

JOB SERVICE NORTH DAKOTA

NONDISCRIMINATION  
AND EQUAL OPPORTUNITY  
METHODS OF ADMINISTRATION

February 2015

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**1. Designation of State and Local Level Equal Opportunity Officers  
(29 CFR 37.54 (d)(1)(ii))**

Reference: 29 CFR 37.23

North Dakota is a single service delivery area state. As such, a single individual serves as the State-level Equal Opportunity Officer and local level Equal Opportunity Officer.

The Executive Director of Job Service North Dakota, as the State Workforce Investment Act (WIA) Administrative Agency, State Employment Security Agency, State Unemployment Insurance Agency, Local WIA Administrative Agency, and One-Stop Center Operator, has designated an equal opportunity officer with the responsibility for coordinating the agency's nondiscrimination and equal opportunity policy pursuant to Section 188 of the WIA. Identification of the Equal Opportunity Officer is included in the WIA Procedures Manual, Administrative Orders, and Equal Opportunity Notices.

The designated Equal Opportunity Officer for this purpose is:

Shawn Surface	<a href="mailto:ssurface@nd.gov">ssurface@nd.gov</a>
Equal Opportunity Officer	(701)-328-1976
Job Service North Dakota	TTY -800-366-6888
P.O. Box 5507	(701)-328-4894 Fax
Bismarck, ND 58506-5507	

Reference: 29 CFR 37.24

The Equal Opportunity Officer also carries out the following responsibilities: 1.) Annual monitoring and oversight of the Workforce Investment Act pursuant to 20 CFR 667.410; 2.) Annual WIA, TAA, and Wagner Peyser Report Validation and Data Element Validation; 3.) Biennial monitoring and reporting on the performance of North Dakota's Workforce 20/20 and North Dakota New Jobs Training programs; 4.) Development and oversight of WIA contracts with service providers; and 5.) State Monitor Advocate duties. The responsibilities are combined in one position because of North Dakota's limited population resulting in a lower activity level. The Equal Opportunity Officer's additional responsibilities and activities revolving around the monitoring and oversight of Federal and state funded programs do not create a conflict or the appearance of a conflict with the responsibilities of an EO Officer.

The Systems Management Manager supervises the Equal Opportunity Officer position. However, the Equal Opportunity Officer reports directly to the Executive Director, Job Service North Dakota, regarding equal opportunity matters. The Equal Opportunity Officer and the Executive Director have offices in the same building and on the same floor.

Reference: 29 CFR 37.25

Responsibilities of the Equal Opportunity Officer for Job Service North Dakota shall include but not be limited to the following:

- a. Liaison with the Civil Rights Center (CRC).
- b. Monitoring and investigating Job Service North Dakota activities, and the activities of the entities that receive WIA Title I funds from Job Service North Dakota, to make sure that Job Service North Dakota and its sub-recipients are not violating their nondiscrimination and equal opportunity obligations under WIA Title I and 29 CFR 37.
- c. Reviewing Job Service North Dakota's written policies to make sure that those policies are nondiscriminatory.
- d. Developing and publishing Job Service North Dakota's policies and procedures to guide Job Service North Dakota's Complaint System Representatives in processing discrimination complaints and making sure those procedures are followed.
- e. Reporting directly to Job Service North Dakota's Executive Director, Maren Daley, about equal opportunity matters.
- f. Undergoing training to maintain competency as required.
- g. Administration and maintenance of North Dakota's MOA on behalf of the Governor's Office.

Reference: 29 CFR 37.26

Job Service North Dakota will:

- a. Make public the Equal Opportunity Officer's name, position title, address, telephone number, including voice, and TTY. (See details in Element 2.)
- b. Ensure that the Equal Opportunity Officer's identity and contact information appears on all internal and external communications about Job Service North Dakota's nondiscrimination and equal opportunity programs. (See details in Element 2.)
- c. Assign sufficient staff and resources to the Equal Opportunity Officer, and provide him or her with the necessary support of top management, to ensure compliance with nondiscrimination and equal opportunity provisions of WIA and 29 CFR 37. A separate budget is not maintained for the functions and responsibilities of the Equal Opportunity Officer. The Equal Opportunity Officer can devote the percentage of time needed to fulfill his equal opportunity responsibilities. Resources are available to carry out day-to-day duties. In addition, travel funds are available to attend national conferences as needed to maintain competency.
- d. Ensure that the Equal Opportunity Officer is afforded the opportunity to receive the appropriate training necessary to maintain competency. Additional training will be considered when needs are identified.

**1. Designation of State-and local-level Equal Opportunity Officer  
(29 CFR 37.54(d)(1)(ii))**

Documentation:

- Coded Letter: PS-21; Equal Opportunity Officer Reassigned\_4-25-11
- Coded Letter: PS-21; Complaint System Clarification\_5-17-11
- Organizational Chart – Revised 12-14
- EO Officer Job Description Questionnaire (JDQ) SFN 2572 (10/11) – Updated May 2013
- Individual Training Report – Shawn Surface Updated 2-15

## **2. Notice and Communication (29 CFR 37.54(d)(1)(iii))(29 CFR 37.54(d)(2)(vi))**

Reference: 29 CFR 37.29

Job Service North Dakota provides continuing notice that it does not discriminate on any prohibited grounds. The notice is provided to: registrants, applicants; eligible applicants/registrants; participants; applicants for employment; employees; unions or professional organizations holding collective bargaining or professional agreements with Job Service North Dakota; sub recipients; and members of the public, including those with impaired vision or hearing.

