

## **Administrative Policies No. AP- 208**

**Subject: Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act of 2014 – Policy for AE/FA/Operator/Providers**

**Effective: PY18 – August 20, 2018**

### **PURPOSE:**

The purpose of Administrative Policy No. AP-208 is to update this former WCCNM's Nondiscrimination Policy to reflect changes and revisions of Nondiscrimination and Equal Opportunity Provisions from the former Workforce Innovation Act (WIA) and adopt such changes as set forth in the Workforce Innovation and Opportunity Act (WIOA).

### **BACKGROUND:**

WIOA contains the identical provisions of Section 188 as appeared in WIA, and these WIOA provisions took effect on July 1, 2015. To ensure no regulatory gap while this rule was prepared, the Department's Civil Rights Center (CRC) issued a final rule in July 2015 ("2015 rule"), codified at [29 CFR part 38](#), which applies until this rule takes effect. The 2015 rule retained the provisions in [29 CFR part 37](#) ("1999 rule") but simply substituted all references to WIA with WIOA to reflect the proper statutory authority. This final rule revises the 2015 rule and generally carries over the policies and procedures found in the 1999 and 2015 rules, which implemented the equal opportunity and nondiscrimination provisions of WIA and WIOA, respectively. Like the 1999 and 2015 rules, this final rule is organized into subparts A through E.

This final rule retains the organization of [29 CFR part 38](#) as well as the majority of the provisions in part 37.

Subpart A—General Provisions. This subpart outlines the purpose and application of part 38, provides definitions, outlines prohibited bases and forms of discrimination, and establishes CRC's enforcement authority and recipients' nondiscrimination obligations.

Subpart B—Recordkeeping and Other Affirmative Obligations of Recipients. This subpart sets forth the affirmative obligations of recipients and grant applicants, including the role of EO Officers, notice and communication requirements, and the data and information collection and maintenance obligations of recipients.

Subpart C—Governor's Responsibilities to Implement the Nondiscrimination and Equal Opportunity Requirements of the Workforce Innovation and Opportunity Act (WIOA). This subpart describes a Governor's responsibilities to implement the nondiscrimination and equal opportunity provisions of WIOA and this part, including oversight and monitoring of WIOA Title I-financially assisted State Programs and development of a Nondiscrimination Plan.

Subpart D—Compliance Procedures. This subpart describes procedures for conducting compliance reviews, processing complaints, issuing determinations, and handling breaches of conciliation agreements.

Subpart E—Federal Procedures for Effecting Compliance. This subpart describes the procedures for effecting compliance, including actions CRC is authorized to take upon finding noncompliance when voluntary compliance cannot be achieved, the rights of

parties upon such a finding, and hearing procedures, sanctions, and post-termination procedures.

**OBJECTIVE:**

On December 2, 2016, the U.S. Department of Labor (Department) published its final rule revising its regulations implementing the nondiscrimination and equal opportunity provisions of Section 188 of the Workforce Innovation and Opportunity Act (WIOA). Signed by President Obama on July 22, 2014, WIOA superseded the Workforce Investment Act of 1998 (WIA) as the Department's primary mechanism for providing financial assistance for a comprehensive system of job training and placement services for adults and eligible youth. Section 188 of WIOA prohibits the exclusion of an individual from participation in, denial of the benefits of, discrimination in, or denial of employment in the administration of or in connection with any programs and activities funded or otherwise financially assisted in whole or in part under Title I of WIOA because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status, or participation in a program or activity that receives financial assistance under Title I of WIOA. This final rule updates Department regulations consistent with current law and addresses its application to current workforce development and workplace practices and issues.

**POLICY:**

As a result of the Subpart C— Governor's Responsibilities to Implement the Nondiscrimination and Equal Opportunity Requirements of the Workforce Innovation and Opportunity Act (WIOA), which also describes the Governor's responsibilities to implement the nondiscrimination and equal opportunity provisions of WIOA, including oversight and monitoring of WIOA Title I-financially assisted State Programs and development of a Nondiscrimination Plan (which also complies with [29 CFR part 38](#)), the Central Regions Local Workforce Board (LWB) proposes to adopt and comply with Elements 1 – 10 as described in the New Mexico Department of Workforce Solution's (NMDWS) "Nondiscrimination Plan for Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act of 2014" as approved and signed by the Governor's WIOA Designees on January 19, 2018

**ATTACHMENT:** "Nondiscrimination Plan for Implementation for the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act of 2014", State of New Mexico Department of Workforce solutions, January 19, 2018.

**APPLICABILITY:** Central Region Local Workforce Board, CEO's, WIOA Elected Officials, WIOA Operator, WIOA Providers and WIOA affiliated Partners.

**INQUIRIES:** WIOA Manager 505-724-3629