

Nondiscrimination and Equal Opportunity MONITORING REPORT

2017-2018



**CONDUCTED BY: DWD EQUAL OPPORTUNITY UNIT
MISSOURI DIVISION OF WORKFORCE DEVELOPMENT
OF THE
SOUTHWEST WORKFORCE DEVELOPMENT BOARD**

Date of Report: November 20, 2018

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Department of Economic Development

Michael L. Parson
Governor

Robert B. Dixon
Director

Division of
Workforce Development

Mardy L. Leathers
Director

November 20, 2018

The Honorable Cherry Warren
Presiding Commissioner
Barry County Commission
700 Main Street
Cassville, Missouri 65625-1477

Brad Baker
U S Bank
1800 West Broadway
Webb City, Missouri 64870

Dear Commissioner Warren and Mr. Baker:

The regulatory mandate established by Section 188 of the Workforce Innovation and Opportunity Act (WIOA) and 29 CFR Part 38 requires the state's monitoring system to provide annual monitoring reviews of Local Workforce Development Boards (WDB) and to ensure programs, services, and employment practices are nondiscriminatory. As part of the monitoring, DWD conducted an onsite review of the Missouri Job Centers in your Local Workforce Development Area. During our monitoring, DWD reviewed the following items as in accordance with Section 188 of WIOA, 29 CFR Part 38 regulations and the State of Missouri's 2015 Methods of Administration currently referred to as the Nondiscrimination Plan (NP) effective January 3, 2017:

- Sections 38.25 through 38.27 (Assurances);
- Sections 38.28 through 38.33 (Equal Opportunity (EO) Officers);
- Sections 38.34 through 38.39 (Notice and Communication);
- Sections 38.41 through 38.45 (Data and Information Collection and Maintenance);
- Section 38.40 (Affirmative Outreach);
- Section 38.53 (Governor's Oversight Responsibility Regarding Recipients' Recordkeeping);
- Sections 38.72 and 38.73 (Complaint Processing Procedures); and
- Sections 38.51 and 38.53 (Monitoring Responsibilities).

Should you have any questions, please feel free to contact Danielle Smith at (573) 751-2428 or my office at (573) 751-3349.

Sincerely,

A handwritten signature in black ink, appearing to read 'M Leathers', written in a cursive style.

Mardy Leathers
Director

ML/DS/CS

C: Sherri Rhuems
Leslie Abram

DWD EO Monitoring Review Ratings

DWD rates issues discovered during Nondiscrimination and EO monitoring reviews at three levels of severity:

- ***FINDING***— is a violation indicating failure to comply with Section 188 of WIOA and 29 CFR Part 38 regulations. Some Findings will require corrective actions and others could result in sanctions. A Finding could also include a violation of discrimination under Section 188 of WIOA and 29 CFR Part 38.
 - ***CONCERN***— is a technical violation that is significant, but can be corrected quickly to ensure compliance with Section 188 of WIOA.
 - ***RECOMMENDATIONS*** - is guidance or technical assistance that could improve policies or standard operating procedures to better provide workforce programs, services, activities, and employment practices.
-

Executive Summary

The United States Department of Labor in Section 188 of WIOA and 29 CFR Part 38 requires each Governor to establish a NP formerly known as the Methods of Administration that includes a system for annual monitoring of recipients to determine if they are conducting their WIOA Title I-financially assisted program in a nondiscriminatory manner. Missouri Division of Workforce Development (DWD) will implement and enforce the following EO and nondiscrimination monitoring requirements.

Each annual monitoring must review:

- A statistical or quantifiable analysis of the records and data kept by the recipient, including analyses by race/ethnicity, sex, age, and disability status; (beginning on January 3, 2019, each recipient must also record the limited English proficiency and preferred language of each applicant, registrant, participant, and trainee.)
- An investigation of any significant differences found across groups in participation in the programs, activities, and employment as a result of the analysis;
- An assessment to determine if administrative obligations have been fulfilled, including recordkeeping, notice, and communication;
- Local policies to ensure they are not discriminatory;
- Job training plans, contracts, assurances, and similar agreements to ensure they are not discriminatory and contain required language;
- Procedures for ensuring compliance with Section 504;
- The procedures or system for ensuring that nondiscrimination requirements are effectively implemented;
- Procedures for obtaining prompt corrective action when noncompliance is found; and,
- Supporting documentation that demonstrates the commitments made in the NP are carried out.