This equal opportunity policy notice is posted in all Job Service North Dakota offices and on the agency website. The notice is made available in alternate formats to individuals with disabilities. For the sight impaired, the notice will be read. This notice will also be made available in languages other than English when a significant proportion of the eligible population to be served or likely to be affected by Job Service programs requires information in a language other than English. Currently, a Spanish version of the policy notice is also posted.

Reference: 29 CFR 37.30

The equal opportunity policy notices posted contain the specific wording required. Equal opportunity policy notices are included in the Documentation Section.

Reference: 29 CFR 37.31

All Job Service Customer Service Offices prominently display a poster with the prescribed equal opportunity notice language.

Job Service North Dakota's policy statement on nondiscrimination and equal opportunity is included in the Job Service North Dakota Policy Manual. All employees of Job Service North Dakota will be made aware of the policy of nondiscrimination and equal opportunity.

The policy notice with the prescribed language is included in the Youth Orientation Handbook and the Orientation Handbook for adults and dislocated workers. All participants will be made aware of the nondiscrimination and equal opportunity policy during their initial orientation to the services, activities, or programs of Job Service North Dakota. Participants are provided an opportunity to sign the form (Equal Opportunity and Grievance Procedures (SFN 53860) during the orientation. The form is made available to each applicant/participant and made a part of the applicant/participant's file. When the notice is provided in an alternate format to a participant with a visual impairment, a record of the format and that notice has been given will be included in the participant's file.

Reference: 29 CFR 37.32

In May of 2011, a revised **EQUAL OPPORTUNITY IS THE LAW** poster (English Version) and **EQUAL OPPORTUNITY IS THE LAW** poster (Spanish Version), with WIA complaint information, were distributed to all Job Service North Dakota Customer Service Offices. **DISCRIMINATION IS AGAINST THE LAW** supplemental poster was distributed at the same time.

Reference: 29 CFR 37.33

North Dakota is a single service delivery area state. Job Service North Dakota, as the State WIA Administrative Agency, State Employment Security Agency, State Unemployment Insurance Agency, Local WIA Administrative Agency, and One-Stop Center Operator, has the responsibility for meeting the notice requirements provided in 29 CFR Sections 37.29 and 37.30 with respect to North Dakota's service providers.

Reference: 29 CFR 37.34

Forms, brochures, pamphlets, and other materials published and distributed to staff, clients, or the public by Job Service North Dakota and broadcast announcements include the statements "*Job Service North Dakota is an equal opportunity employer/program provider. Auxiliary aids and services are available upon request to individuals with disabilities.*" Where such materials indicate that Job Service North Dakota may be reached by telephone, the materials include the statewide TTY number.

Reference: 29 CFR 37.35

Job Service North Dakota makes every attempt to ensure the needs of customers with limited English speaking skills. To provide interpretation services in a timely manner, Job Service North Dakota uses CTS LanguageLink interpreter services, bilingual staff (Spanish-English), and partner agencies interpreting services.

Reference: 29 CFR 37.36

A discussion of rights under the nondiscrimination and equal opportunity provisions of WIA and 29 CFR Part 37 of the federal regulations will be included in the orientation of all new participants and employees. The **Equal Opportunity is the Law** notice along with the "**Discrimination is Against the Law**" supplement poster is displayed in all Job Service North Dakota offices and included in all Work Investment Act handbooks along with Job Service North Dakota's jobsnd.com website and with all eligible provider locations.

Reference: 29 CFR 37.54(d)(2)(vi)

Job Service North Dakota has only one Equal Opportunity Officer. The Equal Opportunity Officer is aware of and is responsible for communication of Equal Opportunity policies and procedures.

## 2. Notice and Communication (29 CFR 37.54(d)(1)(iii))(29 CFR 37.54(d)(2)(vi))

### Documentation:

- ***EQUAL OPPORTUNITY IS THE LAW*** Poster – English Version – JSND 5057 Revised 5-11
- ***EQUAL OPPORTUNITY IS THE LAW*** Poster – Spanish Version – JSND 5059 Revised 5-11
- ***Discrimination is Against the Law*** Poster – Available to all JSND Office and eligible providers.
- Website Equal Opportunity Notice and Discrimination Is Against the Law - Revised 2012
- Connecting Young Adults to the Community – JSND-6067 Revised 12-14
- Your One-Stop Career Center – JSND 6072 Revised 9-12
- *Job Service North Dakota Equal Opportunity Policy 2*
- *Job Service North Dakota New Employee Equal Opportunity acknowledgement form 5-14*
- *Orientation Handbook (Adults and Dislocated Workers)* - JSND 5001 Revised 4-14
- *Youth Orientation Handbook* – JSND 5058 Revised 4-14
- JOBS Orientation Handbook – JSND-5045 Revised 3-13
- Work Activity Program Participant Handbook – JSND 5003 Revised 12-14
- Work Activity Program Supervisor's Handbook – JSND 5002 Revised 6-13
- The Work Opportunity Tax Credit – JSND 5006 Revised 6-13
- *Equal Opportunity and Grievance Procedures* – SFN 53860 Revised 12-11
- *Forms Procedure – equal opportunity statement requirement* – APAST-12, pages 3 & 4 Revised 12-11
- Customer Service Guide, Chapter 1 – Job Seekers, Grievance and Appeals - Revised 12/7/2012

