

Methods of Administration for Equal Opportunity Compliance in the Workforce Investment Act Programs

The Methods of Administration (MOA) is a written assurance, with supporting documentation that describes the actions an individual State will take to ensure that its Workforce Investment Area (WIA) Title-I financially assisted programs, activities, and recipients are complying and will continue to comply with the nondiscrimination and equal opportunity requirements of WIA and its implementing regulations.

The Commonwealth of Pennsylvania assures that it will ensure compliance with section 188 of the Workforce Investment Act, 29 CFR Part 37, Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, Title IX, Education Amendments of 1972 and Title VI, Civil Rights Act of 1964, Americans with Disabilities Act and all other regulations that seek to ensure non-discrimination. The Office of Equal Opportunity in the Department of Labor & Industry is responsible for implementing and monitoring the agency's compliance with nondiscrimination and equal opportunity provisions of WIA.

States were first required to prepare and submit MOAs in 1984 under the Job Training Partnership Act (JTPA). The requirement was continued in 1993 under the regulations implementing the nondiscrimination and equal opportunity provisions of JTPA. Under WIA, the form and concepts of the MOA remain substantially the same as in the JTPA MOA.

Pennsylvania's MOA details the Commonwealth's commitment to compliance with Section 188 of the Workforce Investment Act (WIA) and 29 CFR Part 37's equal opportunity and nondiscrimination provisions. Based on federal regulations, Pennsylvania's MOA includes the following nine required elements:

1. Designation of State and local level Equal Opportunity Officers
2. Equal Opportunity Notice and Communication
3. Assurances
4. Universal Access
5. Compliance with Disability Requirements
6. Data and Information Collection and Maintenance
7. Equal Opportunity Monitoring
8. Complaint Processing Procedures
9. Corrective Action and Sanctions

Submission and Approval

Pennsylvania's first MOA was submitted to the Civil Rights Center – U.S. Department of Labor in September 2000, approved on March 19, 2001, and recertified most recently in May 2008. The current document represents Pennsylvania's submission for recertification of the MOA with pertinent changes to the March 2005 submission. All inquiries regarding this document should be directed to:

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ELEMENT # 1

ELEMENT 1.

Designation of State and Local Level Equal Opportunity Officers (37.23)

The State should address how it and its recipients are complying and will continue to comply with the requirements of 37.23-37.28. The intent of the section is to ensure that the individual(s) the recipient appoints as EO Officers(s) have the education, training and experience, and are provided the necessary ongoing training and qualified staff, to perform his/her duties assigned under part 37. Additionally, the EO Officer(s) should not be in a position that would constitute, or appear to constitute, a conflict of interest. Further, the State should ensure that she/he reports, on EO matters, directly to the appropriate official in the organization 37.25(e) and that she/he otherwise has the authority to direct the State/Local level EO effort.

The individual designated as State-Level Equal Opportunity Officer and each individual designated as Local-level Equal Opportunity Officer, by name, position title, business address (including e-mail address if applicable) and telephone number (including TDD/TTY number. The level within the organization (described in such terms as the individual's authority and position relative to the top of the hierarchy occupied by the EO Officer(s).

- The Senior Level Equal Opportunity Officer for Workforce Investment for the Commonwealth of Pennsylvania is Mr. Khan L. Mitchell., Director of the Office of Equal Opportunity. Mr. Mitchell's mailing address is Pennsylvania Department of Labor and Industry, Office of Equal Opportunity, Room 514 Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA. 17121. He may be contacted by e-mail at khmitchell@state.pa.us, or by telephone at (717) 787-1182. Mr. Mitchell has over 8 years of experience with the Commonwealth of Pennsylvania.

The incumbent has a staff of thirteen (13) people - three (3) clerical support and ten (10) professionals. Program responsibilities include oversight for the administration of the internal Equal Opportunity (EO) program for the Department and EO Compliance for WIA, SESAs, and OVR programs.

Mr. Mitchell reports to Mr. Neil Cashman, Deputy Secretary for Administration, with direct access to Ms. Sandi Vito, Secretary of the Department of Labor and Industry. Secretary Vito has been designated by the Governor to implement the Workforce Investment Act of 1998 on his behalf in the Commonwealth of Pennsylvania. She is also responsible for the administration of programs and components in the Department of Labor and Industry, including Equal Opportunity and Nondiscrimination in Workforce Investment Act (WIA) Programs and State Employment Security Agencies (SESA). For clarity, State Employment Security Agencies across the Commonwealth of PA are referred to as CareerLinks and UC Service Centers for WIA purposes.

Ms. Crystal V. Adams, Chief of the Federal Programs Unit, is under the direct supervision of the Director. Ms. Adams supervises two Equal Opportunity Specialists. Ms. Ina Strain, EO Specialist II and Mr. Robert Belle, EO Specialist II. The incumbent will be responsible for the development, coordination and implementation of the equal opportunity program under WIA.

Mr. Belle, Equal Opportunity Specialist II, is assigned to the Federal Programs Unit, which is supervised by Ms. Adams. Mr. Belle is responsible for coordinating the State's responsibilities under 29 CFR Part 37 and monitors all phases of EO in State Employment Security Agencies. Ms. Adams also supervises Ms. Ina Y. Strain, Equal Opportunity Specialist II, who is responsible for Section 504, ADA, and Office of Vocational Rehabilitation Equal Opportunity Compliance.

Ms. Adams attended the Annual National CRC Conference from July 2003 through September 2009. Ms. Strain attended the Annual National CRC Conference in August 2006. Ms. Adams presented at the National CRC Conference in 2005-2009.

The manner in which the recipient makes the identity of the EO Officer(s) known to applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment, as well as interested members of the public.

- The EO Officer's identity is made known through the public display of 'Equal Opportunity is the Law' posters, distribution of pamphlets and booklets, through the issuance of an annual Policy Statement, the Civil Rights Statement, Internet, Intranet and through the designated Equal Opportunity Liaison within each Careerlink and UC Service Center, as well as, the WIA Policies and Procedures Manual and through contact with the Equal Opportunity Officers for WIA. The Equal Opportunity Officer's names, position title, address and telephone number (including TDD/TTY) will be included on all of the above-mentioned internal and external communications.

The level of staff and other resources available to State and Local level EO Officer(s) to ensure that WIA Title 1- financially assisted programs and activities operate in a non-discriminatory way.

- All staff positions within the Office of Equal Opportunity are full-time. Each program area is staffed by at least three full-time employees. The WIA component located in the Federal Programs Unit is comprised of three (3) full-time employees for LWIA/CareerLinks, UC Service Centers and the Office of Vocational Rehabilitation (OVR). An organizational chart depicting the Office of Equal Opportunity's staff and organizational position within the Department of Labor & Industry is attached. All resources of the Office of Equal Opportunity are made available to State and Local level EO Officer(s) when it pertains to EO matters. (*See: Strategic State Plan Attachment A; XI. Assurances; page 119*)

The State's plan for ensuring that State and local level EO Officers and their staffs are sufficiently trained to maintain competency.

- The Office of Equal Opportunity provided Methods of Administration Training at the Bi-Annual State-wide EO Conference for local level EO Officers, EO Liaisons, Site Administrators and Workforce Investment Board Staff. The training schedule was as follows:

LEP Training Philadelphia Workforce Development	January 2008
PA Partners Workshop ADA	May 2008
Complaint Investigation Training (staff)	June 2008
EO Orientation (4 CareerLinks)	July 2008
EO Orientation (1 CareerLink)	September 2008
EO Orientation & ADA/504 Training	November 2008
EO Orientation OVR	January 2009
MOA & EO Orientation	January 2009

Bi-Annual Statewide Equal Opportunity Conference	April 2009
EO Orientation & ADA/504	March 2009
LEP Training	May 2009
MOA Training Philadelphia Workforce Development	June 2009
EO Orientation-ADA-Sexual Harassment Training (PWDC)	September 2009

- **Training sessions for new Labor and Industry Employees, due to the change of administration, is as follows:**

Limited English Proficiency-Philadelphia (Site Administrators, EO Officers)	January 2008
Limited English Proficiency Department Staff	March 2008
Americans with Disabilities Act Department Staff	April 2008
Methods of Administration Department Staff	May 2008

- OEO will schedule Technical Assistance for Local WIA Equal Opportunity Officers and CareerLink/UC Service Center Liaisons on an on going and an ‘as needed’ basis. For January 2008-December 2009, 48 Technical Assistancess were conducted in 45 CareerLinks and 3 in LWIA.

The identity, by name, title and organization, of the individual to whom the State and Local level EO Officer(s) reports on equal opportunity matters.

- *See MOA; Narrative; Element 1, Page 4 pertaining to Director, Office of Equal Opportunity.*

A description of the professional and support staffing levels and resources provided to each State and Local level EO Officer to assist him or her in ensuring compliance with WIA section 188 and 29 CFR Part 37.

- Other support staff and resources include one Clerk Typist II and two Clerk Typist IIIs. Under the direct supervision of the Director, the incumbents perform complex clerical duties, which require the utilization of typing skills and application of quasi-independent judgment for all Equal Opportunity (EO) Compliance Programs, and related activities for the entire office. One Clerk Typist III is also secretarial support for the Director. (*See MOA; Narrative; Element 1, Page 4*)

The type and level of training each State and Local level EO Officer has received and will receive to ensure that he or she is capable of fulfilling his or her responsibilities as an EO Officer.

- Training will be conducted on a continuous basis, as it becomes available at the Federal or state level or professional organizations. OEO staff will attend the Annual National Civil Rights Center (CRC) Training Conference each year as well as other CRC sponsored training. The Office of Equal Opportunity has provided training for local level Equal Opportunity Officers/Liaisons and will ensure that all local Equal Opportunity Officers/Liaisons are aware of the National training conference. **Ms. Adams and 4 other staff attended Diversity Training by Doctor Robert Scott, October 2008 and is a member of the National Association of State Workforce Agencies. (NASWAS)**

The means by which the State makes public the names, position titles and telephone numbers (including TDD/TTY numbers) of each State and Local level EO Officer.

- *See MOA; Element 1, Page 1*

A description of any duties, other than WIA equal opportunity responsibilities, assigned to each State and local level EO Officer.

- All Equal Opportunity positions are full-time. *(Refer to MOA; Element 1, Attachment B-Organizational Chart)*

ELEMENT # 2

ELEMENT 2.

Notice and Communication (37.29 through 37.36)

In this element, the State should address how it and its recipients are complying and will continue to comply with the requirements of 37.29 through 37.36. States should ensure the establishment of a notice and communication system that makes all registrants, applicants, eligible applicants/registrants, applicants for employment, employees and interested members of the public aware of the recipient's obligation to operate in a nondiscriminatory manner, and further, the extent of the right of members of these groups to file complaints of discrimination.

The method and frequency of the notice, including initial dissemination.

- An Equal Opportunity Policy Statement is disseminated annually and “Equal Opportunity is the Law” posters (copy attached) will be distributed to each UC Service Center/CareerLink office to be posted in highly visible areas within the UC Service Center/CareerLink to provide continuing notice that it does not discriminate and to ensure compliance with nondiscrimination and equal opportunity provisions. **(See Attachment C Policy Statements)**

Additionally, the “Equal Opportunity is the Law” statement has been included in the Pennsylvania Unemployment Compensation Handbook (UCP-1). The UCP-1 has been revised and appropriate accurate language has been included. The Handbook, which includes the Equal Opportunity statement and notice to the claimants about their civil rights, is given to each UC claimant. Applicants who complete registration through the Internet cannot complete the registration process unless they acknowledge they have read and understood their civil rights.

