

# STATE OF VERMONT WIOA NON-DISCRIMINATION PLAN 2024

**Submitted by:**  
Michael Harrington, *Commissioner of Labor*  
State-level Equal Opportunity Officer

v1.1



The Vermont Department of Labor is an equal opportunity employer that administers equal opportunity programs. Auxiliary aids and services are available upon request to individuals with disabilities. Free language access assistance is also available. Send an email to [labor.eoofficer@vermont.gov](mailto:labor.eoofficer@vermont.gov) if you are in need of these services.

PHILIP B. SCOTT  
Governor



State of Vermont  
OFFICE OF THE GOVERNOR

September 18, 2024

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

Re: Vermont 2024 Non-Discrimination Plan

Dear Director Barry-Pérez:

Enclosed please find a copy of the State of Vermont's Non-discrimination Plan (NDP), which describes the actions taken by the State to ensure continued compliance with the non-discrimination and equal opportunity requirements of Section 188 under the Workforce Innovation and Opportunity Act (WIOA) and 29 CFR § 38.

The Vermont Department of Labor and its Commissioner, Michael Harrington, have been delegated the responsibility to fulfill the administrative requirements of the NDP.

Commissioner Harrington is the State-level Workforce Innovation and Opportunity Act (WIOA) Equal Opportunity Officer. In his role as commissioner, Mr. Harrington reports directly to me. Below is his contact information.

Vermont Department of Labor  
P.O. Box 488  
Montpelier, VT 05601-0488  
michael.harrington@vermont.gov  
labor.commissioner@vermont.gov

The State of Vermont is committed to equal opportunity in all WIOA programs, services, and activities, and this Plan demonstrates our continued pursuit of that goal.

Thank you for your consideration.

Sincerely,

Philip B. Scott  
Governor

PBS/kp  
Enclosure



**State of Vermont**  
**Department of Labor**  
**Office of the Commissioner**  
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P.O. Box 488  
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September 20, 2024

Ms. Naomi M. Barry-Pérez Director, Civil Rights Center  
U.S. Department of Labor  
200 Constitution Avenue NW, Suite N-4123  
Washington, D.C. 20210

Re: State of Vermont 2024 Non-Discrimination Plan

Dear Director Barry-Pérez:

Enclosed, please find a copy of the State of Vermont's 2024 Non-Discrimination Plan (NDP), which describes the actions taken by the State to ensure continued compliance with the non-discrimination and equal opportunity requirements of the Workforce Innovation and Opportunity Act (WIOA) and its implementing regulations.

As Commissioner of the Vermont Department of Labor and the designated State-level Equal Opportunity Officer by Governor Phil Scott, I have appointed Jay Ramsey, Director of Workforce Development at the Vermont Department of Labor, as the Department's Recipient-level Equal Opportunity Officer.

This document reflects the continued commitment of the State of Vermont and its system partners in promoting programs, activities, and services through an integrated system that complies with the equal opportunity and non-discrimination requirements of Section 188 of the Workforce Innovation and Opportunity Act (WIOA).

We look forward to receiving your feedback and technical assistance as we continue to help WIOA recipients meet (and expand upon) the requirements set forth in this Plan. Please do not hesitate to reach out with any questions at [labor.commissioner@vermont.gov](mailto:labor.commissioner@vermont.gov) or [labor.eoofficer@vermont.gov](mailto:labor.eoofficer@vermont.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Harrington".

Michael Harrington  
Commissioner  
Vermont Department of Labor

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## INTRODUCTION

The Vermont State Equal Opportunity Officer is pleased to present the 2024 Non-Discrimination Plan (NDP or Plan), which outlines the details of the commitment our state has made to ensure the non-discrimination and equal opportunity requirements set forth in the Workforce Innovation and Opportunity Act Section 188 and 29 CFR Part 38 are met.

### Background

Signed into law on July 22, 2014, the Workforce Innovation and Opportunity Act (WIOA) superseded the Workforce Investment Act of 1998 (WIA) as the U.S. Department of Labor's (U.S. DOL) primary mechanism for providing financial assistance for a comprehensive system of job training and placement services for adults and eligible youth. Although WIOA did not change the non-discrimination and equal opportunity provisions in Section 188, Congress mandated that the U.S. DOL issue regulations to implement the section, including standards for determining discrimination and enforcement procedures, as well as procedures to process complaints.

WIOA Section 188 and 29 CFR Part 38 prohibits the exclusion of an individual from participation in, denial of the benefits of, discrimination in, or denial of employment in the administration of or in connection with any programs and activities funded or otherwise financially assisted in whole or in part under Title I of WIOA because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status, or participation in a program or activity that receives financial assistance under Title I of WIOA. The final WIOA regulations regarding non-discrimination and equal opportunity were published on December 2, 2016, with an effective date of January 3, 2017.