### 3. Assurances (29 CFR 37.54(d)(1)(i) and (d)(2)(i), (iii) and (iv))

Reference: 29 CFR 37.20

Each contract for financial assistance under Title I of WIA includes the following assurance:

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

*Section 188 of the Workforce Investment Act of 1998 (WIA), 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, 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 WIA Title I-financially assisted program or activity.*

*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.*

*The grant applicant also assures that it will comply with 29 CFR 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIA Title I- financially assisted program or activity. The grant applicant understands the United States has the right to seek judicial enforcement of this assurance.*

This 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 WIA 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, between the department and the Governor, between the Governor and the recipient, or between recipients. The assurance also may be incorporated by reference in such grants, cooperative agreements, contracts, or other arrangements.

The North Dakota Five-Year Integrated State Workforce Plan, by reference to North Dakota's Nondiscrimination and Equal Opportunity Methods of Administration, states the following: 1.) The state complies with the nondiscrimination provisions of section 188, including that Methods of Administration were developed and implemented; and 2.) The state collects and maintains data necessary to show compliance with nondiscrimination provisions of section 188.

Reference: 29 CFR 37.21

The assurances will obligate the recipient for the period during which WIA Title I financial assistance is extended or; in the case where property is purchased, for the period during which the property is used for the original or similar purpose or the recipient retains ownership or possession of the property without compensating the administrative entity for the fair market value.

Reference: 29 CFR 37.22

It is not expected that WIA Title I financial assistance will be provided for real property, structures, or interests in real property or structures. If it should occur, the agreement will contain a covenant assuring nondiscrimination and equal opportunity for the period described above.

Reference: 29 CFR 37.54(d)(2)(i)

Prior to negotiating cost reimbursement or fixed price contracts for services, the potential service provider completes a pre-award form that includes questions regarding written policies established for equal opportunity. If the provider does not have a written policy, the service provider must agree to follow Job Service North Dakota's equal opportunity policy and procedures in order to be considered for funding.

Agreements for on-the-job training, customized training, and eligible training providers include the nondiscrimination and equal opportunity assurances as required. By signing the agreement the contractor is agreeing to comply with all requirements.

Reference: 29 CFR 37.54(d)(2)(iii)

The Job Service North Dakota Equal Opportunity Officer reviews all agency policies issued to ensure they are nondiscriminatory.

Reference: 29 CFR 37.54(d)(2)(iv)

As a single service delivery area state, the local area strategic plan was included with the state plan and reviewed and approved by the U.S. Department of Labor.

All contracts for financial assistance have standard general provisions and include the assurances required in 29 CFR 37.20. The Job Service North Dakota Equal Opportunity Officer reviews all changes to standard language before changes are made.

### **3. Assurances (29 CFR 37.54(d)(1)(i) and (d)(2)(i), (iii) and (iv))**

#### Documentation:

- *Pre-Award Fiscal Information and Certification* – SFN 41644 Revised 10-08
- *Training Program Contract* – SFN 41619 Revised 11-06
- *On-the-Job Training (OJT) Agreement* – SFN 41522 Revised 2-11
- *Customized Training Agreement* – SFN 52450 Revised 2-11
- *State Procurement Guidelines*
- *Eligible Training Provider Application* – SFN 52437 Revised 4-12
- *Eligible Training Provider Agreement* – SFN 52439 Revised 8-11

#### **4. Universal Access (29 CFR 37.54(d)(1)(vi))**

Reference: 29 CFR 37.42

Job Service North Dakota shall make efforts to provide equitable services among substantial segments of the population eligible for participation in WIA.

The Job Service North Dakota Equal Opportunity Officer shall work with the customer service office managers and other WIA service providers to ensure that all segments of the population are aware and informed of the programs and activities available under WIA. This will include providing information for various agencies and organizations for the promotion of WIA programs; providing press releases to appropriate news media throughout the state on the availability of WIA programs; and conducting outreach efforts throughout the state to inform and recruit participation.

Job Service North Dakota shall make efforts to provide equitable services among substantial segments of the population eligible for participation. This is to include, on an ongoing basis, staff concentrating their efforts to broaden the pool to include members of sexes, various race and ethnic groups, various age groups, and individuals with disabilities. (See Documentation for an assessment of North Dakota's population by the various racial and ethnic groups; members of both sexes; individuals with disabilities; and individuals in different age groups.) In order to include participation of all substantial segments of the population, Job Service North Dakota Customer Service Office Managers are actively involved in their communities.

Extensive collaboration with other state agencies such as Vocational Rehabilitation and Department of Human Services, etc. brings individuals of all protected classes to our office for services. Additionally, Job Service North Dakota works closely with Veterans' organizations, Department of Human Services Division of Aging Services, Senior Community Service Employment Program (SCSEP) grantees and other community-based organizations.