Notification of policies and rights, stating that it does not discriminate, are communicated to recipients of WIA Title I - federally funded programs and activities, including those with impaired vision or hearing, in various formats. An Equal Opportunity Policy Statement will be disseminated to all WIA programs within the Commonwealth of Pennsylvania. The “Equal Opportunity is the Law” poster has been developed in English and Spanish, as well as, alternate formats and has been disseminated to the WIA programs. The Department of Labor & Industry requires that posters be displayed in prominent locations throughout significant areas in applicable facilities.

The means by which the notice is made available to individuals with disabilities.

- Each applicant/claimant, (including applicants/claimants with disabilities) that registers for work with a Pennsylvania CareerLink will receive notification of their Civil Rights information electronically at the time of registration. Applicants/claimants who file for unemployment benefits receive notification of their Civil Rights information via the UCP-1 form, in the UC Service Centers, which includes the “Equal Opportunity is the Law” information. For individuals with disabilities, information in Braille, readers, or individuals who sign, will be made available, upon request, through the CareerLinks. The Office of Vocational Rehabilitation, in most cases, will be a partner in Pennsylvania CareerLinks. Individuals who wish to register for services at a CareerLink through the Internet will also have access to special equipment, upon request, such as monitor arms for positioning the monitors, standard text enlargement program such as Zoom Text Xtra, for access to “text only” content on the Internet LYNX, for Auditory access to Web content, a Web reader or “talking browser”.

The above-mentioned publications, as well as additional SESA Publications, will contain appropriate tag lines - “Equal Opportunity employer/program,” “auxiliary aids and services are available upon request to individuals with disabilities”. TDD and relay numbers will be included in publications and appear on the “Equal Opportunity is the Law” poster.

All UCSCs/CareerLinks/LWIAs will ensure that interested individuals, including individuals with visual or hearing impairments, can obtain information about the existence and location of accessible services, activities, and facilities. Proper signage at entrances along with international symbols will be used at each primary entrance of an accessible facility. Assurance that these requirements are met will be determined during on-site visits and compliance reviews for

structural accessibility and through review of the Americans with Disabilities Act Self-Evaluation Survey (*See Attachment D Self Evaluation*). Additionally, all UC Service Centers/CareerLinks/LWIAs will be monitored to assure that, where needed, services are provided in languages other than English to the significant population eligible to receive services, and to ensure that interpreter services are available to effectively communicate with those applicants/claimants with language barriers. (*Refer to MOA; Element 2, Attachment E-Limited English Proficiency Plan*)

An Equal Opportunity statement will be included on pamphlets; brochures and other publications provided to LWIAs regarding WIA Title I federally funded programs or activities, which state that “Equal Opportunity Employer/Program and auxiliary aids and services are available upon request to individuals with disabilities”. Steps have been taken to ensure that communications with individuals with disabilities are as effective as communications with others (refer to 37.9). A TDD/TTY number is also included on the “Equal Opportunity is the Law” posters, pamphlets, brochures, and other publications to accommodate the hearing impaired (29 CFR 37.34 (a)).

The Office of Vocational Rehabilitation/Bureau of Blindness and Visual Services and the Office of Deaf and Hard of Hearing, are located within the Department of Labor and Industry as resources. The Mid-Atlantic ADA Center is also used as a resource.

In addition, the EO Federal Unit is members of the Pennsylvania Rehabilitation Council.

The means by which States ensure that recipients post the notice.

- Information on where and how the recipient posts notices is discussed at technical assistance training, and monitored through Equal Opportunity Compliance Reviews. Notices must be posted in highly visible areas such as entrances, employee break room bulletin boards, Intranet, etc. The same information is given to each registered applicant, eligible applicant, in handbooks, and electronically if registered through the Internet. UC Service Centers/CareerLinks notices will be posted electronically.

A recipient must provide initial and continuing notice that it does not discriminate on the basis of any factors prohibited by the regulations. The Department of Labor & Industry requires that the “Equal Opportunity is the Law” poster be displayed in prominent locations throughout significant areas of the WIA and offices of sub-recipients. (*29 CFR 37.33*)

The Equal Opportunity notice is required to be posted prominently in reasonable numbers and places throughout the LWIA. It will be disseminated in internal memoranda and on CareerLink (One Stop) computer screens where participants must acknowledge their Civil Rights as well as handbooks and manuals. The Civil Rights information will become a permanent part of the participants’ record. In addition, the notice will be provided in appropriate formats to individuals with vision and hearing impairments. (*29 CFR 37.31 (a)*)

The means by which a copy of the notice is placed in the participant’s file or where the files are maintained electronically, how the requirement of 37.31(a) is and will continue to be met.

- Every applicant/claimant requesting services in the Job Center/CareerLink will receive and acknowledge receipt of their Civil Rights including the right to file a complaint by signing a *Statement of Receipt*. The statement will become a permanent part of their applicant/claimant

record. Copies of Civil Rights Forms in English and Spanish can be found in the documentation section of MOA, Element #2 (*See: Strategic State Plan Attachment A; Appendix I, Page 185.*) (*Equal Opportunity Compliance Review Guide for SESA Attachment F*)

- When an applicant files for unemployment, a handbook (UCP-1) will be issued either through the mail or given by hand. When the applicant calls for his/her first check, they must acknowledge they received and understood their civil rights. An annotation is put in the computer that civil rights information was received. This annotation is maintained for the life of the claim.

If an applicant files in person, a signature is accepted as receipt of civil rights and maintained for three years.

Pennsylvania has implemented the Civil Rights information electronically. Anyone who receives or requests services must first be registered. If for some reason a participant/applicant cannot register on his/her own, an employee of the CareerLink will assist. Additionally, if a participant requests WIA services, they will again receive their Civil Rights through orientation.

If an applicant/claimant files for services through the Internet they must acknowledge that they have read and understood their Civil Rights. This acknowledgement will be acceptable as a statement of receipt and will be maintained as part of the applicant/claimant file.

The means by which the State ensures that recruitment brochures and other materials routinely made available to the public include the statements “equal opportunity employer/program” and “auxiliary aids and services are available upon request to individuals with disabilities” and, where a telephone number is included on these materials, the State ensures that they indicate a TDD/TTY number or provide for an equally effective means of communication.

- Pennsylvania UC Service Centers and CareerLinks are monitored for their accessibility to individuals with disabilities. Each office has an Americans with Disabilities Act (ADA) self-evaluation document on file (See Documentation). Additionally, each office has TDD and Relay capabilities and has a plan in place for serving the visually impaired, as well as a plan to service limited English Speaking applicants/claimants seeking services. The Disabilities Checklist from the Civil Rights Center will be instituted in all WIA funded programs upon approval at the federal level.
- Copies of the Policy Statement, “Equal Opportunity is the Law” poster, Unemployment Compensation Handbook, Statement of Notification of Civil Rights, Accessibility Guidelines for Effective Communication for People with Disabilities, the Civil Rights Form in Spanish and English and a copy of the ADA Self-Evaluation can be found in the documentation section of MOA Element #2 (*See: Strategic State Plan Attachment A; Appendix I, Page 185*)

The Office of Equal Opportunity will be responsible for ensuring that the taglines “equal opportunity employer/program” and “auxiliary aids and services are available upon request to individuals with disabilities,” as well as TDD/TTY/Relay numbers are included on all material routinely made available to the public.

The means by which program-related information is published or broadcast in the news media (e.g., publications of Requests for Proposal) and the means by which the State ensures that publications/broadcasts state that the program is an equal opportunity employer/program and that auxiliary aids and services are available upon request to individuals with disabilities.

- All recipients of WIA/Title I funds must ensure that all information disseminated to the public through pamphlets, booklets, posters and the Internet includes a statement that the program is an equal opportunity employer/program and that auxiliary aids and services are available to individuals with disabilities. (*See previous section*)

When publishing or broadcasting program information in the news media, the E.O. taglines must be included as follows: “Equal Opportunity employers/program, auxiliary aids and services are available upon request to individuals with disabilities.” (29 CFR 37.34 (b)) The notification of information required in the dissemination of policies, must also be provided in languages other than English. When a significant part of the eligible population needs information in a language other than English, both the initial notice and other materials must be provided in the needed language taking into consideration program scope and population size. (29 CFR 37.35)

The manner and extent to which information in a language other than English is provided, and the manner in which the State ensures that persons of limited English-speaking ability have access to and use its programs and activities on basis equal to that of those who are proficient in English.

- The Language Line (www.language.com) will provide easy access for Department-wide Labor & Industry customers who do not speak English. The Language Line will operate 24 hours a day, 7 days a week and an interpreter will be available within 45 seconds.

Civil Rights Information will be made available in English and other languages. Based on information provided by the Center for Workforce Information & Analysis (PA – L&I), it has been determined that English is the primary language and Spanish is the second most spoken language in the Commonwealth. The information provided showed all languages in each county in Pennsylvania (*see Attachment E LEP Plan, Element #2*). Additional information showed labor force characteristics for employment and unemployment by sex, age, minority, and veteran status. This information is based on 2000 census data, and has been used to identify the significant number or proportion of the population that would be directly affected by a WIA Title I-financially assisted program or activity. These individuals may need services or information in a language other than English, in order to be effectively informed about, or able to participate in the program or activity. If it is determined that a significant proportion of the population in a particular area speaks a language other than English or Spanish the information will then be provided in that language.

To further ensure that persons with limited English proficiency will have access to programs and activities equal to those who are proficient in English, each CareerLink that has been determined to have a significant Spanish speaking population has a bilingual employee, as well as, the use of the language line. In addition, CareerLinks have agreements with community based organizations, schools, and local colleges, where an interpreter will translate other languages for applicants, claimants, registrants, etc. CareerLinks will also use the services available through other Commonwealth agencies.

The Department of L&I along with other Commonwealth agencies has a contract with Language Services. The statewide contracts are for all language support services. The contract can be accessed in a number of simple ways. By contacting the procurement officer or purchasing agent to learn how. The process is as simple as writing a Purchase Order against the contract. Even when you are not using the service, a purchase order will ensure we are covered when the need arises.

At this time, the accomplishments are as follows:

- **Department-wide Limited English Proficiency (LEP) Plan.**
- **State Contract for translator and interpreters.**
- **Ongoing training**
- **L&I Central Office has hired a Spanish translator/ interpreter.**
- **Department wide services through Language Services Associates**
- **UC Service Centers and CareerLinks with significant Spanish population have front-end Spanish greeting on the phone system.**

Individual program offices and the agency-wide workgroup will continue to work on ensuring delivery of services to individuals with limited English proficiency.

The manner in which and extent to which orientation for registrants, applicants, eligible applicants/registrants, employees, applicants for employment, and members of the public include a discussion of the rights of such persons under WIA section 188 and 29 CFR part 37.

- In Pennsylvania's UCSCs, the applicant files for Unemployment Insurance over the telephone. There is no face-to-face orientation. The Unemployment Handbook is mailed to the applicant. When the applicant calls for the initial check, he/she must acknowledge that they received, read and understood the Civil Rights information.

In CareerLinks, if the applicant/claimant registers for work through the Internet only, he/she must acknowledge that they read and understood their Civil Rights before they can complete the registration process. If that individual requires core services, they must physically go to the CareerLink and talk to staff. At that point their rights are explained.

The steps taken to ensure that communications with individuals with disabilities are as effective as communications with others.

- Pennsylvania CareerLinks and UCSCs/SESA offices and LWIAs are monitored for their accessibility to individuals with disabilities. Each office has an Americans with Disabilities Act (ADA) self-evaluation document on file. (*See MOA Documentation*) Each office has TDD/TTY and Relay capabilities, and has a plan in place for serving the visually impaired, as well as a plan to provide services to applicants with limited English Speaking proficiency skills (*See: Strategic State Plan Attachment A; IX-Service Delivery, Pages 89, 92 & Appendix N, Page 293*)

The process the State has used and will continue using to develop and communicate policy and conduct training regarding nondiscrimination and equal opportunity.