### All WIOA Title I recipients are required to meet the non-discrimination requirements

The term “recipient,” as used in this Non-Discrimination Plan, is defined in the Code of Federal Regulations at [29 CFR 38.4\(zz\)](#):

*Recipient means entity to which financial assistance under Title I of WIOA is extended, directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient). The term excludes any ultimate beneficiary of the WIOA Title I-financially assisted program or activity. In instances in which a Governor operates a program or activity, either directly or through a State agency, using discretionary funds apportioned to the Governor under WIOA Title I (rather than disbursing the funds to another recipient), the Governor is also a recipient. In addition, for purposes of this part, one-stop partners, as defined in section 121(b) of WIOA, are treated as “recipients,” and are subject to the nondiscrimination and equal opportunity requirements of this part, to the extent that they participate in the one-stop delivery system. “Recipient” includes, but is not limited to:*

- (1) State-level agencies that administer, or are financed in whole or in part with, WIOA Title I funds;*
- (2) State Workforce Agencies;*
- (3) State and Local Workforce Development Boards;*
- (4) LWDA 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;*
- (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;
- (12) Other National Program recipients.

### **Updated terms used in the 2024 Non-Discrimination Plan**

In order to align with best practices in our state, Vermont opted to replace the term “Limited English Proficiency (or LEP)” with “individuals with Language Access needs.” LEP or “limited English proficiency” is a term commonly used by federal government sources and some State of Vermont sources to describe people who do not fluently speak or read English. The Vermont State Office of Racial Equity (ORE) does not recommend using “LEP” due to the biased nature of the term “limited English proficiency.” Characterizing people solely by their lack of English proficiency may be disrespectful to their other language skills and inappropriately privileges English speakers above those who speak or sign other languages. Community feedback to ORE consistently supports using other terms as alternatives to “LEP” to describe people with language access needs. For more information, see page 15 of the [ORE Language Access Report](#) and the [Vermont WIOA Language Access Plan](#).

The Plan also includes terms that the Vermont Department of Disabilities, Aging & Independent Living recommends for use when referring to people who are Deaf, Hard-of-Hearing, and DeafBlind. More information about these terms can be found in their [Hearing Terminologies](#) resource document.

### **What is next for Vermont?**

Our focus over the next few years will be to build a robust set of [resources and tools](#) to help WIOA Title I recipients meet (and expand upon) the requirements set forth in this Plan. To accomplish this, we will continue to partner with subject matter experts across the state and in Equal Opportunity offices throughout the U.S. We will also be integrating the guidance and best practices provided in [Unemployment Insurance Program Letter 01-24](#) and knowledge gained through the implementation of [Vermont’s Unemployment Insurance Equity Grant](#) activities.

If you have any questions about Vermont’s Non-Discrimination Plan, send us an email at [labor.eoofficer@vermont.gov](mailto:labor.eoofficer@vermont.gov).

## ELEMENT 1 – ASSURANCES (29 CFR 38.25–38.27)

### Purpose

The State of Vermont ensures that the equal opportunity and non-discrimination provisions of the Workforce Innovation and Opportunity Act (WIOA) are included in all grants, agreements, and applications for financial assistance under WIOA. Each recipient, subrecipient, and service provider within the State that applies for WIOA funds shall be committed to full compliance with the non-discrimination and equal opportunity provisions contained within the assurance in 29 CFR § 38.25. The assurance shall be deemed to be incorporated in every grant, application, contract, or other agreement, even in instances where the language of the assurance is not incorporated into the instrument.

### Narrative

The State of Vermont ensures that the language contained in 29 CFR § 38.25 is incorporated in every grant, application, contract, or other agreement for WIOA Title-I financial assistance. The State accomplishes this by: (1) incorporating the general assurance in every application, contract, or other agreement for WIOA Title-I financial assistance; (2) including the required assurance in the Vermont American Job Center (AJC) Network partner memorandum of understanding; and (3) sending an annual letter to the state AJC network partners to remind them of the requirements. In all instances, the State ensures that all agreements require the parties to comply with:

- (A) Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I-financially assisted program or activity;
- (B) Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;
- (C) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- (D) The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age;
- (E) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs; and
- (F) 29 CFR part 38 and all other regulations implementing the laws listed above.

The State ensures that the assurance applies to each WIOA Title I-financially assisted program or activity, and to all agreements recipients make to carry out a WIOA Title I-financially assisted programs and activities. A provision is included in each grant and other WIOA Title I agreements that notifies the applicant that the United States has the right to seek judicial enforcement of the assurance.

### **The State Includes the Assurance in Every Agreement for Financial Assistance**

The State includes the assurances contained in 29 CFR § 38.25 as a standard provision in every application, contract, or other agreement for financial assistance under WIOA. The State also ensures assurances in the WIOA Title I agreements meet the duration and covenant requirements set forth in 29 CFR § 38.26 and § 38.27.