#### Native American Outreach Services

Job Service North Dakota along with the North Dakota University System and Tribal WIA continues to work with Tribal education agencies, non-profits and Tribal Government to identify opportunities where American Indians can participate and meet community service needs on the reservations. Regular outreach activities are conducted at Spirit Lake and Turtle Mountain Reservations. A concerted effort by staff planning contacts in and around the Standing Rock Reservation ensures services are provided on a regular basis. Job Service outreach staff are stationed part-time at the Fort Berthold Reservation. The basic purpose of these services remain to enhance employment and job training opportunities for the Native American population living in the state.

Job Service's continuing commitment is to provide employment and training services in and around each of the four reservations. Two of the four reservations are

approximately 70 miles from the nearest Job Service office. If our services were not taken to the reservations, employment opportunities for the residents would be diminished.

Services include job referrals and referrals to job training in such programs as the Workforce Investment Act, Job Corps and JOBS (the Job Opportunities and Basic Skills Program). Those applicants requiring other services are referred to the nearest full-service office and scheduled for service there, or the service is brought to the reservation by appointment.

Staff that plan contacts in and around the reservations are responsible for coordinating employment and job training activities on the reservations. Cooperation among the tribes, the Bureau of Indian Affairs, and Job Service continue to produce positive results. An example of the success of this program has been the continuing coordination between the Tribal WIA office, the Tribal Employment Rights office, and the Job Service outreach efforts.

#### Older Workers Services

Job Service actively works with other resource organizations to improve services to the older worker. Continued efforts will be placed on improvement of services to older workers through activities such as counseling, job development, training, and job referral. Changing attitudes in respect to employment of the older worker will be emphasized.

#### Rural Outreach Services

Job Service continues to provide outreach services to rural North Dakotans. Under this program, each Customer Service Area has one or more persons who provide services to rural areas. They visit rural North Dakota communities to provide employment and job training services to job seekers and businesses in those rural areas. The primary purpose is to bring the services of this agency to the rural areas. This could involve assisting farmers and farm families who are being forced to find off-farm employment, to help low-income older workers secure gainful local employment which will allow them to stay in their community and retain family ties, and to provide rural youth a fair chance at securing jobs or to enter job training programs.

Job Service staff maintains contact with social services, county extension agents, community organizations, small town businesses, local citizens, and others as referral sources for rural residents needing services. Job Service staff is also involved in economic development in the rural areas.

### Migrant/Seasonal Farm Worker Services

Outreach and provision of services to migrant and seasonal farm workers and agriculture employers will be conducted by all One-Stop Career Centers in North Dakota. Every One-Stop Career Center has one Wagner-Peyser funded staff member assigned to part-time MSFW outreach duties year round. Because of the higher concentration of migrant and seasonal farm workers in the Red River Valley, one One-Stop Career Center in the valley has a permanent bilingual, Spanish speaking staff member year round. The one One-Stop Career Center with a permanent bilingual, Spanish speaking staff member can provide assistance to other One-Stop Career Centers when language barriers are encountered.

One office in the northern Red River Valley permanently co-locates with Motivation, Education and Training Inc. (MET). MET operates the WIA Section 167 National Farmworker Jobs Program (NFJP) in North Dakota. An ongoing partnership between Job Service North Dakota and MET exists to provide MSFWs additional opportunities for training. Job Service North Dakota and MET collaborate to meld services that provide the most benefit to MSFW's. MET also maintains offices in the southern Red River Valley in Fargo and Wahpeton, ND, these offices and the One-Stop Career Centers in Fargo and Wahpeton work together to provide services to MSFW's in the area. Tying the various service agencies together broadens the potential of serving the MSFWs in a one-stop concept.

### Transition From Prison to Communities

Job Service North Dakota participates in a collaborative initiative to assist offenders in their transition from prison to their community. Job Service staff participates in local Transition Teams (Fargo, Bismarck, Grand Forks and Devils Lake). The goal of the program is to identify and coordinate services to offenders. Team members include: Department of Corrections, Parole and Probation, local law enforcement, Vocational Rehabilitation, Housing Assistance, Department of Human Services, Community Action and other local resources. Job Service provides job referral and skill development services, referral to training options, Federal Bonding program, and full One-Stop services.

### English Limited Proficient Persons

Based on U.S. Census Bureau data for 2010, only 2.7% of North Dakota's population is identified as speaking English less than —very well. For this targeted population group JSND makes every attempt to ensure the needs of customers with limited English speaking skills are met. New Americans will receive job search assistance, have access to Rosetta Stone software and are referred to Adult Learning Centers for English literacy services. To provide interpretation services in a timely manner, JSND utilizes language identification cards, CTS LanguageLink interpreting services, free online translation software, and bilingual staff (Spanish-English) in offices with larger numbers of Hispanic customers. All interpretation services are provided free of charge

to the recipient. Additionally, Equal Opportunity Is the Law and Employment Complaint posters are posted in both English and Spanish at the One-Stop Career Centers. Services are provided in coordination with partners with special programs, such as, the Lutheran Social Services Refugee Program, cultural diversity centers, and the Adult Learning Centers. English as a Second Language classes are provided by Adult Learning Centers.

### Accessibility

Job Service North Dakota, in determining site or location of facilities, may not make selections with the purpose or effect of excluding individuals from denying them the benefits of, or subjecting them to discrimination on a prohibited ground, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program, or the nondiscrimination and equal opportunity provisions.