- The Office of Equal Opportunity will conduct routine Equal Opportunity Compliance Reviews on-site at UC Service Centers/CareerLinks and LWIAs to review written policies and to ensure that all policies are nondiscriminatory. Technical Assistance Training will also be provided to UC Service Center/CareerLink Equal Opportunity Liaisons and LWIA EO Officers on non-discrimination policies and procedures (*See Strategic State Plan Attachment A; VII-Integration of PA CareerLink Service Delivery, page 47; and XI-Assurances, Page 119*). In addition, Desk Audits will be conducted on UC Service Centers/CareerLinks to ensure maintenance equal opportunity compliance.

Training will be provided to ensure that Equal Opportunity Officers and members of the recipient's staff (Equal Opportunity Officer) who have been assigned responsibilities for equal opportunity provisions of WIA or this part are aware of and can effectively carry out these responsibilities. All information regarding federal EO conferences or training will be forwarded to local level EO Officers and CareerLink and UCSC EO Liaisons. Training will be provided on a continuous basis, as it becomes available at the federal level. The Office of Equal Opportunity has provided training for local level Equal Opportunity Liaisons.

ELEMENT # 3

ELEMENT 3.

***Review assurances, job training plans, contracts, and policies and procedures
(29 CFR 37.54 (d) (1) (i) and (d) (2) (i), (iii) and (iv))***

The State should address how it and its recipients are complying and will continue to comply with requirements of 37.20 and 37.54(d)(1)(I), and (2)(2)(i), (iii) and (IV) regarding the review of assurances, job training plans, contracts and policies and procedures. Additionally, this element should address the procedures the State and its recipients are following and will continue to follow in assessing the ability of grant applicants, if funded or training providers, if declared eligible, to comply with WIA Section 188 and 29 CFR Part 37.

Each grant applicant and training provider seeking eligibility includes in its application for financial assistance under Title 1 of WIA the required EO assurance.

- The Commonwealth of Pennsylvania assures that it will comply with Section 188 of the Workforce Investment Act of 1998, Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and the Age Discrimination Act of 1972, as amended.
- The Commonwealth of Pennsylvania also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above.
- *See Strategic State Plan Attachment A; XI-Assurances, page 119.*

A copy of procedures was developed to review the ability of grant applicants to comply with the nondiscrimination and equal opportunity provisions of the WIA and 29 CFR Part 37.

The assurance is incorporated into each grant, cooperative agreement, contract or other arrangement whereby Federal financial assistance under Title 1 of the WIA is made available.

- *See Strategic State Plan Attachment A; XI-Assurances, page 119.*

Each grant applicant and approved training provider is able to provide programmatic and architectural accessibility as required by subpart C of part 32.

- Each grant applicant and training provider will be monitored through Equal Opportunity Compliance Reviews and Technical Assistance Training. The Equal Opportunity Review consists of assessing on-site structural accessibility, parking for individuals with disabilities, designated restrooms available for persons with disabilities, building accessibility to persons who are mobility impaired and use a wheelchair, furnishings, public telephone, drinking fountains, and elevators. Each office has an Americans with Disabilities Act (ADA) self-evaluation document on file. In addition, the Equal Opportunity Compliance Review Guide for SESA will be used to monitor program accessibility. (*See Strategic State Plan Attachment A; IX-Service Delivery, page 89; XI-Assurances, page 119*)
- The Office of Equal Opportunity is required to conduct Technical Assistance and Equal Opportunity Compliance Reviews at all Workforce Investment Areas to assure compliance with all laws and regulations. Special emphasis is placed on the accessibility requirements to assure the program or activity, when viewed in its entirety, is readily accessible to qualified individuals with disabilities.

Job training plans, contracts, assurances, and other similar agreements entered into by recipients are both nondiscriminatory and contain the required languages regarding nondiscrimination and equal opportunity.

- The Office of Equal Opportunity will conduct on-site Equal Opportunity Compliance Reviews of CareerLinks, UC Service Centers and LWIAs. The desk audit portion of the EO Review will concentrate on the job plans, assurances and agreements. The **Workforce Investment Streamlined Reporting System (WISPR)** will be used to assist in monitoring Equal Opportunity for CareerLink claimants/applicants seeking services in the CareerLink. For Unemployment Insurance, the Equal Opportunity Summary of Claims Non-monetary Determination and Appeals Data is used to monitor Equal Opportunity for claimants.
- The Office of Equal Opportunity reviews the WIA’s job training plans, contracts, and assurances every contract year to ensure that they are nondiscriminatory and contain the required components and language, regarding nondiscrimination and equal opportunity.

State and local-level policy issuances, or issuances from other recipients, do not discriminate either in intent or effect.

- The Secretary of the Department of Labor and Industry issues several policy statements including the “Equal Opportunity Policy Statement” and the “Sexual Harassment Policy Statement” and the “Disability-Related Employment Issues Statement” reaffirming the Department of Labor and Industry’s position that the Workforce Investment Areas, CareerLinks, SESAs or other federally funded or assisted programs are prohibited from discrimination against applicants, eligible applicants, claimants, participants, applicants for employment, employees and members of the public. In addition, discrimination is prohibited against individuals with disabilities, vision or hearing impairments and individuals with limited or no English speaking proficiency in admission or access to, opportunity or treatment in employment, in the administration of or in connection with any WIA, CareerLink or SESA program or activity.
- State and local level policy issuances that do not discriminate either in intent or effect and are issued to indicate prohibitions against discrimination are as follows: The Secretary’s Policy on Sexual Harassment, Equal Opportunity Policy Statement, “Equal Opportunity is the Law” poster in Spanish & English, Equal Opportunity Guidebook, Handbooks and Civil Rights Statements for registered applicants of SESA offices. *(See Strategic State Plan Attachment A; VII-Integration of PA CareerLink Service Delivery, page 47; XI-Assurances, page 119)*

Policies on WIA Title I nondiscrimination and/or equal opportunity issues are developed and implemented in a timely manner.

- Policies on WIA Title I nondiscrimination and/or equal opportunity issues are issued and disseminated annually under the signature of the Secretary of the Department of Labor & Industry.

See Strategic State Plan Attachment A; VII-Integration of PA CareerLink Service Delivery, page 47. (Also, see Attachment C; State Policies & Procedures for Equal Opportunity.)

ELEMENT # 4

ELEMENT 4.

Universal Access (37.54(d)(1)(vi))

In this element, the State should address how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.42 relating to the provision of universal access to programs and activities.

The State has communicated the obligation of recipients (including the LWIAs, One-Stops and other service providers) to make efforts (including outreach) to broaden the composition of the pool of those considered for participation or employment in their programs and activities in an effort to include members of both sexes, various racial and ethnic groups and various age groups, as well as individuals with disabilities.

- “The WIA/CareerLink website provides access anywhere, anytime to employment and training opportunities in Pennsylvania through a unique system of individualized electronic portfolios for both job seekers and employers. As a result, targeted groups such as youth, dislocated workers, veterans, older workers, welfare recipients and persons with disabilities will have access to higher quality comprehensive services.” (See *Strategic State Plan Attachment A; Section IV, page 45; Section IX, pages 89, 93, and Appendix O*)

- **Demand-Driven Approach**

As mentioned in section **V. E.** of Strategic State Plan, the Commonwealth seeks to invest state workforce dollars in Local Workforce Investment Areas for programs that target high-growth, high-demand industries and careers. To remain competitive in the global economy, Pennsylvania must connect workforce development more tightly to the demands of industry. By engaging businesses within the clusters, professionals can combine training needs for multiple firms with similar skill needs and help drive a market-based approach to talent development on a regional basis.

The specifics of how Pennsylvania is implementing a demand-driven approach have been described elsewhere in the Strategic State Plan. Of particular interest, however, are the steps Pennsylvania has taken to define high-demand occupations. See **Appendix D** (Definition of High Priority Occupations), which explains this process and a short description of the **nine targeted industry clusters**. Also see **Appendix E** (High Priority Occupations by Industry Cluster) for high priority occupations.

- Integration of PA CareerLink Services - Apprenticeship and Job Corps**

- Pennsylvania has a partnership with the United States Department of Labor, Bureau of Apprenticeship and Training (BAT) to promote and register apprentice programs and apprentices in the Commonwealth. The BAT provides a field staff to visit apprentice sponsors, and to promote and write apprentice programs. The results are then presented to the Governor-appointed Pennsylvania Apprenticeship and Training Council for its review and registration. Upon registration, programs revert back to the BAT for general administration and maintenance. The BAT staff works with Pennsylvania Department of Labor & Industry, PA CareerLinks, state and Local Workforce Investment Boards, and Youth Councils to encourage and spread information about the advantages of registering apprentices. (See *Strategic State Plan A; Section VI, page 46*)

The Commonwealth communicates its obligation to LWIA recipients through pamphlets, brochures, and outreach at Job Fairs. Equal Opportunity posters are sent to all CareerLinks, UC Service Centers and LWIAs, and Equal Opportunity Compliance Review packages are given to all EO Liaisons. Technical Assistance is provided to all EO Officers and Liaisons to ensure equity and availability of service to all SESAs and LWIAs.

Recipients have made efforts and will continue their efforts to broaden the composition of applicant, registrant and participant pools.

“As resources of all partners in the WIA/CareerLink system are coordinated and streamlined, the needs of dislocated workers, displaced homemakers, migrant and seasonal farm workers, welfare recipients, women, minorities, veterans, and individuals with multiple barriers (including older individuals, people with limited English speaking ability and individuals with disabilities) will be considered with the accessibility of intensive and training services. Special recruitment and outreach will be conducted to ensure that populations with special needs are informed of the services available in the CareerLink system.” ***(See Strategic State Plan Attachment A; Section VI, page 45, (c))*** Special recruitment and outreach will be done by advertising in local newspapers, contacting minority organizations and news media, etc.

➤ Recruitment advertisements for employment with various employers are frequently on radio; approximately 5 job fairs a year for local CareerLinks. Newspaper advertisements are used for major employers. Employers can post jobs on the Internet any time of day, seven days a week. Similarly, applicants/claimants can access jobs on the Internet any time of day, seven days a week. CareerLinks in Pennsylvania are now open longer to accommodate the public-some are now open until 7 p.m. in the evening and sometimes on weekends. CareerLinks in Pennsylvania have implemented One-Stop Centers that include an abundance of services. In addition to the above mentioned services, the WIA/CareerLink offers:

- Assistance with career planning
- Counseling services
- Veteran services
- Internet exploration of occupations, careers and employment
- Referral to community based organizations
- State Civil Service announcements
- Federal Civil Service information
- Job search Workshops

The State monitors and evaluates the success of recipient efforts to broaden the composition of applicant, registrant and participant pools.

