) for corrective action(s) in the written report.
3. If the subrecipient agrees with the recommendation(s) of the OCDB, a Corrective Action Plan (CAP) must be forwarded to the OCDB by the date specified in the report.
4. Six months after the recommendations are implemented, a follow-up review may be scheduled to assess the progress made by the subrecipient resolving the identified areas of non-compliance.

It is important to note that monetary corrective actions may not be paid from federal funds.

## **Subrecipient Monitoring Responsibilities**

Subrecipients are required to annually monitor the compliance of its WIOA funds, including America's Job Center of California locations. Additionally, subrecipients must annually monitor all of its subrecipients (sub-subrecipients), including compliance with Section 188 of the WIOA and 29 CFR Part 38. Annual compliance monitoring must be conducted within the applicable program year that is being monitored.

Subrecipients must keep copies of their compliance monitoring efforts and reports on file. The subrecipient compliance monitoring records should be used as an assessment reference when developing CAPs, and for scheduled onsite monitoring reviews that may be required by authorized federal and state reviewers.

### **ACTION:**

Bring this policy and procedure to the attention of all staff.

### **INQUIRIES:**

If you have any questions regarding this policy, please contact your Contract Administrator at 714-480-6500.

### **ATTACHMENTS:**

Attachment I: Nondiscrimination and Equal Opportunity Self-Assessment