The Webmaster keeps the Job Service North Dakota website in compliance with Web Content Accessibility Guidelines and Section 508 of the Rehabilitation Act of 1973 with the use of Compliance Sheriff Software. The Agency Webmaster utilizes Compliance Sheriff after the release of website updates and the North Dakota State Information Technology Department also runs routine compliance checks of the website using Compliance Sheriff.

Job Service North Dakota's online service is a web-based self-service system that satisfies a major one-stop objective: Universal access to a broad range of employment, training and education services. Job Service North Dakota's online services ensure:

- Access to specific services is available to all customers throughout the one-stop system.
- Access 24/7 services to anyone with Internet access.
- Access to services by clients in remote and rural areas who might find it inconvenient to use a physical one-stop.
- Access services by clients in urban areas who are unable to access a physical one-stop due to lack of transportation, disability, etc.

Job Service North Dakota's online services provide users with a text only interface option. It is ideal for customers who use non-graphic browsers or extremely slow and unreliable Internet connections.

Job Service North Dakota shall ensure accessibility to individuals with disabilities in employment and employment-related training; including reasonable accommodation, program, and physical accessibility. Customer service offices have self-service job getting rooms with individual workstations for clients with disabilities. These workstations consist of height-adjustable work surface areas that are operated either electrically or hydraulically. Modern adaptive technology is available in customer

service offices to eliminate barriers often experienced by hearing impaired, physically impaired, and/or visually impaired customers. Training on the equipment is coordinated with Vocational Rehabilitation, a partner in bringing equal opportunity to customers with disabilities (See Documentation Section). PC's with larger screens are available at some locations.

Qualified individuals with disabilities shall: receive aid, benefits, services, or training equal to or as effective as that provided to others; not receive benefits separately unless it is needed to provide training, benefits, or services that are as effective as that provided to others; have opportunity to be on planning advisory boards for WIA; enjoy any right, privilege, advantage, or opportunity enjoyed by others; and receive services in the most integrated setting.

### Priority of Service

In accordance with the Strategic Five-Year State Workforce Development Plan Title I of The Workforce Investment Act of 1998 and the Wagner-Peyser Act, Job Service North Dakota will implement the following priority of service when providing WIA Adult program participants with intensive and/or training services:

1. Veterans and eligible spouses of veterans;
2. Individuals with disabilities that make it difficult to find or maintain self-sufficient employment;
3. Public assistance recipients; and/or
4. Other low-income individuals;

Job Service North Dakota, in collaboration with the Veterans' Employment and Training Service, will continue to be the primary source of employment and training services provided to North Dakota's veterans. All services to veterans and eligible persons will be provided in accordance with veterans' priority of service legislation under the Wagner-Peyser Act, 20 CFR 1001, and U.S.C. Title 38, chapters 41 and 42.

#### **4. Universal Access (29 CFR 37.54(d)(1)(vi))**

Documentation:

- Profile of General Demographic Characteristics for North Dakota –2010
- Coded Letter dated July 24, 2007 to all directors and Customer Service Managers introducing availability of and training in Adaptive Technology.
- CTS LanguageLink Tips and Advice Pamphlet
- Customer Service Guide, Chapter 1 – Assessment, Literacy and Numeracy-Special Populations
- Customer Service Guide, Chapter 3 – Universal Services, Veteran Services, Priority of Service
- Customer Service Guide, Chapter 3 – Universal Services, Veteran Services, Intensive Services and Case Management for Veterans and Eligible Spouses
- Customer Service Guide, Chapter 3 – Universal Services, Veteran Services, Providing LMI and Job Ready Services to Veterans Participating in the Chapter 31 VA Vocational Rehabilitation and Employment Program
- Customer Service Guide, Chapter 1 – Job Seeker Services, WIA Priority of Service

## **5. Compliance with Disability Requirements (29 CFR 37.54(d)(2)(v))**

Job Service North Dakota will ensure that all WIA-funded programs and activities are accessible to individuals with disabilities.

Job Service North Dakota programs or activities will not directly or through contractual, licensing, or other arrangements, on the ground of disability:

- a. Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, service, or training;
- b. Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, service, or training that is not equal to that afforded others;
- c. Provide a qualified individual with a disability with an aid, benefit, service, or training that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
- d. Provide different or separate aid, benefits, or services to individuals with disabilities or to any class of individuals with disabilities unless such action is necessary to provide qualified individuals with disabilities with aid, benefits, services, or training that are as effective as those provided to others;
- e. Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, service, or training to participants;
- f. Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards;
- g. Otherwise limit a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service, or training.

A recipient may not deny a qualified individual with a disability the opportunity to participate in WIA-funded programs or activities despite the existence of permissibly separate or different programs or activities.

WIA-funded programs or activities shall be administered in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

A recipient may not directly, or through contractual or other arrangements, utilize criteria or administrative methods:

- a. That have the effect of subjecting qualified individuals with disabilities to discrimination based on the disability;
- b. That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the WIA-funded program or activity with respect to individuals with disabilities;
- c. That perpetuates the discrimination of another entity if both entities are subject to common administrative control or is agencies of the same state.

Communications with beneficiaries, applicants, eligible applicants, participants, applicants for employment, employees, and members of the public who are individuals with disabilities shall be as effective as communications with others.

Auxiliary aids or services shall be made available where necessary to afford individuals with disabilities an equal opportunity to participate in and enjoy the benefits of the WIA-funded program or activity. Primary consideration shall be given to the requests of the individual with a disability.