- Monitoring and statistical assessment procedure: The Office of Equal Opportunity conducts routine Technical Assistance and Equal Opportunity Compliance Reviews on UC Service Centers/CareerLinks throughout Pennsylvania (**See Attachment F See Equal Opportunity Compliance Review tool**). The Commonwealth utilizes Workforce Investment Streamlined Reporting System (WISPR) as the data collection system (formerly known as the ETA 9002A Report) to ensure that all applicants/registrants utilizing the CareerLink are given a fair chance for referral, placement, job development, testing, and counseling activities within any given CareerLink in Pennsylvania. The report breaks down the services by race, sex, disability, as well as veteran's status and Migrant/Seasonal Farm workers status. The Workforce Investment Streamlined Reporting System (WISPR) flags disparities that may occur in the CareerLinks and it can identify the station and desk number of the person where the disparity exists. The Summary of Claims, Nonmonetary Determinations and Appeals Data is used to look for disparities in Unemployment Insurance (UI). This data shows the number of Initial Claims, New Claims and Additional Claims per office, as well as determinations that are valid or invalid by race, sex, age and disability. The targeted groups are all customers of both Unemployment Insurance and CareerLinks.
- During an Equal Opportunity Compliance Review, a sampling of advertisements is reviewed to assure that outreach is done to all groups to be considered for participation and employment in WIA Title - I federally funded programs and activities.

ELEMENT # 5

ELEMENT 5.

Compliance with Section 504 of the Rehabilitation Act of 1973, as amended and 29 CFR part 37 (29 CFR 37.54 (d) (v))

In this element, the State should address how it and its recipients are complying and will continue to comply with the requirements of the disability related requirement of WIA section 188; Section 504 of the Rehabilitation Act of 1973, as amended; and their implementing regulations, including but not limited to 29 CFR 37.7, 37.8, and 37.9 and Subparts B and C of 29 CFR Part 32.

Meet their obligation not to discriminate on the basis of disability. (29. CFR 32.12 (a), 32.36, and 37.7.)

- The Department of Labor and Industry mandates, through the Equal Opportunity Policy Statement and the WIA Policies and Procedures, that WIA funded or assisted programs are prohibited from discriminating against individuals with disabilities, vision or hearing impairments and individuals with limited or no English speaking proficiency in admission or access to, opportunity or treatment in, employment in the administration of, or in connection with the WIA program or activity.
- All individuals with disabilities are made aware of their rights, just as any other job seekers. The “Equal Opportunity is the Law” (English and Spanish versions) poster is posted in all UCSCs/CareerLinks and LWIAs, included in handouts for Unemployment and CareerLinks Civil Rights information on the Internet, and referenced in the Secretary’s Policy on Equal Opportunity (See **Attachment A; Strategic State Plan Assurances XI- page 119**).

***Provide reasonable accommodation for individuals with disabilities. (32.13 and 37.8)
Provide reasonable modification of policies, practices and procedures as required. (See 37.8)***

- Reasonable accommodations must be made for the known physical or mental limitations of otherwise qualified applicants or employees with disabilities, unless it can be shown that the accommodation would impose an undue hardship on the operation of the program.
- Examples of some of the reasonable accommodations and modifications provided by the state are as follows:

Ensuring that all CareerLink/UCSC and LWIA sites are in compliance with Americans with Disabilities Act accessibility guidelines. The Office of Equal Opportunity, Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Equal Opportunity Specialist has worked with CareerLinks to ensure providing of technology-assisted hardware and software and facilitated training for staff to make the delivery system totally accessible to individuals with disabilities.

Commonwealth Workforce Development Systems (CWDS) has replaced the entire computer system for the visually impaired and is accessible for all CareerLink services.

The Office of Vocational Rehabilitation, with its Bureau of Blindness and Visual Services and the Office for the Deaf and Hard of Hearing, will be CareerLink partners at all primary sites.

All CareerLink and LWIA sites will have an awareness of appropriate community resources to address special needs of customers. Recipients are aware of their obligations to provide reasonable accommodations to qualified individuals with disabilities who are applicants, registrants, and/or eligible applicants unless the accommodation would cause undue hardship. CareerLink sites also have telecommunication access for individuals who are deaf and/or hard of hearing (See **Strategic State Plan Attachment A; Section IX, page 89**).

The LWIA will provide a written statement of reasons for refusing to provide accommodations/modifications to the individual or individuals who requested the accommodations.

If a requested accommodation would result in undue hardship, the LWIA will take any other action that would not result in such a hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefits, services, training, or employment provided by the LWIA.

The LWIA provider will, within reason, modify its facility policies, practices or procedures to avoid discrimination against individuals with disabilities unless the modifications would primarily affect the basis of the service, program or activity.

Provide architectural accessibility and programmatic accessibility

- Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such a manner that the facility or part of the facility is readily accessible to and usable by qualified disabled individuals.
- Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient in a manner that affects or could affect the ability to use the facility or part of the facility shall, to the maximum extent feasible, be altered in such a manner that the altered portion of the facility is readily accessible to and usable by qualified individuals with disabilities.
- The Office of Equal Opportunity conducts on-site equal opportunity compliance reviews, which includes a review of the CareerLinks/UC Service Center/LWIAs completed self-evaluation - ADA survey. This survey facilitates evaluation of the external and internal structural accessibility of facilities. Where inaccessibility is found, corrective action plans must be submitted to the Office of Equal Opportunity, with timeframes for implementation. Follow-up is done to ensure that the problem is corrected.
- OEO utilizes standards for architectural accessibility, design, construction, or alteration standards for physical accessibility prescribed by the **Title III of the Americans with Disabilities Act (ADA) under the Americans with Disabilities Act Accessibility Guidelines (ADAAG)** to assess accessibility during on-site reviews.
- Recipients must comply with the architectural accessibility standards whether or not an individual with a disability has requested a reasonable accommodation (32.27).
- An Equal Opportunity Policy Statement signed by the Secretary of Labor and Industry has been posted in CareerLinks/UC Service Centers/LWIAs and reiterates the fact that equal opportunity, as enshrined in the United States Constitution, is available to all citizens of the Commonwealth.
- State Employment Security Agencies and Local Workforce Investment Areas are prohibited from discriminating on the grounds of race, color, religion, sex (sexual harassment is a form of discrimination), national origin, age, disability, political affiliation or belief, **and for beneficiaries only, citizenship or participation in any WIA Title I – financially assisted program or activity.**

- The Office of Equal Opportunity addresses programmatic accessibility during Technical Assistance visits conducted, during regional training events, and through policy statement issuances to recipients and Equal Opportunity Officers/Liaisons (*See Attachment F, D-Equal Opportunity Compliance Review Guide for SESA/WIA and Self Evaluation*).
- LWIAs will not deny the benefits of programs, activities or services to individuals with disabilities because of inaccessible facilities. OEO will assure that all aspects of WIA programs or activities, when viewed in their entirety, are readily accessible to and usable by individuals with disabilities. Although CareerLinks, UC Service Centers and WIAs are not required to make every facility or every part of an existing facility accessible, arrangements will be made, when necessary, to ensure full participation by qualified individuals with disabilities. However, if a particular program is available in only one location, that site will be made accessible or the program will be made available at an alternative accessible site or sites.

Provide for and adhere to a schedule to evaluate job qualifications to ensure that the qualifications do not discriminate on the basis of disability (32.14)

- The “Equal Opportunity is the Law” poster and the Equal Opportunity Policy Statement are posted in all CareerLinks, UCSCs, and LWIAs. These statements ensure that individuals because of race, color, religion, sex, national origin, age, disability, or political affiliation are not discriminated against. The Equal Opportunity Specialist will monitor Job Orders posted by employers, to evaluate all essential functions and skill requirements, and to ensure that language stated therein will not cause discrimination against individuals with disabilities and that they have equal opportunities for referrals. The **Workforce Investment Streamlined Reporting System (WISPR)** along with desk audits will look for disparity in referrals and placements of individuals with disabilities. (*See Attachment A; Strategic State Plan; Section IX-Assurances, page 119*)
- Employment practices and employment related training program participation must be evaluated and a schedule developed and adhered to for reviewing the appropriateness of all job qualifications. In instances where individuals with disabilities are excluded because of their disability, the job qualifications must be related to job performance and be consistent with business necessity and safe performance.
- Whenever a recipient applies job qualifications in the selection of applicants, employees or participants for employment or training or other change in employment status such as promotion, demotion or training, which could exclude individuals with disabilities because of their disability, the qualifications shall be related to the specific job or jobs for which the individual is being considered and shall be consistent with business necessity and safe performance.

Limit pre-employment/employment medical inquiries to those permitted by and in accordance with WIA Section 188, Section 504 and the Americans with Disabilities Act of 1990 and their implementing regulations.

- The Office of Equal Opportunity will provide technical assistance training to EO Liaisons of UCSCs and CareerLinks and LWIA EO Officers. The Liaisons will be made aware that recipients may not conduct pre-employment medical examinations or make pre-employment inquiries of an applicant for employment or training regarding a disability or the nature or

severity of a disability. A recipient may make pre-employment inquiry into an applicant's ability to perform job-related functions.

- Pre-employment medical examinations may not be required, but may be a condition of a job offer based on the results of a medical examination conducted prior to an individual's entrance on duty if:
 - All entering employees in the same job category, regardless of disability status, are required to take the same medical examination;
 - The results of the medical examination are not used to discriminate on the basis of disability; and
 - All information about the individuals' medical condition and medical history is maintained and treated as confidential medical information.

CareerLinks are aware that disclosure of disability status is voluntary and that information is for record keeping purposes only. Otherwise, such data must be maintained as confidential and only provided on a 'need-to-know' basis.

Ensure the confidentiality of medical information provided by registrants, applicants, eligible applicants/registrants, participants, employees, and applicants for employment.

- EO Liaisons and Officers of UC Service Centers/CareerLinks and LWIAs, will be made aware that results of medical examinations shall be transmitted to the employing official, only after a conditional decision to make a job offer has been made. Information obtained regarding the applicant's medical condition or history shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that employing officials may obtain the information after making a conditional decision to make a job offer to the applicant or the applicant was placed conditionally in a job pool or on an eligibility list. The only individuals in the CareerLink that have access to confidential medical information are employees who have been given computer access through Department of Labor & Industry Security, or through the Workforce Investment Board. (*See Attachment A; Strategic State Plan; Section IX-Assurances, page 119*)
- Pennsylvania's Strategic State Plan (Section IX-Assurances, page 119) assures that the Commonwealth of Pennsylvania will comply with the confidentiality requirements of WIA.

Further, all information on an individual's medical condition and medical history is maintained and treated as confidential medical information.

Administer the WIA Title I- financially assisted programs and activities so that each individual with a disability participates in the most integrated setting appropriate to that individual (See 37.7 (d).)

- The Department of Labor and Industry assures that qualified individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from the aid, benefit, service, employment or training provided by recipients of federal financial assistance under

WIA Title I. Equal participation of qualified individuals with disabilities through inclusion or integration is one of the primary objectives of program accessibility under 29 CFR Part 37 at 37.7 (d).

The Department of Labor and Industry assures that appropriate steps will be taken to ensure that communications with beneficiaries, registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employees, and members of the public who are individuals with disabilities, are as effective as communications with others.

- Auxiliary aids and services to ensure effective communications, where necessary, will be made available by WIA - Title I federally assisted programs.
- PA Workforce/CareerLink has developed the document, “Accessibility Guidelines for Effective Communication for People with Disabilities”.
- UCSCs provide accessible telephone usage, TDD & TTY, along with Telephone Language Line. Individuals who do not have a telephone or individuals with disabilities that will not permit phone usage, may use mail claims, or receive assistance from nearby CareerLinks. Appropriate auxiliary aid or services, where necessary, will afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of WIA Title I financially assisted programs or activities. The Office of Vocational Rehabilitation, the Bureau of Blindness and Visual Services and the Office for the Deaf and Hard of Hearing, will be maintained as CareerLink partners at all primary sites. However, individuals with disabilities will be placed in training environments in the most integrated setting possible and will not be referred to programs that provide services exclusively to persons with disabilities as long as the person can perform in the program or on the job.

Are able to communicate with persons with disabilities as effectively as with others.

