

STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

CHRISTOPHER T. SUNUNU
Governor

November 30, 2018

Ms. Naomi Barry-Perez, Director
Civil Rights Center
U.S. Department of Labor
Room N-4123
200 Constitution Avenue, NW
Washington, DC 20210

Director Barry-Perez:

In accordance with WIOA Part 38 – Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act – Subpart C – Governor’s Responsibilities to Implement the Nondiscrimination and Equal Opportunity Requirements of the Workforce Innovation and Opportunity Act (WIOA), please be advised that Mr. Taylor Caswell, Commissioner of the Department of Business and Economic Affairs (DBEA) shall continue to serve as my official designee in all matters pursuant to this federal regulation. DBEA is the WIOA Title I Grant recipient and Administrative Entity for the State of New Hampshire. Jacqueline Heuser WIOA Title I Director, employed by DBEA shall serve as the State-Level EO Officer for the state’s one-stop system for NH Works American Job Centers. New Hampshire is a single area state with one State Board. The State Board is responsible for the oversight of the 12 NH Works Centers located throughout the State. Mr. Dick Anagnost is the State Board Chair. Furthermore, the One-Stop Operator in the State of New Hampshire is the NH Works One-Stop Operator Consortium, which includes leadership from each of the core partners to the one-stop system as defined by regulation, and is chaired by Mr. George Copadis, Commissioner of NH Employment Security.

NH’s Strategic Four-Year State Plan’s modifications and future Strategic Four-Year State Plans submitted to the US Department of Labor will provide the text “As a condition to the award of financial assistance from the Department of Labor under Title I of WIOA, the grant applicant assures that it has the ability to comply with the nondiscrimination and equal opportunity provisions of the laws outlined below and will remain in compliance for the duration of the award of federal financial assistance.” As part of this submission on behalf of the NH Works system, we assure our NH Works agencies have the ability to comply with the nondiscrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the award of federal financial assistance.”

- (A) Section 188 of the Workforce Innovation and Opportunity Act (WIOA), prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I- financially assisted program or activity;
- (B) Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;

- (C) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- (D) The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- (E) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs

We understand the requirements set forth to:

- Ensure compliance with the nondiscrimination and equal opportunity provisions of WIOA and negotiating, where appropriate to secure voluntary compliance when noncompliance is found;
- Annually monitor the compliance of recipients with WIOA Section 188, including a determination as to whether each NH Works Partner is conducting its WIOA assisted program or activity in a nondiscriminatory way. This will include an annual monitoring review to include a statistical or other quantifiable analysis of records and data kept by the Partner. The analyses will include race/ethnicity, sex, limited English proficiency, preferred language, age, and disability status. If there are significant differences in the programs, activities, or employment provided, an analysis to determine whether these differences appear to be caused by discrimination will occur. This investigation must be conducted through review of the recipient's records and any other appropriate means; and
- An assessment to determine whether the NH Works Partner has fulfilled its administrative obligations under Section 188 of WIOA (for example, recordkeeping, notice and communication) and any duties assigned to it under the Nondiscrimination Plan.

Furthermore, the NH Works system will comply with 29 CFR Part 38 and all other regulations implementing the laws listed above.

In addition, through Executive Order 2017-09 in December, 2017, a Governor's Advisory Council on Diversity and Inclusion has been created. A copy of the Executive Order, Bylaws, and their June 1, 2018 Preliminary Report is enclosed.

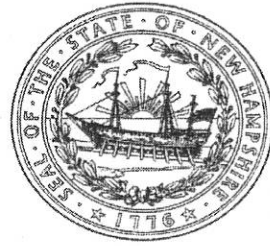
Finally, please find enclosed the Nondiscrimination Plan as required under §38.54.

Sincerely,



Christopher T. Sununu
Governor

CC: Taylor Caswell, Commissioner, DBEA
Dick Anagnost, Chair, Workforce Innovation Board
George Copadis, Chair, NH Works One-Stop Operator Consortium



STATE OF NEW HAMPSHIRE

WIOA NON-DISCRIMINATION STATE PLAN

FOR THE NHWORKS AMERICA'S JOB CENTER SYSTEM

2018-2020

NH Works partners are a proud sponsor of the NH Works system, a proud member of America's Job Centers and an equal opportunity employer program. Auxiliary aids and services are available upon request to individuals with disabilities. TDD Access RELAY NH 1-800-735-2964

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Labor (USDOL) for review and approval. This document is submitted on behalf of the Governor and the NH Works partners and is effective December 31, 2018.

The NDP is organized into ten (10) sections. Each section consists of a narrative section describing the section and supporting documentation in the appendix. The narrative describes how the State, the NH Works System, and its subrecipients are meeting the requirements of 29 CFR Part 38.

- I. Assurances
- II. Equal Opportunity Officers
- III. Notice and Communication
- IV. Data and Information Collection and Maintenance
- V. Affirmative Outreach
- VI. Governor's Oversight Responsibility Regarding Recipients' Recordkeeping
- VII. Complaint Processing Procedures
- VIII. Governor's Oversight and Monitoring Responsibilities for State Programs
- IX. Corrective Action/Sanctions
- X. Appendices:

Supporting documentation to show that the commitments made in the Nondiscrimination Plan have been completed and/or are being carried out. This supporting documentation includes, but is not limited to:

(A) Policy and procedural issuances concerning required elements of the Nondiscrimination Plan;

(B) Copies of monitoring instruments and instructions;

(C) Evidence of the extent to which nondiscrimination and equal opportunity policies have been developed and communicated as required by this part;