Where a recipient communicates with beneficiaries, applicants, eligible applicants, participants, applicants for employment, and employees by telephone, telecommunications devices for individuals with hearing impairments, or equally effective communication systems shall be used.

The Equal Opportunity Officer shall work with the training officer in arranging for or conducting awareness training for local offices and service delivery staff.

Reference: 29 CFR 37.8

Resource Areas in One-Stop Career Centers have assistive technology needed for persons with disabilities. Adjustable workstations, Read & Write 10, headsets, Ubi Duo, PocketTalker Pro, Zoom Text Magnifier, Zoom Text Large Print and ergonomic keyboards, Big Track mouse and TTY access are available. As new assistive technology is included in the One-Stop Career Centers, staff is trained on the benefits of the equipment to fully promote the use to customers with disabilities receiving services.

In addition, Job Service North Dakota realizes the need for providing reasonable modification in policies, practices, or procedures. Such modifications are required when necessary to avoid discrimination on the basis of disability, unless the modification would fundamentally alter the program. To implement modified policies, Job Service North Dakota is guided by Job Service North Dakota Administrative Procedure on Policy Development APEX 2. See documentation for a copy of the policy.

Reference: 29 CFR 32.28

Buildings constructed after the Section 504 regulation was issued (that is, those built since 1977) are fully accessible. For older buildings, the program or activity is made accessible. Relocating the program or activity to a part of the building or to another building that is accessible makes the program or activity accessible.

Reference: 29 CFR 32.27

All programs are made available at accessible site or sites. Non-personal aids make the programs accessible to mobility-impaired persons. Reasonable accommodations are made for particular individuals with disabilities in response to the specific limitations of their disability. We consult with North Dakota Vocational Rehabilitation to determine the appropriate accommodations to best meet the individual's needs.

Reference: 29 CFR 32.14

APPENDIX VI to the Job Service North Dakota Personnel Management Manual provides for and adheres to a schedule to evaluate job qualifications to ensure that the qualifications do not discriminate on the basis of disability. See Documentation for copy of this document.

Reference: 29 CFR 32.15

Job Service North Dakota Policy 1, Disclosure of Information, limits pre-employment /employment medical and disability-related inquiries to those permitted by and in accordance with WIA Section 188, Section 504, the Americans with Disabilities Act of 1990, and their implementing regulations. Job Service North Dakota Policy 1, Disclosure of Information, also ensures the confidentiality of medical and disability-related information provided by registrants, applicants, eligible applicants/registrants, participants, employees, and applicants for employment. See Documentation.

Reference: 29 CFR 37.7(d)

When a professional determines that a disabled individual can live in the community and can be served there effectively, Job Service North Dakota administers programs in settings that enable individuals with disabilities to interact with non-disabled persons to the fullest extent possible. On a case-by-case basis, compliance with this requirement may require comprehensive and effective plans for placing qualified individuals with disabilities in less restrictive settings and waiting lists that move at a reasonable pace.

Reference: 29 CFR 37.9

Job Service North Dakota provides information in an effective fashion or in alternative formats to persons who are hard of hearing, deaf, blind, or who communicate by other nontraditional means or modes. Job Service North Dakota provides persons with disabilities with a way to communicate effectively, equal to others. The preferences of the person with disabilities is given consideration, but personal devices do not need to be provided (that is, Job Service North Dakota does not provide a hearing aid, but may need to employ an interpreter or have a TTY.)

## 5. Compliance with Disability Requirements (29 CFR 37.54(d)(2)(v))

### Documentation:

- APPENDIX VI to the Job Service North Dakota Personnel Management Manual
- *Job Service North Dakota Policy 1, Disclosure of Information* – Reissued 10-13
- Also, see documentation for Element 4: Universal Access

## **6. Data and Information Collection and Maintenance (29 CFR 37.54(d)(1)(iv) and (vi))**

Reference: 29 CFR, Part 37.37-41

Job Service North Dakota collects data and maintains records in accordance with procedures prescribed by the Civil Rights Center. The records maintained include but are not limited to records on applicants, eligible applicants, claimants, participants, terminees, employees, and applicants for employment. Job Service North Dakota records the race/ethnicity, sex, age, and, where known, disability status. The Job Service Management Information System is used to collect all required data related to the WIA and Wagner-Peyser Programs for all recipients.

Job Service North Dakota collects data on Employment Service applicants at the time s/he submits personal information (e.g. name, address, SSN). Job Service collects data on WIA participants at the time they receive significant staff assisted services.

The WIA Data will be collected in accordance with the requirements of this part and the Job Service North Dakota Management Information System will utilize the Workforce Investment Act Standardized Record Data layout to provide the required information. Employment Service Data will be collected in accordance with the requirements of this part and the Job Service North Dakota Management Information System utilizing 9002 Reporting Standards layout to provide the required data. Modifications are implemented as required by Department of Labor Employment Training Administration.

Such information shall be stored in such a manner as to ensure confidentiality. Job Service has a policy and procedure on security of data maintained on the automated system and a policy regarding disclosure of information and confidentiality.

Job Service has a records retention system and the data collected is maintained for a period of not less than five years from participant exit. Such records, data, and information will be made available to the Civil Rights Center upon request.