- When an auxiliary aid or service is required, the individual with the disability must be given the opportunity to request the aid(s) and service(s) of his or her choice and that choice must be given “primary consideration.” Consulting with the individual with the disability is important because that individual is in the best position to determine an effective aid or service.
- PA CareerLinks provide auxiliary aids or services for individuals with hearing impairments to include qualified interpreters, note takers, computer assisted services, telephone headset amplifiers, and telecommunication devices for deaf persons (TDD/TTYs).
- Auxiliary aids or services for individuals with vision impairments include readers, audio recordings, brailled materials, in partnership with the Office of Vocational Rehabilitation and large print materials.
- The international symbol for accessibility should be used at each primary entrance of an accessible facility and appropriate signage must also direct individuals with disabilities to accessible secondary facilities, i.e. restrooms, lunchrooms, water fountains and telephones.

WIA Title I financially assisted programs will not deny the benefits of programs, activities or services to individuals with disabilities because of inaccessible facilities. Local Workforce Investment Areas/CareerLinks/UC Service Centers must assure that all aspects of the program or activity, when viewed in its entirety, are readily accessible to and usable by individuals with

disabilities. While every facility or every part of an existing facility may not be accessible, arrangements will be made to ensure full participation by individuals with disabilities. (*See Attachment A; Strategic State Plan; Section IX-Assurances, page 119*)

ELEMENT 6.

Data and Information Collection Maintenance (37.54(d) (1)(IV) and (VI)

The State should address how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.37 - 37.41, related to data and information collection and maintenance. The State must ensure that a data and information collection and maintenance system for its State programs is established and maintained.
(See 29 CFR 37.53.)

Recipients collect and maintain for a minimum of three years, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees and applicants for employment.

- PA CareerLinks/UC Service Centers/LWIAs will collect data and maintain records necessary to determine compliance with the equal opportunity provisions of (29 CFR 37 at 37.37 (b)(2)). Records maintained will include, but are not necessarily limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment.
- To ensure adherence to (37.37 (b)(2)), Equal Opportunity Compliance Reviews will also be conducted. All EO data on applicants, registrants, participants, terminees, etc., will be maintained for at least three (3) years. Personal data regarding complaints and grievances must be kept in a locked file.

Recipients record the race/ethnicity, sex, age, and, where known, disability status of each applicant, registrant, eligible applicant/registrant, participant, terminee, employee, and applicant for employment.

- Recipients will collect various data at the intake stage. Applications, whether in UC Service Centers, CareerLinks or LWIAs, will ask for Social Security number, birth date, race, sex, and disability.
- In addition, the race/ethnicity, sex, age, and where known, disability status of every applicant, registrant, eligible applicant/registrant, participant, terminee, applicant for employment, and employee will also be collected. (29 CFR 37.37 (b)(2))

Recipients treat records in a manner that ensures their confidentiality, particularly as it relates to medical information.

- All information collected, including records containing medical information, will be stored in a manner that ensures confidentiality, and will be used for the purpose of record keeping and reporting, and determining eligibility, when appropriate for WIA Title I-financially assisted programs or activities.
- Technical Assistance Training for all SESA Equal Opportunity Liaisons and LWIAs will explain proper procedures for maintaining records on complaints, applicants, confidentiality, and when to ask for medical information. (See MOA Element #5 – “Ensure the confidentiality of medical information provided by registrants, applicants, eligible applicants/registrants, participants, employees, and applicants for employment” and Strategic A; State Plan; Section IX- Assurances, page 119)

Recipients maintain a log of complaints filed that allege discrimination on one or more of the basis listed in Section 188 of WIA.

- WIA/CareerLinks/UC Service Centers will maintain and submit to DOL's Civil Rights Center (CRC), upon request, a complaint log containing pertinent information about discrimination complaints. The log will include:
 - Name and address of the complainant
 - A description of the complaint
 - The date the complaint was filed
 - The disposition and date of disposition of the complaint
 - Other pertinent information

All information that could lead to the identification of a particular individual who filed a complaint will be kept confidential.

Grant applicants and recipients notify the Director of CRC of administrative enforcement and lawsuits.

- The Department of Labor and Industry assures that information about any administrative enforcement actions or lawsuits that allege discrimination on any protected basis filed against WIA grant applicants or recipients within the Commonwealth of PA will be promptly reported to the Director of CRC.

ELEMENT # 7

ELEMENT 7.

Monitor recipients for compliance (37.54(d)(2)(ii)).

The State should address how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.54 (d)(1)(iii). The State is required to establish procedures to monitor periodically all aspects of the recipient's compliance with section 188 of WIA and 29 CFR Part 37.

Assurances (See 29 CFR 37.20 through 37.22.)

- The Commonwealth of Pennsylvania assures full compliance with the nondiscrimination and equal opportunity provisions of the following laws:
 - Section 188 of the Workforce Investment Act 1998
 - Title VI of the Civil Rights Act of 1964, as amended
 - Section 504 of the Rehabilitation Act of 1973, as amended
 - Age Discrimination Act of 1975, as amended
 - Title IX of the Education Amendments of 1972, as amended
- *See Attachment A; Strategic State Plan; Section IX-Assurances, page 119*

Equal Opportunity Officers (See 37.23-37.28.)

- The Commonwealth of Pennsylvania assures that an Equal Opportunity Officer has been appointed/designated for all service providers. The Equal Opportunity Officer is a senior-level employee of the LWIA.
- The EO Officer is responsible for coordinating recipient's obligations under 29 CFR, part 37 at 37.25. (See MOA Element #1)

Notice and Communication (See 37.29-37.36.)

The LWIA/CareerLinks/UC Service Centers will provide initial and continuing notice that it does not discriminate on any prohibited ground. This notice will be provided to registrants, applicants, and eligible applicants/registrants, participants, applicants for employment and employees unions or professional organizations that hold collective bargaining or professional agreements with the recipients, sub-recipients that receive WIA Title I funds from the recipient, and members of the public, including those with impaired vision or hearing.

The "Equal Opportunity is the Law" poster will be distributed to all LWIA Section 188 Title I federally assisted programs and will be posted in highly visible areas throughout the WIA. The "Equal Opportunity is the Law" language will be disseminated in internal memoranda and distributed to participants/applicants in written and/or electronic communications. It will be included in handbooks and/or manuals and in alternate formats to participants with vision impairments.

- Recruitment brochures and other materials that are distributed or communicated in written and/or oral form will indicate that the LWIA is an "equal opportunity employer/ program and auxiliary aids and services are available upon request to individuals with disabilities." Materials will include the TDD/TTY telephone number or relay service used by the recipient.
- All LWIA Title I financially assisted programs in Pennsylvania have a system in place where participants/applicants can receive services in languages other than English. This also includes the "Equal Opportunity is the Law" posters, handbooks, brochures, and other written or electronic communications.

- During all presentations to orient new participants, new employees and/or the general public, civil rights requirements will be discussed, including the right to file a complaint of discrimination with the recipient or the Director of the Civil Rights Center. (See MOA ELEMENT #2)

Data and Information Collection and Maintenance (See 37.37-37.41.)

- For Wagner-Peyser/CareerLinks in 2005, due to Pennsylvania's pilot of Common Measures performance, USDOL granted a waiver to Pennsylvania, relieving the Commonwealth of reporting performance via the ETA 9002/Vets 200 for PY05 and PY06. USDOL anticipated that Common Measures allows the tracking of a job seeker across all workforce programs, from the time they enter the workforce system until they exit. Previously, each workforce partner had their own reporting requirements, which sometimes caused conflicts in providing service.

Pennsylvania's program and technical staff worked with USDOL to develop an acceptable report format for Common Measures. The resulting required reports under Common Measures are the Standardized Quarterly Performance Report, or 9132 and 9133 (Vets), the Workforce Investment Streamlined Reporting System (WISPR), and the WIA annual report (ETA 9091).

The 9132 report provides the numbers across all programs of the one-stop system, broken out by funding streams. It contains demographic breakouts, along with performance percentage accomplishments. The 9133 (Vets) provide similar breakouts across the various veteran categories.

The WISPR is commonly referred to as a "data dump". Pennsylvania transmits a data file to USDOL for each job seeker served. This permits USDOL to pull various reports as needed, eliminating the need for the extensive reporting of the ETA 9002/Vets 200.

- WIA recipients, including CareerLinks/UC Service Centers are required to collect data and maintain records necessary to determine compliance with the equal opportunity provisions of the WIA. Such records must include data on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment.
- Each recipient records the race/ethnicity, sex, age, and, where known, disability status, of every applicant, registrant, eligible applicant/registrant, participant, terminee, applicant for employment, and employee.
- WIA recipients also maintain a log of complaints filed with it that allege discrimination on the ground(s) of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship and/or participation in a WIA Title I federally assisted program or activity. The log includes the name and address of the complainant; the grounds for the complaint; a description of the complaint; the date the complaint was filed; the disposition of the complaint; and other pertinent information. Information that could lead to identification of a particular individual who filed a complaint will be kept confidential. (29 CFR 37.37)
- In addition, each grant applicant and recipient will notify the Director of the Civil Rights Center when administrative enforcement actions or lawsuits are filed against it alleging discrimination.

This notification will include the names of the parties to the action or lawsuit, the forum in which each case was filed, and the relevant case numbers. (29 CFR 37.38)

- Each recipient will maintain the following records for a period of three years from the close of the applicable program year: The records of applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Records regarding complaints and actions taken will be kept for three years from the date of resolution of the complaint. (29 CFR 37.39)
- The identity of any individual who furnishes information relating to, or assisting in an investigation or compliance review including the identity of any individual, who files a complaint, will be kept confidential to the extent possible. When an individual's identity must be disclosed, he/she will be protected from retaliation, when possible (29 CFR 37.41). See MOA ELEMENT #6

Universal Access (See 37.42.)

Recipients will take appropriate steps to ensure they are providing universal access to their WIA Title I-federally funded program and activities. Such efforts include, but are not limited to advertising programs and/or activities in media that specifically target various populations, sending notices of openings to community-based organizations that serve various populations and extending outreach efforts to include schools or community service groups serving individuals with disabilities (29 CFR 37.42). See MOA ELEMENT #4

Complaint Processing Procedures (See 37.70-37.80.)

- See MOA ELEMENT #8
- The Commonwealth of PA assures that its WIA programs will operate in a manner that 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. In addition, LWIAs/CareerLinks and UC Service Centers are aware of their obligation to comply with Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, as amended, Title IX of the Education Amendments of 1972, as amended, and 29 CFR Part 37.

Additionally, a copy of 29 CFR Part 37, "Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998: Final Rule" has been issued to all WIB staff contacts to be disseminated to their designated EO Officers/Liaisons.

EO evaluation/monitoring of applicants for and recipients of WIA Title I financial assistance (including monitoring assurances and programmatic and architectural accessibility).

- The Office of Equal Opportunity will conduct regularly scheduled Equal Opportunity Compliance Reviews of each Careerlink/UC Service Center. The Compliance Review will assess the adequacy of the following:
 1. Designation of the Equal Opportunity Liaison
 2. Posters, Notices and Communication
 3. Data, and Information Collection and Maintenance
 4. Accessibility of services, Universal Access and structural accessibility
 5. Complaint processing procedures

- Monitoring is a review process used to track program performance, evaluate placement and training systems, and ensure compliance with civil rights laws. It is also a means by which training needs, technical assistance needs, as well as the need for new or revised policies and procedures, or guidelines, can be determined.