(D) Information reflecting the extent to which equal opportunity training, including training called for by 38.29(f) and 38.31(f), is planned and/or has been carried out;

- 38.29 (f) Ensuring that the EO Officer and the EO Officer's staff are afforded the opportunity to receive (at the recipient's expense) the training necessary and appropriate to maintain competency.
- 38.31 (f) Undergoing training (at the recipient's expense) to maintain competency of the EO Officer and staff, as required by the Director

I. ASSURANCES 38.25

All grant applicants (recipients), subrecipients, and Eligible Training Providers Request for Proposals, Cooperative Agreement, Memorandum of Understanding and/or contracts must include the following assurance:

“As a condition to the award of financial assistance from the Department of Labor under Title I of WIOA, the grant applicant assures that it has the ability to comply with the nondiscrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the award of federal financial assistance:

(A) Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I- financially assisted program or activity;

(B) Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;

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

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

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

(F) Compliance 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. “

Furthermore, the modifications to the Strategic Four-Year State Plan and future Strategic Four-Year Plans to carry out a continuing WIOA financially assisted program or activity will provide the text of the above referenced assurance.

Duration and Scope of Assurance (29 CFR 38.26)

The NH Works System in conjunction with DBEA will ensure compliance with 29 CFR 38.26 in regard to personal property, real property, structures on real property and interest in any such property or structures as provided by WIOA Title I financial assistance. Compliance with this provision will ensure that the State will obligate the recipient or the transferee (in the case of a subsequent transfer) for the longer of

- 1) The period during which the property is used either for
 - a) For the purpose for which WIOA Title I financial assistance is extended; or
 - b) For another purpose involving the provision of similar services or benefits or

II. EQUAL OPPORTUNITY OFFICERS 38.28

Since the inception of WIA and WIOA, NH Governors have assigned the Director of the Office of the Workforce Opportunity Council as the Equal Opportunity (EO) Officer for the NH Works System. S/he is a senior-level employee that has the knowledge, skills and abilities necessary to fulfill the responsibilities and reports directly to the Commissioner of the Department of Business and Economic Affairs who reports to the Governor. Furthermore, the EO Officer has a Governor's Office Liaison who s/he works closely with as well. The EO Officer has state program-wide coordination of compliance with the equal opportunity and nondiscrimination requirements in WIOA. The State-level EO Officer has access to all NH Works EO officers as determined by the NH Works Consortium. Should there be a conflict of interest; the issue would be handled by another NH Works Partner Agency EO officer or an available resource through the State of New Hampshire. Each of the NH Works Partner Agencies has an Equal Opportunity Officer.

The respective agency's EO Officer's name, position title, address, and telephone number (voice and TDD/TTY) public; on all internal and external communications about the recipient's nondiscrimination and equal opportunity programs.

All partner agency EO officers and staff will be provided EO training as determined appropriate by their respective NH Works partner agency. The staff will receive the training necessary and appropriate to maintain competency.

The State EO Officer's duties include:

- a) Serving as the liaison with Civil Rights Center (CRC);
- b) Monitoring and investigating the recipient's activities, and the activities of the entities that receive WIOA Title I-financial assistance from the recipient, to make sure that the recipient and its subrecipients are not violating their nondiscrimination and equal opportunity obligations under WIOA Title I and this part, which includes monitoring the collection of data required in this part to ensure compliance with the nondiscrimination and equal opportunity requirements of WIOA and this part;
- c) Reviewing the recipient's written policies to make sure that those policies are nondiscriminatory;
- d) Developing and publishing the recipient's procedures for processing discrimination complaints including tracking the discrimination complaints filed against the recipient, developing procedures for investigating and resolving discrimination complaints filed against the recipient, making sure that those procedures are followed, and making available to the public, in appropriate languages and formats, the procedures for filing a complaint;
- e) Conducting outreach and education about equal opportunity and nondiscrimination requirements and how an individual may file a complaint;
- f) Undergoing training to maintain competency of the EO Officer and staff, as required by the Civil Rights Center; and
- g) Overseeing the development and implementation of the NH Works recipient's Nondiscrimination Plan.
- h) Ensures accessibility for disabled persons to all WIOA funded facilities as required by the Architectural Barrier Act. Directs implementation of Section 504 of the

<ul style="list-style-type: none"> WIOA Youth Programs 		
<p>Community Action Association Belknap Merrimack Counties</p> <ul style="list-style-type: none"> SCSEP 	<p>Therese Beauchesne, Personnel Community Action Program, Belknap-Merrimack Counties Inc. P O Box 1016, Industrial Park Drive Concord, NH 03302 Tbeauchesne@bm-cap.org P: 603-225-3295</p>	<p>Executive Director Belknap-Merrimack Community Action, Inc.</p>
<p>Southern NH Services</p> <ul style="list-style-type: none"> WIOA Adult WIOA Dislocated Worker NEG 	<p>Greg Schneider, EO Southern NH Services, Inc. P O Box 5040, 40 Pine Street Manchester, NH 03108 gschneider@snhs.org P: 603-668-8010</p>	<p>Executive Director Southern NH Services</p>
<p>NH Department of Health and Human Services</p> <ul style="list-style-type: none"> TANF (Work Programs) SNAP (Work Programs) 	<p>Jennifer Jones Department of Health and Human Services 129 Pleasant Street Concord, NH 03301 Jennifer.R.Jones@dhhs.state.nh.us P: 603-271-3948</p>	<p>Commissioner Health and Human Services</p>
<p>Community College System of New Hampshire</p> <ul style="list-style-type: none"> Work Ready Apprenticeship WIOA Program Enrollments in the community college system 	<p>Nashua Community College – Lizabeth Gonzalez VP of Community & Corporate Affairs/ Title IX Coordinator (603) 882-6923 L.Gonzalez@ccsnh.edu Manchester Community College – Terry Chisholm (Student Support Services Counselor) tchisholm@ccsnh.edu (603) 206-8177 White Mountains Community College – Melissa LaPlante Director of Library Services/Title IX Coordinator (603)342-3029 mlaplante@ccsnh.edu Lakes Region Community College –</p>	<p>President of respective college</p>

programs. The process is through written materials and publications that is on-going and occurs on a daily basis.