The Equal Opportunity Officer shall maintain a log of filed complaints alleging discrimination on any of the prohibited grounds. Such log shall include the name of the complainant; the grounds of the complaint; a description of the complaint; the date the complaint was filed; the disposition of the complaint; the date of the disposition; and other pertinent information. Records regarding complaints and actions taken hereunder will be maintained for a period of not less than three years from the date of resolution of the complaint.

The Equal Opportunity Officer shall work with Job Service North Dakota and the Information Technology staff to obtain necessary reports. Job Service North Dakota staff shall receive necessary training in the proper collection and reporting of required information. Reports shall be generated on a regular basis that will provide the Equal Opportunity Officer with appropriate information to monitor the program for compliance.

Job Service North Dakota will inform the Civil Rights Center of any administrative enforcement actions or lawsuits filed against it that allege discrimination on the prohibited grounds.

**6. Data and Information Collection and Maintenance (29 CFR 37.54(d)(1)(iv) and (vi))**

Documentation:

- *Job Service North Dakota Administrative Procedure IT-5, Procedures Regarding the Security of Data – Dated March 21, 2002*
- *Complaint System Log SFN-41465 Revised 5-08*
- *Job Service North Dakota Policy 1, Disclosure of Information – Reissued 10-13*

## **7. Monitor Recipients for Compliance (29 CFR 37.54 (d)(2)(ii))**

Reference: 29 CFR Part (Section) 37.52, 53, 54

The governor has designated Job Service North Dakota as the single entity responsible for the oversight of all WIA Title I financially assisted state programs. This responsibility includes insuring compliance with the nondiscrimination and equal opportunity provisions of WIA and 29 CFR Part 37 of the federal regulations, and negotiating, where appropriate, to secure compliance when noncompliance is found. Job Service North Dakota has established a system for determining that WIA Title I financially assisted programs/activities are conducted in a nondiscriminatory way, including a system for periodically monitoring compliance in accordance with WIA section 188 and 37.54.

The Job Service North Dakota Equal Opportunity Officer conducts annual monitoring reviews for compliance with the nondiscrimination and equal opportunity provisions. Data collected from the Job Service North Dakota Management Information System tracks services to WIA participants/applicants.

Job Service North Dakota uses Crystal Reports query software for program reporting. The query software is used by the EO officer to track the activity of Job Service North Dakota programs by extracting specific data on service activity by race, ethnicity, gender, age and disability. These reports are generated and reviewed annually for any indications of a disparity in services provided to different groups. If this audit reveals disparity, further examination is warranted. Further auditing may also be triggered by 1) complaint records 2) program monitor reports 3) technical assistance requests and 4) demographic and geographic factors that sometimes preclude diversity. The assessment includes reviewing the administrative obligations under WIA section 188 and 29 CFR Part 37, such as, record keeping, notice and communication.

Policy issuances, contracts, assurances and agreements are reviewed for refined language regarding nondiscrimination and equal opportunity as well as requirements of section 504 with regard to individuals with disabilities. Job Service North Dakota ensures that the Equal Opportunity Officer and program staff are afforded the proper data access to effectively carry out the responsibility under the nondiscrimination and equal opportunity provisions of WIA and 29 CFR Part 37 of the federal regulations. In the event a local office is selected for further examination, it must comply with requests from the Equal Opportunity Officer for any additional data that is needed to determine if the level of compliance is acceptable. The Equal Opportunity Officer provides a post review report of findings within 30 days of exit conference. The complaint process, corrective actions/sanctions are found in Elements 8 and 9.

Job Service includes some elements of the equal opportunity reviews when doing on site contract monitoring. Contract monitoring forms are included in documentation.

## **7. Monitor Recipients for Compliance (29 CFR 37.54 (d)(2)(ii))**

### Documentation:

- *OJT Contract Monitoring* – SFN 41584 Revised 5-10
- *Customized Training Contract Monitoring* – SFN 52448 Revised 5-10
- *Contract Monitoring* – SFN 3324 Revised 9-06
- *Classroom Training and Short-Term Prevocational Monitoring* – SFN 16764 Revised 3-10
- Annual Job Service North Dakota Equal Opportunity Compliance Review Reports (Adverse Impact Studies)

## **8. Complaint Processing Procedures (29 CFR 37.54(d)(1)(vii))**

Reference: 29 CFR 37.77

Job Service North Dakota has adopted discrimination complaint procedures. The Job Service North Dakota Equal Opportunity Officer will process all discrimination complaints for Job Service North Dakota.

Reference: 29 CFR 37.76

Within ten working days, the complainant will be sent an initial, written notice that contains the following information:

- a. An acknowledgement that Job Service North Dakota has received the complaint;
- b. Notice that the complainant has the right to be represented in the complaint process;
- c. If determined that Job Service North Dakota does not have jurisdiction, a statement of the reasons for the determination and notice that the complainant has a right to file a complaint with the Civil Rights Center within 30 days of the date on which the complainant receives the notice.
- d. If determined that Job Service North Dakota has jurisdiction, a list of the issues raised in the complaint and, for each such issue, a statement whether the agency's Equal Opportunity Officer will accept the issue for investigation or reject the issue, and the reasons for rejection.

Fact-finding or investigation of the circumstances underlying the complaint will be conducted within 30 days of sending the complainant notification.