- When assessing the EO compliance status of WIA Title I-federally funded programs or activities, the following areas will be reviewed at the LWIA level:
 - Adequacy of EO/non-discrimination and sexual harassment policy dissemination;
 - Adequacy of EO Record Keeping procedures;
 - Adequacy of complaint procedures;
 - Accessibility of program and structure, to individuals with disabilities and persons of limited English speaking ability;
 - Participant and staff advisement of their civil rights under federal law and;
 - Prominent display of EO posters in English and Spanish wherever applicant/participant services are provided, including training facilities and worksite locations, where feasible.

- When a LWIA is selected for an EO Compliance Review, the following occurs:
 1. A notification of review is sent out along with a compliance review instrument to be completed and returned to the Office of Equal Opportunity within 30 days. Any supporting documentation required must be included.
 2. The most recent quarterly EO report is requested for the program selected for review and a desk review is conducted of the services being provided.
 3. The on-site review is conducted on all of the components listed in the compliance review instrument. The appropriateness and adequacy of each is determined by visual observation.
 4. Findings are communicated in writing, which include suggested corrective actions and time frames for implementation.
 5. When the Office of Equal Opportunity receives the required corrective action plan, a letter of compliance is issued if actions are acceptable. If actions are not acceptable, a

letter of non-compliance is issued and further corrective action is recommended/requested.

- The Office of Equal Opportunity and the Equal Opportunity Officer have responsibility for conducting EO Compliance Reviews within Local Workforce Areas. The narrative report will provide the names, title and organization of the person/persons conducting the review.
- LWIAs are selected for EO compliance reviews at random or if there are complaints against the LWIA, or if disparities are noted on the EEO quarterly reports.

Sanctions and corrective actions for violations noted by a recipient during its monitoring reviews.

- When an Equal Opportunity Compliance review results in deficiencies or noncompliance that cannot be resolved or corrected on a voluntary basis, the Equal Opportunity Specialist at the State level provides technical assistance.
- After all attempts to provide assistance and correction of deficiencies fail, the imposition of sanctions will be considered. (See MOA ELEMENT #9)

Policy development, communication, and training.

- See SESA policy and procedures and MOA ELEMENT #2
- Training for LWIAs on the MOA has been conducted and technical assistance will be offered on an on-going basis, or as requested.

Conducting analyses, by race/ethnicity and sex, of program and employment activity, including but not limited to rates of application, placement, and termination, to determine if significant differences exist.

- The Equal Opportunity Compliance Review consists partly of desk audits, which include Workforce Investment Streamlined Reporting System (WISPR). This tool does include the Four-Fifths rule -Department of Labor Regulations 41 CFR.60 Employee Selection Guidelines). A selection rate for any racial, ethnic, or sex group that is less than four-fifths (or 80 percent) of the rate for the group with the highest rate will generally be regarded as evidence of adverse impact. This tool is used during Equal Opportunity Compliance Reviews.
- The EO Compliance Review also addresses Data & Information Collection and Maintenance - Workforce Investment Streamlined Reporting System (WISPR) categorizes individuals by race, sex, disability, etc.
- The EO Compliance Review addresses monitoring assurances and program and physical accessibility in CareerLinks/UC Service Centers.
- The on-site part of the Compliance Review looks, in great detail, at assurances and inspects program and physical accessibility.

- Refer to Element #6.

Follow-up monitoring to determine the cause of any such differences, through the analysis of the records of individual registrants, applicants, eligible applicants/registrants, employees and applicants for employment, interviews, and other appropriate techniques.

- See above narrative that includes PA Workforce Investment Streamlined Reporting System (WISPR) and 80% rule.
- When disparities exist or areas in question are deficient in some manner, an on-site compliance review is conducted to further determine cause for the differences that exist and corrective measures are promulgated.

The procedure for reviewing the recipient's policies and procedures to ensure they do not violate the prohibitions contained in 37.5 through 37.10.

- The Equal Opportunity Compliance Review Guide for LWIAs, CareerLinks/UC Service Centers is a tool used to review the recipient's policies and procedures to ensure they do not violate the prohibitions contained in 37.5 through 37.10.

The written reports prepared for each review, which, among other things, provide that results will be made available to the recipient(s) for review.

- A report of findings after each review is forwarded to the Recipient, UC Service Center, CareerLink/LWIA, as applicable.

The involvement of the State-and local-level EO Officer(s) in conducting reviews. Where EO monitoring is carried out by individuals other than the State or local-level EO Officer, the names, titles, and organizations of those persons.

- The State, with the assistance of the LWIA EO Officer, will be/are responsible for conducting reviews.
- All CareerLinks/UC Service Centers have been provided with a synopsis of all applicable and referenced laws necessary to ensure EO Compliance. In addition, technical assistance was provided to each office prior to WIA. During those visits, the compliance review process was explained to the EO Liaison, Manager and Complaint Officer. The Compliance Review instrument was developed to assess all nine (9) elements of the MOA.

The procedure for determining which recipients are to be reviewed, the frequency of reviews of recipients, and the number of recipients to be reviewed per year.

- LWIAs will be reviewed every three years, or seven per year. Eleven (11) WIAs will be selected yearly for technical assistance.

ELEMENT 8

Complaint Processing Procedures

The State should address how it and its recipients are complying and will continue to comply with the requirements of 37.76-37.79 regarding complaint-processing procedures.

Narrative

The Office of Equal Opportunity (OEO) in the Department of Labor & Industry, has designated responsibility for the development and implementation of procedures for processing complaints alleging violations of the nondiscrimination and equal opportunity provisions in Section 188 of the Workforce Investment Act (WIA) and the Department of Labor's regulations, 29 CFR Part 37. Section 188 of WIA prohibits discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief in both participation and employment; and against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIA Title I-financially assisted program or activity. The nondiscrimination regulations of WIA prohibit discrimination in all aspects of the administration, management and operation of WIA Title I financially assisted programs or activities.

The OEO has developed and adopted procedures for processing complaints alleging violations of the equal opportunity and nondiscrimination provisions of WIA Title I assisted programs and/or activities. All recipients of WIA Title I financially assisted programs or activities will be required to comply with this procedure as provided.

For purposes of WIA, the term recipient is defined, to include the Governor, as:

- (1) State level agencies that administer, or are financed in whole or in part, with WIA Title I funds;
- (2) State Employment Security Agencies;
- (3) State and Local Workforce Investment Boards;
- (4) LWIA Grant recipients;
- (5) One-Stop Operators;
- (6) Service providers, including eligible training providers;
- (7) On-the-Job Training (OJT) employers;
- (8) Job Corps Contractors and Center Operators, excluding the operators of federally operated Job Corps Centers;
- (9) Job Corps national training contractors;
- (10) Outreach and admissions agencies, including Job Corps contractors that perform these functions;
- (11) Placement agencies, including Job Corps contractors that perform these functions; and
- (12) Other National Program recipients; and

(13) One Stop Partners, to the extent that they participate in the One Stop system.

Complaints may be filed by:

- ✓ Applicants/registrants for aid, benefits, services or training
- ✓ Eligible applicants/registrants
- ✓ Participants
- ✓ Employees
- ✓ Applicants for employment
- ✓ Service providers (the organization involved is one, which may be attributed a racial, national origin or other characteristic entitled to protection under WIA).
- ✓ Eligible service providers

Complaint forms for filing allegations of discrimination at the local, state and federal levels can be obtained from the EO Liaison in the CareerLinks, the Local WIA EO Officer, the Office of Equal Opportunity, or directly from CRC. Complaints must be filed within 180-days from the date of the alleged occurrence of discrimination. Complaints filed after the 180-day time period will be forwarded to CRC. The Director of CRC, for good cause shown, may extend the filing time beyond 180 days.

Individuals, specific classes of individuals, or authorized representatives may file complaints/allegations of discrimination regarding CareerLink issues with the Equal Opportunity Liaison in the CareerLink who forwards them directly to the State Equal Opportunity Officer.

Individuals, specific classes of individuals, or authorized representatives may file complaints/allegations of discrimination about LWIA programs or services with the Local Workforce Investment Area's Equal Opportunity Officer, or directly with the State Equal Opportunity Officer. Complainants are also made aware of their right to file allegations directly with the USDOL Civil Rights Center (CRC).

NOTE: Complaints/allegations do not have to be submitted on the prescribed complaint form in order for them to be considered valid complaints or allegations. Discrimination complaints may be submitted to:

Local Workforce Investment Area Equal Opportunity Liaison
or
Mr. Khan L. Mitchell, Director
Office of Equal Opportunity
Department of Labor & Industry
Room 514, Labor & Industry Building
Seventh and Forster Streets
Harrisburg, PA 17121
Toll Free 1-800-622-5422

TDD/TTY 1-800-654-5984 or PA Relay 711

or

Director, Civil Rights Center
U.S. Department of Labor
200 Constitution Avenue, NW
Room N-4123
Washington, DC 20210
(202) 219-7026
TDD (202) 219-7003

Complaints filed by the complainant or his/her authorized representative must be filed in writing and must contain the complainant's and respondent's name and address, date alleged incident of discrimination occurred, a description of the allegations with enough detail to allow a determination by the Civil Rights Center (CRC) or Department of Labor & Industry about jurisdiction over the complaint, whether or not the complaint was filed in a timely manner, apparent merit, and, if true, whether the allegations would violate any of the nondiscrimination and equal opportunity provisions of WIA, and the complainant's or his/her authorized representative's signature.

Procedures for Complaint Processing at the Local Workforce Investment Area Equal Opportunity Officer Level

Upon notification of a discrimination complaint, the LWIA EO Officer must inform the complainant of their right to file a complaint and have it investigated at the local, state or federal level. All complaints filed with the LWIA Equal Opportunity Officer must be immediately reported to the EO Officer in the Department of Labor & Industry.

If the complainant elects to attempt resolution at the local level, the LWIA EO Officer, based on consultation with the State OEO, will conduct fact-finding/investigation at the local level in consonance with procedures outlined in the WIA.

The LWIA Equal Opportunity Officer shall meet with the complainant or his/her authorized representative within ten (10) business days from the date of receipt of the written allegations, to conduct a fact finding or investigation of the circumstances underlying the allegations and attempt to informally resolve the issue(s). The LWIA EO Officer's findings will be submitted in writing to the complainant not later than ten (10) business days following the fact-finding/investigation. The written notification shall include notice of the complainant's right to request a formal investigation by the EO Officer at the state level if a satisfactory resolution is not accomplished at the local level.

If the Complainant is dissatisfied with the attempted informal resolution, he/she must inform the LWIA EO Officer and the EO Officer at the State level within five (5) business days of receipt of the unsatisfactory decision and request a formal investigation by the State Equal Opportunity Office.

All complaints filed at the local level must be documented on the WIA/SESA local complaint log that is submitted to the State Equal Opportunity Office on a quarterly basis.

Procedures for Complaint Processing at the Local Workforce Investment Area State Equal Opportunity Office Level.

Acceptance of Complaint

If it is determined that the OEO has jurisdiction over the complaint/allegation filed, within ten (10) days of receipt, the Equal Opportunity Officer will send an acknowledgment of receipt of the letter to the complainant and advise him/her of the following:

- (1) Their right to be represented in the complaint process;
- (2) A list of the issues raised in the complaint;
- (3) A statement of whether the issue will be accepted for investigation or rejected by the OEO; if rejected, the reason for the rejection; and,
- (4) The right to seek resolution through the Mediation/Alternate Dispute Resolution (ADR) process. NOTE: If the complainant elects resolution through ADR, the complaint will be forwarded to a Mediator.

The Respondent will be notified that a complaint alleging discrimination has been filed and is being processed. He/she will also be advised if the complainant elects mediation as the means of resolution.