Although the Office of Workforce Opportunity, as a single Workforce area in a minimum-funded state, we will work to ensure sufficient staff and adequate resources exist to ensure compliance with the nondiscrimination and equal opportunity. Resources may include EO Staff from NH Works partners and/or the State Attorney General Office. The Annual EO Monitoring Reviews of Subrecipients has been handled by the WIOA Program Manager.

The State WIOA EO Officer attends annual Civil Rights Center training as well as periodic webinars provided by the Office of Civil Rights (OCR) and National Association of Workforce Agencies (NASWA). The other NH Works partner agencies and subrecipient EO officers are also encouraged to participate in the OCR webinars. Those materials are distributed to these agencies from the State EO Officer if the subrecipient EO Officer is not able to participate in the OCR webinar. In addition, all OWO and subrecipient Equal Opportunity Officers as well as all staff participate in annual EO Training.

Implementation

Please see Attachment 2 –Equal Opportunity Officers section which includes:

Attachment	Equal Opportunities Officers Documentation
2-A	A copy of the State’s EO Officer’s position description, showing those duties specifically related to WIOA equal opportunity activities and other duties is provided.
2-B	Memo to EO Officers with required training dated 7/16/18
2-C	NH Works EO Training Power point and Attendee List PY16
2-D	NH Works EO Training Power point and Notice of Meeting
2-E	NH Works EO Officers 7/1/18
2-F	Position Description for NHES EO Officer
2-G	Mandatory New Hire Training Materials (ADA)

Constitution Avenue NW., Room N-4123, Washington, DC 20210 or electronically as directed on the Civil RC Web site at www.dol.gov/crc. If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above). If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you may file a complaint with Civil Rights Center (CRC) before receiving that Notice. However, you must file your Civil Rights Center complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient). If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

Publications, Broadcasts, and Other Communications

All WIOA funded programs must indicate that the WIOA Title I-financially assisted program or activity in question is an “equal opportunity employer/program,” and that “auxiliary aids and services are available upon request to individuals with disabilities,” in recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public at large, to describe programs financially assisted under WIOA or the requirements for participation by recipients and participants. Where such materials indicate that the recipient may be reached by voice telephone, the materials must also prominently provide the telephone number of the text telephone (TTY) or Relay service.

When publishing or broadcasting program information in the news media must ensure that such publications and broadcasts state that the WIOA Title I-financially assisted program or activity is an equal opportunity employer/program and indicate that auxiliary aids and services are available upon request to individuals with disabilities.

Communication of Notice in Orientations

During each presentation to orient new participants, new employees, and/ or the general public to a NH Works program or activity, in person or over the internet or using other technology, a discussion of rights and responsibilities under the nondiscrimination and equal opportunity provisions of WIOA , including the right to file a complaint of discrimination.

Affirmative Outreach

NH Works Partners must take appropriate steps to ensure that they are providing equal access to their programs and activities. These steps should involve reasonable efforts to include members of the various groups protected including but not limited to persons of different sexes, various racial and ethnic/national origin groups, various religions, individuals with limited English proficiency, individuals with disabilities, and individuals in different age groups. Such efforts may include, but are not limited to:

- Advertising the NH Works programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations;

IV. DATA AND INFORMATION COLLECTION AND MAINTENANCE 38.41

Collection and Maintenance of Equal Opportunity Data and Other Information

Each of the NH Works partners collects participant data as required by their respective Participant Information Record Layout (PIRL) and SPARQ requirements and maintained in their respective computer systems through a password access system. An individual is considered an Applicant at the point at which s/he submits personal information (e.g. name, address or SSI, etc.) in response to a request for such information). For employees, data is collected based on race/ethnicity (as observed or provided), age (as observed or provided), and disability status (as observed or provided). For program participants, the data is self-reported by the client (if desired) and not as observed. The data is maintained through a secure system and all staff is required to review confidentiality policies at point of hiring and to comply with those requirements. Records include applicants, registrants, eligible applicants/ registrants, participants, terminees, employees, and applicants for employment. Data includes race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, participant, terminee, applicant for employment, and employee. Data collected must be used only for the purposes of recordkeeping and reporting; determining eligibility. 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. 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: (A) Program staff that is responsible for documenting eligibility, where disability is an eligibility criterion for a program or activity. (B) First aid and safety personnel who need access to underlying documentation related to a participant's medical condition in an emergency. (C) Requested accommodations.

At the end of the program year, our case management systems provide us with an annual EO report that is reviewed to ensure compliance with EO requirements.

Grievance Complaint Logs

All EO Officers will maintain a log of complaints that allege discrimination on the basis (es) of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIOA Title I-financially assisted program or activity. The log will include:

- The name and address of the complainant;
- the basis of the complaint;
- a description of the complaint;
- the date the complaint was filed;
- the disposition and date of disposition of the complaint;
- and any other pertinent information.

If requested, the log will be submitted to the Civil Rights Center.