Upon completion of the investigation, the Job Service North Dakota Equal Opportunity Officer will attempt to resolve the complaint for a period of 30 days. The complainant is given the choice to use the Alternate Dispute Resolution (ADR) process.

Job Service North Dakota has outsourced the Alternative Dispute Resolution process. The Office of Administrative Hearings provides these services. The agency has a developed ADR mission statement, an ADR process which allows the agency to serve as a neutral third party in all ADR mediations. A request for ADR services is completed at the time the complainant makes the choice to use the ADR process to resolve the issue at hand.

Job Service North Dakota will notify all parties that:

- a. A party to any agreement reached under ADR may file a complaint with the CRC Director in the event the agreement is breached. In such circumstances the following rules will apply:
  - 1) The non-breaching party may file a complaint within 30 days of the date on which the non-breaching party learns of the alleged breach.
  - 2) The Director must evaluate the circumstances to determine whether the agreement has been breached. The complainant may file a complaint with CRC based upon his/her original allegation(s), and the Director will waive the time deadline for filing such a complaint.
- b. If the parties do not reach an agreement under ADR, the complainant may file a complaint with the Director.

A written notice of final action will be provided to the complainant within 90 days of the date on which the complaint was filed. The notice will contain the following information:

- a. For each issue raised in the complaint, a statement of either:
  - 1) The Job Service North Dakota Equal Opportunity Officer's decision on the issue and an explanation of the reasons underlying the decision; or
  - 2) A description of the way the parties resolved the issue; and
- b. Notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is issued if he or she is dissatisfied with the recipient's final action on the complaint.

Reference: 29 CFR 37.78

If determined that Job Service North Dakota does not have jurisdiction, the initial written notice to the complainant includes a statement of the reasons for the determination and notice that the complainant has a right to file a complaint with the Civil Rights Center within 30 days of the date on which the complainant receives the notice.

Reference: 29 CFR 37.79

The Notice of Final Action includes notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is issued if he or she is dissatisfied with the recipient's final action on the complaint.

## **8. Complaint Processing Procedures (29 CFR 37.54(d)(1)(vii))**

### Documentation:

- *Job Service North Dakota Complaint System Manual, Chapter 10, Discrimination Complaints* – Revised 6-11.
- Request for Administrative Law Judge – Alternative Dispute Resolution
- One Stop Career Center (OSCC) Complaint/Referral Record ETA-8429
- Complaint System Log SFN-41465 Revised 5-08

## 9. **Corrective Actions/Sanctions** **(29 CFR 37.54(d)(2)(vii))**

Corrective action will occur whenever a violation is cited as the result of an equal opportunity monitoring review or a complaint investigation being conducted. If discrimination is found, a corrective action agreement will be required. The corrective action agreement must address the particular act of discrimination, must completely correct the discrimination, and must include timetables by which to correct the discrimination. The agreement includes a statement of assurance that the violation will be corrected. Technical deficiencies may require a different time frame for corrections than discrimination findings. A written assurance certifies that a deficiency has been corrected, and must be noted in the corrective action. The assurance will attest that the entity will continue to take steps to correct the deficiency(s) so that it does not recur.

### Follow-Up Monitoring

If deficiencies or noncompliance cannot be resolved or corrected on a voluntary basis, the Equal Opportunity Officer provides technical assistance. A follow-up visit is conducted where necessary to evaluate the degree of progress made toward resolving existing noncompliance factors.

The entity is made aware that follow-up monitoring can occur at any time. In instances where deficiencies are identified and corrective action agreement are executed, follow-up monitoring will occur within the sooner of 30 days from receipt of the corrective action report or 10 days after the first action deadline, to assess the progress and adequacy of the corrective action.

### Corrective Action Report

Each correction action agreement will require submission of a report within 30 days outlining the specific steps for implementing corrective action of the violation(s).

### Sanctions

After all attempts to provide assistance and correction of deficiencies fail, the imposition of sanctions will be considered. The sanctions imposed for noncompliance will be on a case-by-case basis, and may include any or all of the following:

- Imposition of reparation for discriminatory practices.
- Establishment and issuance of policies as applicable to the violation.
- Placement into a training program or hire into a vacant position for which one may have been qualified but denied.
- Discontinuing referral of participants to sites against which discrimination allegations have been alleged and proven.

- Removal of participants from sites refusing to implement corrective action.
- Deferral of new grants.
  - Suspension of funds until compliance is met.
  - Termination of funding.

When an entity is monitored for equal opportunity compliance, it is informed that it will receive a report listing any deficiencies found during the review, as well as suggested corrective actions to correct those deficiencies. The entity is given time frames to complete and implement the corrective action, and to assure that the corrections are made by submitting documentation or a proposed corrective action plan.

The Equal Opportunity Officer reviews the corrective action plan. If the plan assures and states that the corrective action has been implemented, the Equal Opportunity Officer will send a letter of compliance notifying the entity that a follow-up review will occur within 30 days to verify the corrective action.

When all attempts to provide assistance and correction of deficiencies fail, the imposition of sanctions begin as stated above.

**9. Corrective Actions/Sanctions (29 CFR 37.54(d)(2)(vii))**

Documentation:

- See Job Service North Dakota Complaint System Manual, Chapter 10, Discrimination Complaints, under Element 8, Page 31.