Supporting documentation includes:

- Policies and procedures required by various sections of the NP;
- Copies of local monitoring instruments and instructions;
- Evidence of the extent to which nondiscrimination and EO policies have been developed and communicated as required under Section 188 and 29 CFR Part 38;
- Information reflecting the extent to which EO training, including training called for by §§38.29(f) and 38.31(f), is planned and/or has been carried out;
- Reports of monitoring reviews and reports of follow-up actions taken under those reviews where violations have been found, including, where appropriate, sanctions; and,
- Copies of any notices made under 29 CFR §§38.34 through 38.40.

Results of DWD Equal Opportunity Monitoring Review Southwest Workforce Development Board

Summary of DWD EO Monitoring Review Ratings for PY17-18

During our monitoring review of Local WDB's compliance with WIOA Section 188 we found no violations at this time, however, one Concern and three Recommendations were identified.

Sections 38.25 through 38.27 (Assurances)

At this time, no violations are found. The Local WDB's written response to monitoring questions stated that they would begin providing an EO Orientation in future Requests for Proposal (RFP) for bidders notifying each of their EO rights.

Source Documentation:

The DWD EO Unit reviewed several of Local WDB's assurances that are a part of their agreements.

DWD EO Rating:

Recommendation: Ensure EO Orientations for all Request for Proposal (RFP) bidders notifying each of their EO rights.

Sections 38.28 through 38.33 (EO Officers);

At this time, no violations are found. The Local WDB's response included a variety of staff training.

Source Documentation:

The DWD EO Unit reviewed the Local WDB's organizational charts, the job description of the Local EO Officer and training that the Local EO Officer received on EO topics and the training coordinated and/or provided for staff by the Local EO Officer.

DWD EO Rating:

No recommendations at this time.

Sections 38.34 through 38.39 (Notice and Communication);

Variations were found in the protected bases listed in the Local WDB's Harassment and Nondiscrimination policies.

Source Documentation:

The Local WDB's policies and public notices were reviewed for minimum standards in Notice and Communications.

DWD EO Rating:

Concern: Harassment, Discrimination & Retaliation Policy did not include the prohibited bases of discrimination as contained in 29 CFR Part 38.35. Update and ensure that all policies and materials that include the WIOA Section 188 EO rights language found in the implementing regulations under 29 CFR Part 38.35 are provided in their entirety and as they appear in the regulations. WIOA prohibits discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of WIOA, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

Recommendation: Update and ensure that all Reasonable Accommodation or Modification policies, remove the Local EO Officer from any human resources function or role of receiving, reviewing, approving, or handling the initial request or appeal of a denial of requests made by either staff or customers. The State WIOA EO Officer should not be referenced in the appeal process.

Sections 38.41 through 38.45 (Data and Information Collection and Maintenance);

At this time, no violations are found. The Local WDB provided a description of how they perform data analysis.

Source Documentation:

The DWD EO Unit reviewed the Local WDB's monitoring responses on data analysis for programs, services, and activities operated in the Job Centers along with subrecipient's employment data.

DWD EO Rating:

No recommendations at this time.

Section 38.40 (Affirmative Outreach);

At this time, no violations are found. The Local WDB's written response included various media outlets to reach various groups including: television, radio, newspapers, social media (Facebook, LinkedIn), MoJobs, Podcasts, and YouTube videos.

Source Documentation:

The DWD EO Unit reviewed the Local WDB's responses and their outreach plan submitted with their data analysis reports for program/employment practices.

DWD EO Rating:

No recommendations at this time.

Section 38.53 (Governor's Oversight Responsibility Regarding Recipients' Recordkeeping);

At this time, no violations are found.

Source Documentation:

The DWD EO Unit reviewed the Local WDB's response regarding recordkeeping and data collection.

DWD EO Rating:

No recommendations at this time.

Sections 38.72 and 38.73 (Complaint Processing Procedures);

At this time, no violations are found.

Source Documentation:

The DWD EO Unit reviewed the Local WDB's response regarding the process for handling administrative enforcement actions and lawsuits alleging discrimination and how the public may learn of their EO rights in policy.

DWD EO Rating:

No recommendations at this time.

Sections 38.51 and 38.53 (Monitoring Responsibilities)

At this time, no violations are found. The Local WDB's written response included examples of their monitoring of subrecipients and their Corrective Actions and Sanctions policy.

Source Documentation:

The DWD EO Unit reviewed the Local WDB's Monitoring recommendations/corrective actions to its subrecipients and the Local WDB's Corrective Actions and Sanctions policy.

DWD EO Rating:

Recommendation: Revise the Local WDB's Corrective Actions and Sanctions policy to demonstrate how the Local WDB would enforce its policy rather than elevating an issue to the State WIOA EO Officer for determination of appropriate sanctions. (Revision was provided.)