V. AFFIRMATIVE OUTREACH 38.40

The NH Works Partners certainly want to ensure that equal access is provided to all individuals in all programs. This will be achieved through:

- Advertising the recipient’s programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations;
- Sending notices about openings in the recipient’s programs and/or activities to schools or community service groups that serve various populations; and
- Consulting with appropriate community service groups about ways in which the recipient may improve its outreach and service to various populations.

Services to protected groups will be monitored through submission of enrollment goals and outcome reports.

One of the priorities of the Office of the Workforce Opportunity and its WIOA Adult Contractor has been the increased service(s) to ESOL clients. As a result of outreach and program delivery, the enrollment in this programs has increased 500% (from 10 clients in PY15 to 53 in PY17) or 5% of clients served in adult programming in PY15 to 16% in PY17.

Implementation

Please see Attachment 5 – Affirmative Outreach which includes:

<i>Attachment</i>	<i>Affirmative Outreach Documentation</i>
5-A	ESOL Action Plan PY18 (WIOA Adult)

VII. COMPLAINT PROCESSING PROCEDURES (38.69)

Complaint Filing

Any person (or specific class of individuals) or the person's representative may file a written complaint if the person has been discriminated against on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, citizenship status, or participation in any WIOA Title I- financially assisted program or activity as prohibited by WIOA or this part. Furthermore, if there has been or is being retaliated against a complaint may be filed with either the recipient's EO Officer or the Civil Rights Center Director. A complaint must be filed within 180 days of the alleged discrimination or retaliation. The Civil Rights Center Director may extend the filing time should a good cause be demonstrated.

Complaint Contents

Each complaint must be filed in writing, either electronically or in hard copy, and must contain the following information:

- (a) The complainant's name, mailing address, and, if available, email address (or another means of contacting the complainant);
- (b) The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination);
- (c) A description of the complainant's allegations. This description must include enough detail to allow the EO Officer or Director to decide whether:
 - (1) There is jurisdiction over the complaint;
 - (2) The complaint was filed within the time range;
 - (3) The complaint indicates noncompliance with any of the nondiscrimination and equal opportunity provisions;
 - (4) The written or electronic signature of the complainant or the written or electronic signature of the complainant's representative.
 - (5) A complainant may file a complaint by completing and submitting CRC's Complaint Information and Privacy Act Consent Forms, which may be obtained either from the NH Works' EO Officer or from the Civil Rights Center.

Right to Representation

Both the complainant and the respondent have the right to be represented by an attorney or other individual of their choice.

Required Elements of a Recipient's Complaint Processing Procedures

As evident in the NH Works Grievance Policy and related forms, all grievance complaints will be issued a Notice of Final Action within 90 days of the date for which the date is filed. The elements will include, initial, written notice to the complainant that contains the following information:

(b) Notice that the complainant has a right to file a complaint with the Civil Rights Center (CRC) within 30 days of the date on which the complainant receives the Notice.

Complainant Dissatisfaction after Receiving a Notice of Final Action

If the NH Works Partner issues its Notice of Final Action before the 90-day period ends, but the complainant is dissatisfied with the decision on the complaint, the complainant or the complainant’s representative may file a complaint with the Civil Rights Center Director within 30 days after the date on which the complainant receives the Notice.

Failure to Issue a Notice of Final Action within 90 days after the Complaint was Filed

If, by the end of 90 days from the date on which the complainant filed the complaint, the NH Works partner has failed to issue a Notice of Final Action, the complainant or the complainant’s representative may file a complaint with the Civil Rights Director within 30 days of the expiration of the 90-day period.

Implementation

Please see Attachment 7 – Complaint Processing Procedures which includes:

<i>Attachment</i>	<i>Documentation</i>
<i>7-A</i>	<i>Complaint/Grievance Policy and forms.</i>
<i>7-B</i>	<i>Alternative Dispute Resolution Policy</i>

IX. CORRECTIVE ACTION/SANCTIONS

Sanctions

It is the policy of the NH Works Consortium that any action to suspend, terminate, deny or discontinue WIOA financial assistance must be limited to the particular political entity, or part thereof, or other recipient (or grant applicant) as to which the finding has been made, and must be limited in its effect to the particular program, or part thereof, in which the noncompliance has been found.

No order suspending, terminating, denying or discontinuing WIOA financial assistance will become effective until after all appeal rights have been exhausted or waived and the respective agency Commissioner (or designee) has issued a Final Determination or Notification of Breach of Conciliation Agreement.

Procedures

1. Once all appeal rights have been exhausted or waived, the respective NH Works partner may impose whatever sanctions noted in the Final Order for Sanctions.
2. Sanctions include, but are not limited to:
 - a. Suspension or termination, in whole or in part, from the program (or funding source);
 - b. Referral to the N.H. Attorney General, with a request that the AG obtain compliance;
 - c. Deferral of new grant funding; and/or
 - d. Any action as may be provided by law.
3. When the NH Works Partner Agency withholds funds from a recipient or grant applicant under this policy, the NH Works Partner agency may disburse the withheld funds directly to an alternate recipient. In such case, the NH Works Partner will require any alternate recipient to demonstrate:
 - a. The ability to comply with these regulations; and
 - b. The ability to achieve the goals of the nondiscrimination and equal opportunity provisions of WIOA.
4. A grant applicant or recipient adversely affected by a Final Order may at any time petition the respective NH Works Partner Commissioner to restore its eligibility to receive WIOA financial assistance.
 - a. A copy of the petition must be served on the parties to the original proceeding that led to the Final Decision and Order.