Otherwise, the Equal Opportunity Officer will meet with the complainant and/or his/her authorized representative and the respondent, within 15 days from the date of receipt of the written allegations, to initiate a fact finding or investigation of the circumstances underlying the allegations, and attempt to informally resolve the issue(s). If the complaint is resolved informally, the resolution will be documented and maintained in the OEO files.

If the Complainant is dissatisfied with the attempted informal resolution or prefers to have a formal investigation, an investigator will be assigned to the case. The investigator will interview the complainant, respondent and witnesses for both parties as identified by the parties. At the conclusion of the investigation, a *Notice of Final Determination* will be issued. *The Notice of Final Determination* will be strictly based on the evidence obtained during the investigation. The notice will be issued within 90 days of filing the complaint. The written notice will include, for each issue raised, a decision on the issue(s), an explanation of the reasons underlying the decision, or a description of the way the parties resolved the issue(s) and notification of recourse.

If by the end of the 90 days, the OEO has not completed processing the complaint or fails to issue a notice of Final Determination, the complainant or his/her representative may, within 30 days of the expiration of the 90-day period, file a complaint with the Director, Civil Rights Center (CRC) who may extend the 30 day time period for good cause shown.

If the Notice of Final Determination is issued during the 90-day period and the Complainant is dissatisfied with the decision, the complainant is advised of his/her right to file a complaint with the CRC within 30 days of the date on which the complainant received the *Notice of Final Determination*.

Non-Acceptance of Complaint

If a complaint is not within the jurisdiction of the OEO or CRC, is not timely filed, or does not have apparent merit, the complainant will be immediately notified in writing stating the reason for the lack of jurisdiction, i.e.,

- ✓ the basis for the complaint is not covered by the prohibitions set forth by 29 CFR Part 37;
- ✓ the complaint was not filed within the prescribed 180-day time-frame or;
- ✓ the complaint is against an entity that is not a recipient of WIA Title I financial assistance as defined by 29 CFR Part 37.

If the complaint is not within the jurisdiction of the Office of Equal Opportunity or the Civil Rights Center, but within the jurisdiction of another federal grant making agency, the complaint will be returned to the complainant, stating the reason(s) for the lack of jurisdiction. The complainant will be advised of the appropriate agency that handles the complaint.

If a complaint alleges discrimination by an entity that operates a program or activity financially assisted by a federal grant agency other than DOL but participates as a partner in a CareerLink, the following will apply:

- ✓ If the complaint alleges discrimination on a basis prohibited by Section 188 or Civil Rights laws, the OEO and the grant-making agency will have dual jurisdiction over the complaint.
- ✓ If the complaint alleges discrimination on a basis that is prohibited by Section 188 of WIA but not by any Civil Rights laws enforced by the federal grant-maker, the complaint will be referred to CRC who has sole jurisdiction over the complaint.

Alternate Dispute Resolution

As an alternative to the formal complaint process, complainants may choose to have their complaints processed through the Mediation/Alternate Dispute Resolution Process. This means that there will not be a full-blown formal investigation, but that a mediator will attempt to bring the complainant and the respondent together to work out an amicable solution to their problem(s). According to regulations, this option for processing a discrimination complaint must be offered to every complainant.

In order to fulfill requirements of WIA, the Office of Equal Opportunity, in conjunction with the Department of Labor & Industry's Bureau of Mediation, developed the ADR process that stipulates utilization of state mediators to mediate complaints filed by either clients or employees of grantees in Pennsylvania's administration of the WIA in order to ensure a highly professional and cost effective method of dispute resolution instead of the traditional complaint resolution process. If mediation is chosen, OEO will inform the Bureau of Mediation and a mediator will be assigned. The complaint will immediately be forwarded to the mediator. The complainant must allow 30 days for the mediation to take place. The choice of mediation rests solely with the complainant. If chosen, the respondent in the case will be notified of the selection. Any party to the settlement agreement reached in mediation may file a complaint with CRC if the agreement is breached. The complaint must be filed within 30 days from the date the non-breaching party learns of the breach. If CRC determines that the respondent breached the agreement, the complainant may file allegations based on his/her original charges with CRC.

The following are procedural guidelines to facilitate implementation:

- ✓ Equal Opportunity (EO) Officers in Pennsylvania's 23 investment areas will be responsible for referring complaints and/or allegations of discrimination for mediation to the Office of Equal Opportunity, Department of Labor & Industry.
- ✓ The Equal Opportunity Specialist (EOS), in consultation with the complainant, will refer the complaint to mediation.
- ✓ If a complainant signs an Agreement to Mediate Form, the complaint will be referred to one of three mediators from one of the three regions of the state. (This can be done by fax or mail. Mediators do not need to have a face-to-face meeting between the complainant and the EOS.)
- ✓ The OEO – L&I will coordinate the meeting date, time, and place with the complainant, the respondent, and the Mediator.
- ✓ The Mediator will assume jurisdiction of the complaint for 30 days, beginning with the initial referral, in writing, from the EOS.
- ✓ Within the 30-day period, the mediator will conduct Mediation session(s) and submit a Settlement Agreement to the referring EOS in Harrisburg, as well as the Bureau of Mediation.

Interface Between Office Of Equal Opportunity (L&I) And Bureau Of Mediation (L&I) To Implement Mediation Component Of Workforce Investment Act.

Utilization of state mediators in the mediation of complaints filed by either clients or employees of grantees in Pennsylvania's administration of the WIA should result in a highly professional and cost effective method of dispute resolution.

The following are procedural guidelines to facilitate implementation:

1. Equal Opportunity (EO) Officers in Pennsylvania's 23 investment areas will be responsible for referring complaints and/or potentially troublesome situations to the Office of Equal Opportunity (OEO) staff in Harrisburg.
2. The Equal Opportunity Specialist (EOS) in the OEO Harrisburg office, in consultation with the complainant, will refer the complaint either to investigation (not addressed in this document) or to mediation.
3. If a complainant signs an Agreement to Mediate Form the complaint will be referred to one of three mediators from three different regions of the state. (This can be done by fax or hard mail. A face-to-face meeting between the complainant and the EOS is not required.)
4. The EOS will coordinate the meeting date, time, and place with the complainant, the respondent, and the mediator.
5. The mediator will assume jurisdiction of the complaint for 30 days, beginning with the initial referral, in writing, from the EOS.
6. Within the 30-day period the mediator will conduct mediation session(s) and submit a Settlement Agreement to the referring EOS in Harrisburg, as well as the Bureau of Mediation.
7. In the event no agreement is reached the mediator will duly notify the EOS when mediation is terminated. In either event, the entire case file will be returned to the OEO.
8. Mediators will be held to the highest standards of ethical conduct and agree to reclude themselves if there is a potential conflict of interest or even the appearance of a potential conflict of interest.

***Alternate Dispute Resolution (ADR)
Notification and Consent Form***

The Office of Equal Opportunity (OEO) has adopted Mediation as an Alternate Dispute Resolution (ADR) process, in addition to the state level complaint process. The option to use mediation or the traditional state level investigative process rests with the Complainant. If the Complainant chooses mediation, the Respondent in the complaint will be so notified. An assigned Mediator will conduct the mediation and submit a Settlement Agreement, signed by both parties, to the OEO no later than thirty (30) days from the date of receipt of the mediation request form. In the event an agreement is not reached, the Mediator will duly notify OEO when mediation is terminated and the case will be immediately referred for investigation.

I have read the above notification of my right to request Mediation as a means for Alternate Dispute Resolution (ADR). My signature below indicates my selection/or rejection of the offer.

✓ Check one

Consent is hereby given for the Office of Equal Opportunity to schedule mediation to resolve my allegation(s) of discrimination. In so doing, I retain my right to a formal investigation if a settlement cannot be reached.

I do not consent to have my complaint mediated. I request that the Office of Equal Opportunity conduct an investigation of my allegation(s).

Signature

Date

Pennsylvania Department of Labor & Industry
Office of Equal Opportunity

Agreement to Mediate

Case I.D. _____ Date _____

The complainant, _____, and the respondent _____
both agree to the following:

1. Both parties agree to voluntarily mediate their dispute currently pending before the PA Department of Labor & Industry - L&I Office of Equal Opportunity.
2. Each party agrees to make a good faith effort to resolve the dispute. It is understood that mediation is independent of and does not supplant external equal opportunity complaint procedures, existing grievance procedures and/or governing collective bargaining agreements.
3. The mediator will not act as a judge, lawyer, arbitrator or advocate in this process, but will function as a neutral third party to facilitate an acceptable agreement between the parties.
4. The complainant, the respondent, the mediator, and any other parties present during the mediation session agree that all discussions taking place during the mediation are confidential. No information divulged during the mediation session(s) may be used in court or in any legal or administrative proceedings.
5. In the event that no agreement or settlement of the dispute is reached, all parties agree that the mediator will not be subpoenaed or called as a witness in any subsequent legal or administrative proceeding.
6. The mediation may terminate if:
 - ✓ either party desires to end the mediation;
 - ✓ the mediator determines the parties are deadlocked and are unlikely to resolve the dispute;
 - ✓ the parties reach an agreement.

Pennsylvania Department of Labor & Industry
Office of Equal Opportunity

***Mediation/Alternate Dispute Resolution
Settlement Agreement***

Case I.D. _____

A mediation session was held on _____ (date) between _____, the complainant, and _____, the respondent. The agreement represents a voluntary resolution of the dispute reached by the aforementioned parties that is currently pending before the Pennsylvania Department of Labor and Industry's Office of Equal Opportunity. All parties agree to the following:

1. _____

2. _____

3. _____

All the parties agree that this Agreement is binding upon them and that the Agreement represents the full and complete resolution of their dispute. Further, the parties affirm that all discussions taking place during the mediation session(s), as well as the terms of settlement, are governed by the confidentiality guidelines.

Complainant

Respondent

(if applicable)

Attorney/Witness for Complainant

Attorney/Witness for Respondent

Mediator _____

Date _____

Pennsylvania Department of Labor & Industry
Office of Equal Opportunity

Mediation Sign-in Sheet

Pennsylvania OEO Case ID: _____

Complainant: _____

Respondent: _____

Location: _____

Date: _____

By their signature the parties acknowledge:

1. The entire mediation process is privileged and confidential.
2. The settlement negotiations and all offers, promises, conduct and statements, whether written or oral, made in the course of the proceedings are not admissible in any subsequent investigation, arbitration, or litigation of this dispute.
3. ONLY signed copies of the negotiated agreement will be taken from the mediation site. Personal notes or other documentation created during the course of mediation will be destroyed prior to leaving the mediation site.

Complainant

Attorney/Witness (if applicable)

Respondent

Attorney/Witness (if applicable)

Mediator

Complainant

Respondent

Address

Telephone

Home _____

Home _____

Work _____

Work _____

Fax _____

Fax _____

Print Name

Signature

Attorney Signature
(If applicable)

ELEMENT # 9

ELEMENT 9.

Corrective actions/sanctions 29 CFR (37.54(d)(2)(vii)

The State should address how it and its recipients are complying and will continue to comply with the requirements of 37.54(d)(2)(vii).

The standard for corrective and remedial actions to be applied when violations of Section 188 or 29 CFR, Part 37 are found. Corrective and remedial actions must be designed to completely correct each violation. For each corrective action, a time frame should be established that sets the minimum time necessary to completely correct the violation. In the case of a finding of discrimination, the procedures must provide, where appropriate, for retroactive relief (including but not limited to back pay) and prospective relief (e.g., training, policy development and communication) to ensure that the discrimination does not recur.