X. MISCELLANEOUS - Other Supporting Documentation

Supporting documentation to show that the commitments made in the Nondiscrimination Plan have been and/or are being carried out include in addition:

<i>Attachment</i>	<i>Other Supporting Documentation</i>
<i>10-A</i>	Service Animals Providing Accommodation Policy
<i>10-B</i>	Same Sex Marriage Policy
<i>10-C</i>	Religious Accommodation Policy
<i>10-D</i>	Sexual Harassment Policy
<i>10-E</i>	Site Selection to Assure Accessibility and ADA Compliance Checklist
<i>10-F</i>	Accommodations for Individuals with Disabilities
<i>10-G</i>	State of NH Policies <ul style="list-style-type: none"> • Sexual Harassment • Prohibiting Discrimination on the Basis of Gender Identity or Gender Expression • Transgender Employment Policies and Procedures • ADA Reasonable Accommodation Policy
<i>10-H</i>	NH Commission for Human Rights Policies <ul style="list-style-type: none"> • Pregnancy Discrimination • Disability Discrimination • Mediation Resolution Program
<i>10-I</i>	NH Online Sexual Harassment Training
<i>10-J</i>	Governor’s Advisory Council on Diversity and Inclusion Executive Order, Bylaws, and their June 1, 2018 Preliminary Report



WIOA POLICY ISSUANCE – 2018-009
Effective Date: October 1, 2018

Service Animals Providing Accommodation

Background:

The Workforce Innovation and Opportunity Act (“WIOA”) and the New Hampshire NH Works Consortium require compliance with 29 CFR Part 38 Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act.

Policy: 28 CFR 35.16

It is the policy of the NH Works Partners to permit the use of a service animal by an individual with a disability. However, there may be exceptions that may cause the removal of a service animal from the premises if:

- (1) The animal is out of control and the animal's handler does not take effective action to control it; or
- (2) The animal is not housebroken.

If a partner properly excludes a service animal for one of the reasons identified above, the NH Works partner must give the individual with a disability the opportunity to participate in the WIOA financially assisted service, program, or activity without having the service animal on the premises.

Animal under handler's control. A service animal must be under the control of its handler. A service animal must have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (*e.g.*, voice control, signals, or other effective means).

Care or supervision. A NH Works Partner is not responsible for the care or supervision of a service animal.

Inquiries. A NH Works Partner staff or programs funded with WIOA funds must not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. S/he may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. Furthermore, s/he must



WIOA POLICY ISSUANCE – 2018-007

Effective Date: October 1, 2018

Same Sex Marriages

Background:

The Workforce Innovation and Opportunity Act (“WIOA”) and the New Hampshire NH Works Consortium require compliance with DOL’s Employment and Training Administration’s policy on same-sex marriages. On June 26, 2013, the Supreme Court found that Section 3 of the Defense of Marriage Act (DOMA, codified at 1. U.S.C section 7) violates the U.S. Constitution. Because that section no longer controls the definition of marriage or spouse under the federal framework for ETA workforce grant programs, DOMA no longer bars the recognition of same-sex marriages in such programs. As with the Department of Labor, NH Works policy is to recognize lawful same-sex marriages as broadly as possible to the extent that federal law permits, and to recognize all marriages valid in the jurisdiction where the marriage was celebrated.

Policy: TEGL 26-13 dated June 18, 2014

Consistent with the Supreme Court’s Windsor decision and with ETA’s policy of treating all individuals equally, regardless of sexual orientation, ETA interprets gender specific terms of marriage such as “widow,” “widower,” “husband,” and “wife” to include married same-sex spouses.

The definition of family means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

- a) A husband, wife, and dependent children
- b) A parent or guardian and dependent children
- c) A husband and wife

Although the definition of “family” uses the terms husband and wife, both ETA and NH Works requires grantees to apply these terms in a gender neutral manner so that same-sex married couples are included in the definition of family.

Service Providers will take steps necessary to ensure that Religious Accommodation occurs in programs, projects, and activities, funded through federal WIOA funds. Particular attention to this subject should be made when considering potential worksites for Work Experiences, On-the-Job training (OJT), or summer employment activities.

1. Who may file: Any individual who believes that he or she has experienced, or been the victim of, sexual harassment. Complaints may also be submitted by any individual whether or not the individual was personally subjected to harassment.

Complaints may be filed regardless of whether the behavior occurred on or off duty, if it results in work-related sexual harassment.

2. When to file: Complaints should be filed as soon after the alleged act(s) as possible.
3. Where to file: Complaints may be filed with the individual's immediate supervisor, who will forward it to the Department of Business and Economic Affairs (DBEA), Office of Workforce Opportunity (OWO) Equal Opportunity (EO) Officer, or with the DBEA-OWO EO Officer, 1 Eagle Square, Concord, NH, 03301, Telephone: (603) 271-7275 or Relay 211.
4. Complaints may alternatively be filed directly with the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue, NW, Rm N4123, Washington, D.C. 20210. Telephone: (202) 219-7026, TDD: 1-800-3262577.
5. How to file: Complaints by individuals experiencing the harassment may be verbal or written and shall:
6. Identify the person(s) and/or legal entity complained against (the respondent); and describe the complainant's allegations in sufficient detail to allow the appropriate State Agency EO Officer to
 - a. Conduct a preliminary review/investigation in an effort to resolve the issue without further formal action being taken,
 - b. prepare a written statement of action taken, with a copy to all appropriate parties, and, in the event a formal administrative investigation is required,
 - c. conduct a formal administrative investigation as outlined in these procedures.

NOTE: Complaints by individuals other than the victim shall be in writing

7. Upon receipt of a verbal or written complaint alleging harassment, the EO Officer shall
 - a. promptly log and initiate review and/or investigation of the complaint;
 - b. provide notice, as appropriate, to all interested parties;
 - c. inform all interested parties of their ability to submit information relevant to the complaint; and
 - d. make a decision strictly on the evidence.
8. Investigations shall be conducted with particular care to preserve the confidentiality of all persons involved. Only those who have an immediate need to know, including, but not limited to, the investigator, the complainant, and the alleged harasser or retaliator shall be provided with the identity of the complainant and allegations.



WIOA POLICY ISSUANCE – 2018-003
Effective Date: October 1, 2018

SITE SELECTION TO ASSURE ACCESSIBILITY

Background:

The Workforce Innovation and Opportunity Act (“WIOA”) and the New Hampshire NH Works Consortium require compliance with 29 CFR Part 38 Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act.

Policy: 38.13 requires accessibility for all individuals

It is the policy of the OWO and the NH Works Partner Agencies that WIOA sub-recipients and vendors will not deny the benefits of its programs, activities, and services to individuals with disabilities because its facilities are inaccessible. All aspects of the program or activity should be accessible; however, each facility or every part of an existing facility need not be totally accessible, as long as arrangements are made to ensure full participation by individuals with disabilities.

Program accessibility may be achieved by a number of methods. Providing access to facilities through **structural** methods--altering existing facilities or acquiring or building additional ones may be the most efficient way to provide program accessibility. However, alternatives to structural changes to achieve program accessibility may also be pursued.

Non-structural methods include:

- redesign of equipment,
- reassignment of classes or other services to accessible buildings or sites, home visits,
- delivery of services at alternate accessible sites, and
- use of auxiliary aids.

and indicated in the contract. Programs that are not accessible and without an alternative plan will not be re-funded until accessibility is achieved.

Checklist for Existing Facilities version 2.1

Introduction

Title III of the **Americans with Disabilities Act** requires public accommodations to provide goods and services to people with disabilities on an equal basis with the rest of the general public. The goal is to afford every individual the opportunity to benefit from our country's businesses and services, and to afford our businesses and services the opportunity to benefit from the patronage of all Americans.

The regulations require that architectural and communication barriers that are structural must be removed in public areas of **existing facilities** when their removal is **readily achievable**—in other words, easily accomplished and able to be carried out without much difficulty or expense. **Public accommodations** that must meet the barrier removal requirement include a broad range of establishments (both for-profit and nonprofit)—such as hotels, restaurants, theaters, museums, retail stores, private schools, banks, doctors' offices, and other places that serve the public. People who own, lease, lease out, or operate places of public accommodation in existing buildings are responsible for complying with the barrier removal requirement.

The removal of barriers can often be achieved by making simple changes to the physical environment. However, the regulations do not define exactly how much effort and expense are required for a facility to meet its obligation. This judgment must be made on a case-by-case basis, taking into consideration such factors as the size, type, and overall financial resources of the facility, and the nature and cost of the access improvements needed. These factors are described in more detail in the ADA regulations issued by the Department of Justice.

The process of determining what changes are readily achievable is not a one-time effort; access should be re-evaluated annually. Barrier removal that might be difficult to carry out now may be readily achievable later. Tax incentives are available to help absorb costs over several years.

Purpose of This Checklist

This checklist will help you identify accessibility problems and solutions in existing facilities in order to meet your obligations under the ADA.

The goal of the survey process is to plan how to make an existing facility more usable for people with disabilities. The Department of Justice (DOJ) recommends the development of an Implementation Plan, specifying what improvements you will make to remove barriers and when each solution will be carried out: "...Such a plan...could serve as evidence of a good faith effort to comply...."

Technical Requirements

This checklist details some of the requirements found in the ADA Standards for Accessible Design (Standards). The ADA Accessibility Guidelines (ADAAG), when adopted by DOJ, became the Standards. The Standards are part of the Department of Justice Title III Regulations, 28 CFR Part 36 (*Nondiscrimination on the basis of disability... Final Rule*). Section 36.304 of this regulation, which covers barrier removal, should be reviewed before this survey is conducted.

However, keep in mind that full compliance with the Standards is required only for new construction and alterations. The requirements are presented here as a guide to help you determine what may be readily achievable barrier removal for existing facilities. The Standards should be followed for all barrier removal unless doing so is not readily achievable. If complying with the Standards is not readily achievable, you may undertake a modification that does not fully comply, as long as it poses no health or safety risk.

In addition to the technical specifications, each item has a scoping provision, which can be found under Section 4.1 in the Standards. This section clarifies when access is required and what the exceptions may be.

Each state has its own regulations regarding accessibility. To ensure compliance with all codes, know your state and local codes and use the more stringent technical requirement for every modification you make; that is, the requirement that provides greater access for individuals with disabilities. The barrier removal requirement for existing facilities is new under the ADA and supersedes less stringent local or state codes.

QUESTIONS

POSSIBLE SOLUTIONS

Priority

1 Accessible Approach/Entrance

People with disabilities should be able to arrive on the site, approach the building, and enter as freely as everyone else. At least one route of travel should be safe and accessible for everyone, including people with disabilities.

Route of Travel (ADAAG 4.3, 4.4, 4.5, 4.7)

Is there a route of travel that does not require the use of stairs?

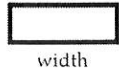
Yes No

- Add a ramp if the route of travel is interrupted by stairs.
- Add an alternative route on level ground.

Is the route of travel stable, firm and slip-resistant?

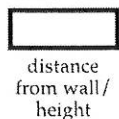
- Repair uneven paving.
- Fill small bumps and breaks with beveled patches.
- Replace gravel with hard top.