- Corrective action may take place whenever a SESA or LWIA is cited as the result of an Equal Opportunity Compliance Review or a complaint investigation. When there are findings of discrimination, a conciliation agreement and/or corrective action plan is required. The corrective action must address the particular act of discrimination and must include timetables by which the corrective action will be implemented. Corrective action may include recoupment of lost earnings the victim may have suffered. A written assurance must accompany a corrective action (to help ensure that the discrimination does not recur) stating that the SESA/LWIA Office will cease in its discriminatory practices.

Technical deficiencies may require a different time frame for corrections than findings of discrimination. The EO Specialist will notify the SESA or LWIA in writing of the deficiencies found during EO Compliance Reviews along with a suggested corrective action plan. The SESA or LWIA will be required to provide a corrective action plan that includes written assurances to certify that a deficiency has been corrected – including the timeframe for correction. The assurance will attest that the SESA or LWIA office will continue to take steps to ensure that the deficiency(s) do not recur. The SESA Office Manager or LWIA Director must sign the assurance.

When an Equal Opportunity Compliance Review results in identification of deficiencies or noncompliance that cannot be resolved or corrected on a voluntary basis, the Equal Opportunity Specialist at the State level provides technical assistance. A follow-up visit is conducted, where necessary, to evaluate the degree of progress made toward resolving existing noncompliance factors.

The procedures for follow-up monitoring to ensure that commitments to take corrective action and remedial action are fulfilled.

- The SESA or LWIA is made aware at the Equal Opportunity Review and Exit Conference or Technical Assistance Training, that follow-up monitoring can occur at any time. In instances where deficiencies are identified and Corrective Action Plans are submitted, on-site follow-up may occur within 30 days from receipt of the corrective action plan, to assess the adequacy of the corrective action. In accordance with 37.63(b) a letter advising the recipient of the program, practice or information that will be reviewed.

Reports required from the violating recipient regarding actions to correct the violations.

- Training rosters, written assurances, along with documentation of on-site inspections or other appropriate documentation may be required to confirm correction of deficiencies/violations.

Sanction procedures to be followed where voluntary compliance cannot be achieved - SESAs

- Sanctions are imposed when a SESA office will not agree to or take voluntary corrective action. A report of findings, listing all deficiencies along with a suggested Corrective Action Plan is sent to the SESA office. Time frames to implement corrective action are given. Failure to meet corrective action deadlines will initiate the writing of a stronger letter stating that the SESA office must provide a plan documenting the deficiencies and corrective action taken. Additionally, they are told that if they do not take steps for an appropriate corrective action, further action may be initiated which could affect program funding. Technical assistance is offered to the SESA office to provide assistance in the attempt to take corrective action. Once the Office of Equal Opportunity receives a corrective action plan, a conciliation agreement will be written and signed by all parties. Time frames are set for corrective action. Sanctions are tailored to fit the deficiency and the ultimate plan must correct all deficiencies or steps will be taken to involve the Civil Rights Center (CRC). If after all avenues for resolution at the State level are exhausted, and deficiencies are not effectively corrected, the SESA office will be notified that the information will be or has been referred to the U.S. Department of Labor, Civil Rights Center, for further action at the Federal level.

Sanction procedures to be followed where voluntary compliance cannot be achieved – LWIAs.

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:

1. Make whole remedies for discriminatory practices.
2. Establishment and issuance of policies as applicable to the violation.
3. Placement into a training program or hire into a vacant position for which one may have been qualified but denied.
4. Discontinue referral of participants to sites against which discrimination allegations have been alleged and proven.
5. Removal of participants from sites refusing to implement corrective actions.

The ultimate sanction will be the referral to the U. S. Department of Labor, Civil Rights Center for enforcement or recommendation for suspension of funds until compliance is met.

When a LWIA is given an Equal Opportunity Compliance Review, they are told that an EO Compliance Review Report will be sent to them, listing all deficiencies found during the review as well as suggested corrective actions to correct those deficiencies. They are 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 EO Specialist reviews the Corrective Action Plan. If the Plan assures and states that the corrective action has been implemented, the Office of Equal Opportunity sends a letter of compliance and notifies them that a follow-up review could occur at any time to verify the corrective action.

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

LOCAL WORKFORCE INVESTMENT AREAS

ALLEGHENY COUNTY WORKFORCE INVESTMENT BOARD (SW005)

(Allegheny County-less City of Pittsburgh)

Stefani Pashman
Chief Executive Officer
Three Rivers Workforce Investment Board
Regional Enterprise Tower, Suite 650
425 Sixth Avenue
Pittsburgh, PA 15219
Phone: 412-552-7090
Fax: 412-552-7091
E-mail: spashman@triwib.org

Earl Smithson, Jr., EO Officer
Allegheny County Dept. of Human Services
Office of Administration/Human Resources
Human Services Building
One Smithfield Street, 5th Floor
Pittsburgh, Pennsylvania 15222
Phone (412) 350-2795
Email: Earl.Smithson@AlleghenyCounty.US

BERKS COUNTY WORKFORCE INVESTMENT BOARD (SE015)

Edward J. McCann, Director of Workforce Development/Chief Operating Officer
C/o Berks County CareerLink
501 Crescent Avenue
Reading, PA 19605-3050
Phone (610) 988-1363
Fax (610) 988-1301
Email emccann@bccl.org

John Moser, EO Officer
501 Crescent Avenue
Reading, PA 19605
Phone (610) 988-1358
Email jwmoser@bccl.org

BUCKS COUNTY WORKFORCE INVESTMENT BOARD (SE020)

Elizabeth Walsh, Executive Director
1268 Veterans Highway
Bristol, PA 19007
Phone (215) 874-2800 ext. 109
Fax (215) 874-2804
Email ewalsh@bc-wib.org

Cara Hires, EO Officer
Bucks County Office of Employment and Training
1268 Veterans Highway
Bristol, PA 19007
Phone (215) 874-2800 ext. 108
Fax (215) 874-2804
Email chires@bc.wib.org

CENTRAL PENNSYLVANIA WORKFORCE INVESTMENT BOARD (CE175)

(Centre, Clinton, Columbia, Lycoming, Mifflin, Montour, Northumberland, Snyder, Union)

Shannon Miller, Executive Director
1610 Industrial Boulevard, Suite 500-A
Lewisburg, PA 17837
Phone (570) 522-0600 ext. 440
Fax (570) 522-0805
Email smiller@cpwdc.org

Sandra Fairman, EO Officer
1610 Industrial Boulevard, Suite 500-A
Lewisburg, PA 17837
Phone (570) 522-1454
Fax (570) 522-0805
Email sfairman@cpwdc.org

CHESTER COUNTY WORKFORCE INVESTMENT BOARD (SE030)

Patrick Bokovitz, Director
601 Westtown Road, Suite 365
P.O. Box 2747
West Chester, PA 19380-0990
Phone (610) 344-6900
Fax (610) 344-6925
Email pbokovitz@chesco.org

Lila Singleton, EO Officer
610 Westtown Road, Suite 365
P.O. Box 2747
West Chester, PA 19380-0990
Phone (610) 344-6914
Email lsingleton@chesco.org

DELAWARE COUNTY WORKFORCE INVESTMENT BOARD (SE035)

Melody Dickenson
The Widing Group
936 North Fifth Street
Philadelphia, PA 19123
Phone (215) 923-4059
Fax (215) 923-7735
Email dcwib@widinggroup.com

Deborah Callaghan, Assessment Manager/EO Officer
Office of Workforce Development
85 North Malin Road
Broomall, PA 19008
Phone (610) 723-1211
Fax (610) 723-1206
Email deborahcallahan@yahoo.com

LACKAWANNA COUNTY WORKFORCE INVESTMENT BOARD (NE055)

Virginia Turano, Executive Director
Scranton Enterprise Center
201 Lackawanna Ave., Suite 215
Scranton, PA 18503
Phone (570) 342-3649
Fax (570) 342-3653
Email vturano.lcwib@verizon.net

Cathy Gerard, EO Officer
135 Franklin Avenue
Scranton, PA 18503
Phone (570) 344-7037
Fax (570) 963-4984
Email cgerard@dli.state.pa.us

LANCASTER COUNTY WORKFORCE INVESTMENT BOARD (SE060)

Scott J. Sheely, Executive Director
313 W. Liberty Street, Suite 114
Lancaster, PA 17603
Phone (717) 735-0333
Fax (717) 735-0335
Email ssheely@paonline.com

Kim Sullinberger, Deputy Director/EO Officer
Lancaster County Workforce Investment Area
313 West Liberty Street, Suite 114
Lancaster, PA 17603
Phone (717) 735-0333
Fax (717) 735-0335
Email sullenbk@co.lancaster.pa.us

LEHIGH VALLEY WORKFORCE INVESTMENT BOARD (LV070)

(Lehigh, Northampton)

Nancy Dischinat, Executive Director
1601 Union Boulevard
P.O. Box 20490
Lehigh Valley, PA 18002-0490
Phone (610) 841-1123
Fax (610) 437-3527
Email ndischinat@lvwib.org

Carol Moy, EO Officer/Employment & Training Specialist
Private Industry Council of Lehigh Valley, Inc.
1601 Union Boulevard
Lehigh Valley, PA 18002-0490
Phone (610) 841-1053
Fax (610) 437-4392
Email cmoy@careerlinklv.org

LUZERNE/SCHUYLKILL COUNTIES WORKFORCE INVESTMENT BOARD (NE075)

Lucyann Vierling, Executive Director
22 East Union Street
Wilkes-Barre, PA 18701 Phone (570) 822-1101, Ext 255
Fax (570) 970-4050
Email lucyannvierling@lswib.org

Edward Stankus, EO Officer
22 East Union Street
Wilkes-Barre, PA 18701
Phone (570) 822-1101 ext 214
Fax (570) 970-4050
Email edstankus@lswib.org

MONTGOMERY COUNTY WORKFORCE INVESTMENT BOARD (SE080)

Gerald Birkelbach, Executive Director
Montgomery County Department of Economic and Workforce Development
Human Services Center
1430 DeKalb Street, 5th Floor
P.O. Box 311
Norristown, PA 19404-0311
Phone (610) 278-5952
Fax (610) 278-5954
Email gbirkelbach@montcopa.org

Mike Shea, EO Officer Monitoring
Montgomery County Department of Economic and Workforce Development
Human Services Center
1430 DeKalb Street, 5th Floor
P.O. Box 311
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NORTHWEST PA WORKFORCE INVESTMENT AREA (NW170)

(Clarion, Crawford, Erie, Forest, Oil Region, Venango, Warren)

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NORTHERN TIER WORKFORCE INVESTMENT BOARD (NT130)

(Bradford, Sullivan, Susquehanna, Tioga, Wyoming)

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PITTSBURGH WORKFORCE INVESTMENT BOARD (SW095)

(Pittsburgh City)

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POCONO COUNTIES WORKFORCE INVESTMENT BOARD (NE135)

(Carbon, Monroe, Pike, Wayne)

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SOUTH CENTRAL WORKFORCE INVESTMENT BOARD (SE180)

(Adams, Cumberland, Dauphin, Franklin, Juniata, Lebanon, Perry, York)

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SOUTHERN ALLEGHENIES WORKFORCE INVESTMENT BOARD (SA100)

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SOUTHWEST CORNER WORKFORCE INVESTMENT BOARD (SW165)

(Beaver, Greene, Washington)

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WEST CENTRAL WORKFORCE INVESTMENT BOARD (NW145)

(Lawrence, Mercer)

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WESTMORELAND-FAYETTE WORKFORCE INVESTMENT BOARD (SW045)

(Alle-Kiski, Fayette, Westmoreland)

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TRI-COUNTY WORKFORCE INVESTMENT BOARD (SW110)

(Armstrong, Butler, Indiana)

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