MINI Is the route at least 36 inches wide?


 width

- Change or move landscaping, furnishings, or other features that narrow the route of travel.
- Widen route.

MINI Can all objects protruding into the circulation paths be detected by a person with a visual disability using a cane?


 distance from wall/
 height

- Move or remove protruding objects.
- Add a cane-detectable base that extends to the ground.
- Place a cane-detectable object on the ground underneath as a warning barrier.

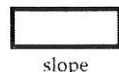
In order to be detected using a cane, an object must be within 27 inches of the ground. Objects hanging or mounted overhead must be higher than 80 inches to provide clear head room. It is not necessary to remove objects that protrude less than 4 inches from the wall.

Do curbs on the route have curb cuts at drives, parking, and drop-offs?

- Install curb cut.
- Add small ramp up to curb.

Ramps (ADAAG 4.8)

MINI Are the slopes of ramps no greater than 1:12?


 slope

Slope is given as a ratio of the height to the length. 1:12 means for every 12 inches along the base of the ramp, the height increases one inch. For a 1:12 maximum slope, **at least** one foot of ramp length is needed for each inch of height.

- Lengthen ramp to decrease slope.
- Relocate ramp.
- If available space is limited, reconfigure ramp to include switchbacks.

QUESTIONS

POSSIBLE SOLUTIONS

Parking and Drop-Off Areas, continued

Are the access aisles part of the accessible route to the accessible entrance?

Yes No

Are the accessible spaces closest to the accessible entrance?

Are accessible spaces marked with the International Symbol of Accessibility? Are there signs reading "Van Accessible" at van spaces?

Is there an enforcement procedure to ensure that accessible parking is used only by those who need it?

- Add curb ramps.
- Reconstruct sidewalk.
- Reconfigure spaces.
- Add signs, placed so that they are not obstructed by cars.
- Implement a policy to check periodically for violators and report them to the proper authorities.

Entrance (ADAAG 4.13, 4.14, 4.5)

If there are stairs at the main entrance, is there also a ramp or lift, or is there an alternative accessible entrance?


Do not use a service entrance as the accessible entrance unless there is no other option.

Do all inaccessible entrances have signs indicating the location of the nearest accessible entrance?

Can the alternate accessible entrance be used independently?


- If it is not possible to make the main entrance accessible, create a dignified alternate accessible entrance. If parking is provided, make sure there is accessible parking near all accessible entrances.
- Install signs before inaccessible entrances so that people do not have to retrace the approach.
- Eliminate as much as possible the need for assistance—to answer a doorbell, to operate a lift, or to put down a temporary ramp, for example.

TTTTT Does the entrance door have at least 32 inches clear opening (for a double door, at least one 32-inch leaf)?


 clear opening

- Widen the door to 32 inches clear.
- If technically infeasible, widen to 31-3/8 inches minimum.
- Install offset (swing-clear) hinges.

TTTTT Is there at least 18 inches of clear wall space on the pull side of the door, next to the handle?


 clear space

- Remove or relocate furnishings, partitions, or other obstructions.
- Move door.
- Add power-assisted or automatic door opener.

QUESTIONS

POSSIBLE SOLUTIONS

Priority

2 Access to Goods and Services

Ideally, the layout of the building should allow people with disabilities to obtain materials or services without assistance.

Yes No


Horizontal Circulation (ADAAG 4.3)


Does the accessible entrance provide direct access to the main floor, lobby, or elevator?

- Add ramps or lifts.
- Make another entrance accessible.


Are all public spaces on an accessible route of travel?


- Provide access to all public spaces along an accessible route of travel.

 Is the accessible route to all public spaces at least 36 inches wide?


 width


- Move furnishings such as tables, chairs, display racks, vending machines, and counters to make more room.

 Is there a 5-foot circle or a T-shaped space for a person using a wheelchair to reverse direction?


 width


- Rearrange furnishings, displays, and equipment.

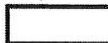
Doors (ADAAG 4.13)

 Do doors into public spaces have at least a 32-inch clear opening?



 clear opening


- Install offset (swing-clear) hinges.
- Widen doors.

 On the pull side of doors, next to the handle, is there at least 18 inches of clear wall space so that a person using a wheelchair or crutches can get near to open the door?



 clear space

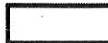
- Reverse the door swing if it is safe to do so.
- Move or remove obstructing partitions.

 Can doors be opened without too much force (5 lbf maximum for interior doors)?



 force


- Adjust or replace closers.
- Install lighter doors.
- Install power-assisted or automatic door openers.

 Are door handles 48 inches high or less and operable with a closed fist?


 height

- Lower handles.
- Replace inaccessible knobs or latches with lever or loop handles.
- Retrofit with add-on levers.
- Install power-assisted or automatic door openers.

 Are all threshold edges 1/4-inch high or less, or if beveled edge, no more than 3/4-inch high?


 height

- If there is a threshold greater than 3/4-inch high, remove it or modify it to be a ramp.
- If between 1/4- and 3/4-inch high, add bevels to both sides.

QUESTIONS

POSSIBLE SOLUTIONS

Directional and Informational Signage

The following questions apply to directional and informational signs that fall under Priority 2.

Yes No

Priority 2 If mounted above 80 inches, do they have letters at least 3 inches high, with high contrast, and non-glare finish?

letter height

Review requirements and replace signs as needed, meeting the requirements for character size, contrast, and finish.

Do directional and informational signs comply with legibility requirements? (Building directories or temporary signs need not comply.)

Review requirements and replace signs as needed.

Controls (ADAAG 4.27)

Priority 2 Are all controls that are available for use by the public (including electrical, mechanical, cabinet, game, and self-service controls) located at an accessible height?

height

Relocate controls.

Reach ranges: The maximum height for a side reach is 54 inches; for a forward reach, 48 inches. The minimum reachable height is 15 inches for a front approach and 9 inches for a side approach.

Are they operable with a closed fist?

Replace controls.

Seats, Tables, and Counters (ADAAG 4.2, 4.32, 7.2)

Priority 2 Are the aisles between fixed seating (other than assembly area seating) at least 36 inches wide?

width

Rearrange chairs or tables to provide 36-inch aisles.

Are the spaces for wheelchair seating distributed throughout?

Rearrange tables to allow room for wheelchairs in seating areas throughout the area.

Remove some fixed seating.

Priority 2 Are the tops of tables or counters between 28 and 34 inches high?

height

Lower part or all of high surface.
 Provide auxiliary table or counter.

Priority 2 Are knee spaces at accessible tables at least 27 inches high, 30 inches wide, and 19 inches deep?

height/
width/
depth

Replace or raise tables.

QUESTIONS

POSSIBLE SOLUTIONS

Elevators, continued

Is there a sign on both door jambs at every floor identifying the floor in raised and braille letters?

Yes No

Install tactile signs to identify floor numbers, at a height of 60 inches from floor.

If an emergency intercom is provided, is it usable without voice communication?

Modify communication system.

Is the emergency intercom identified by braille and raised letters?

Add tactile identification.

Lifts (ADAAG 4.2, 4.11)

Can the lift be used without assistance? If not, is a call button provided?

At each stopping level, post clear instructions for use of the lift.
 Provide a call button.

11111 Is there at least 30 by 48 inches of clear space for a person in a wheelchair to approach to reach the controls and use the lift?

clear space

Rearrange furnishings and equipment to clear more space.

11111 Are controls between 15 and 48 inches high (up to 54 inches if a side approach is possible)?

height

Move controls.

Priority

3 Usability of Rest Rooms

When rest rooms are open to the public, they should be accessible to people with disabilities.

Getting to the Rest Rooms (ADAAG 4.1)

If rest rooms are available to the public, is at least one rest room (either one for each sex, or unisex) fully accessible?

Reconfigure rest room.
 Combine rest rooms to create one unisex accessible rest room.

Are there signs at inaccessible rest rooms that give directions to accessible ones?

Install accessible signs.

Doorways and Passages (ADAAG 4.2, 4.13, 4.30)

Is there tactile signage identifying rest rooms?

Add accessible signage, placed to the side of the door, 60 inches to centerline (not on the door itself).

Mount signs on the wall, on the latch side of the door, complying with the requirements for permanent signage. Avoid using ambiguous symbols in place of text to identify rest rooms.

QUESTIONS

POSSIBLE SOLUTIONS

Stalls, continued

In the accessible stall, are there grab bars behind and on the side wall nearest to the toilet?

Yes No

Add grab bars.

MINI Is the toilet seat 17 to 19 inches high?

Add raised seat.

height

Lavatories (ADAAG 4.19, 4.24)

MINI Does one lavatory have a 30-inch-wide by 48-inch-deep clear space in front?

Rearrange furnishings.
 Replace lavatory.
 Remove or alter cabinetry to provide space underneath.
 Make sure hot pipes are covered.
 Move a partition or wall.

A maximum of 19 inches of the required depth may be under the lavatory.

clear space

MINI Is the lavatory rim no higher than 34 inches?

Adjust or replace lavatory.

height

MINI Is there at least 29 inches from the floor to the bottom of the lavatory apron (excluding pipes)?

Adjust or replace lavatory.

height

Can the faucet be operated with one closed fist?

Replace with paddle handles.

Are soap and other dispensers and hand dryers within reach ranges (see page 7) and usable with one closed fist?

Lower dispensers.
 Replace with or provide additional accessible dispensers.

MINI Is the mirror mounted with the bottom edge of the reflecting surface 40 inches high or lower?

Lower or tilt down the mirror.
 Add a larger mirror anywhere in the room.

height

Priority

4 Additional Access

Note that this priority is for items not required for basic access in the first three priorities.

When amenities such as drinking fountains and public telephones are provided, they should also be accessible to people with disabilities.

Drinking Fountains (ADAAG 4.15)

MINI Is there at least one fountain with clear floor space of at least 30 by 48 inches in front?

Clear more room by rearranging or removing furnishings.

clear space



WIOA POLICY ISSUANCE – 2018-002
Effective Date: October 1, 2018

ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES

Background:

The Workforce Innovation and Opportunity Act (“WIOA”) and the New Hampshire NH Works Consortium require compliance with 29 CFR Part 38 Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act.

Policy:

POLICY: 38.14 requires accommodations and reasonable modifications for individuals with disabilities.

The NH Works Partner Agency(ies) will make reasonable accommodation to the known physical or mental limitations of otherwise qualified applicants, employees, or participants with disabilities, unless it can be shown that such accommodations would impose an undue hardship on program operations.

For purposes of this policy, reasonable accommodation means any change or adjustment to a training or work environment that permits a qualified applicant, participant, or employee with a disability to participate in the application process, to perform the essential function of the job, or to enjoy the benefits or privileges of employment equal to those enjoyed by others.

Examples of accommodation include, but are not limited to:

- acquiring or modifying equipment or devices
- job restructuring
- part-time or modified work schedules
- providing readers or qualified interpreters
- making the workplace or program facility accessible to and usable by individuals with disabilities