### **The State Includes the Assurance in the Vermont American Job Center Network Partner Memorandum of Understanding**

The Vermont American Job Center (AJC) Network partners draft and sign a memorandum of understanding (MOU) every three years. The intent of the MOU is to describe and agree to the roles and responsibilities of the One-Stop partner programs in the AJC Network. The required assurance is listed as a provision within the MOU.

### **The State Sends an Annual Letter to the State AJC Network Partners**

The State sends an annual letter to all AJC Network partners to remind them that the assurance must be included in every agreement for federal financial assistance under WIOA. The letter updates network partners on any changes to the assurance language and necessary additions to forms and policies.

### **The State- and Recipient-level EO Officers Monitor Recipients and Sub-Recipients for Compliance**

The monitoring process outlined in [Element 6](#) of this plan includes a section on the Assurances requirements set forth in: [§38.25–38.45](#)

## **Supporting Documentation**

- 1-1 [Sample EO Assurance Statement for WIOA Title I Agreements](#)
- 1-2 [Vermont One-Stop American Job Center Network Partner MOU](#)
- 1-3 [Vermont WIOA Combined State Plan](#)



## ELEMENT 2 – EQUAL OPPORTUNITY OFFICERS (29 CFR 38.28–38.33)

### Purpose

The Governor is required to designate a Statewide Equal Opportunity Officer who reports directly to the Governor and is responsible for State Program-wide coordination of compliance with the equal opportunity and non-discrimination requirements in WIOA and 29 CFR Part 38. With the exception of [small recipients](#) and [service providers](#), WIOA recipients must also designate a recipient-level Equal Opportunity Officer who reports directly to the individual in the highest-level position of authority for the entity that is the recipient.

### Narrative

Vermont is one of the least densely populated states in the United States. With a population of approximately 645,500 people, Vermont ranks as the state with the second smallest population in the country. At least 25 U.S. cities have a greater population than the State of Vermont. Appropriately, the State operates as a single area state. State staff serves in both the administrative and program delivery capacity. The State has designated EO Officers and support staff who have sufficient time, knowledge, and ability to perform their equal opportunity duties.

The State has structured the State-level EO and Recipient-level EO programs to ensure that no conflict of interest exists. If a conflict were to arise, managerial or independent contracted support would be made available to the Statewide program or recipient.

#### **State-Level Equal Opportunity Officer and Support Staff**

The State-level EO Officer oversees the regulatory responsibilities required in WIOA and 29 CFR Part 38. Governor Phil Scott appointed Michael Harrington as the State-level Equal Opportunity (EO) Officer. Mr. Harrington serves as the Commissioner of the Vermont Department of Labor and is a senior-level employee at the State who reports directly to the Governor. Commissioner Harrington was appointed Deputy Commissioner for the Vermont Department of Labor in 2017 and was appointed Commissioner in 2020.

The State-level EO Officer has the staff and resources sufficient to coordinate statewide compliance with the equal opportunity and non-discrimination requirements in WIOA. In 2023 Commissioner Harrington created a department-level position with the title of Equal Opportunity & Accessibility Manager. This position is focused entirely on increasing equity and access within the Department and across all customer-serving programs. The EO & Accessibility Manager, the Department's General Counsel and other Department staff help the State-level EO Officer ensure that state-level requirements are being met.

The Governor's Office shall ensure that the State-level EO position remains filled. If the position is vacated at any time, the Governor will designate a new State-level EO Officer and will notify the Civil Rights Center (CRC) of the change. The State will ensure that at the time a new State-level EO Officer is designated, the name and contact information for the new State-level EO Officer will be promptly published in the same manner, materials, and locations as the previous EO Officer identity was published.

#### **Recipient-Level Equal Opportunity Officer and Support Staff**

Also In 2023, Commissioner Harrington appointed Jay Ramsey as the Vermont Department of Labor's recipient-level EO Officer. Mr. Ramsey reports directly to Commissioner Harrington and serves as the Department's Workforce Development Division Director.

Under the leadership of Jay Ramsey, employees in the Workforce Development Division ensure that WIOA Title I subrecipients within Vermont, except small recipients and service providers, have designated EO Officers who are in positions that report directly to the recipient's highest position of authority.

### **Equal Opportunity Officer Duties**

The State-level EO Officer and the Vermont Department of Labor recipient-level EO Officer and their support staff are responsible for:

- Advising the Governor and State agencies on the State's non-discrimination and equal opportunity program;
- Serving as the State's liaison with U.S. Department of Labor's Civil Rights Center;
- Monitoring all WIOA Title-I financially assisted programs or activities, including One-stop AJC Network partners, to ensure that programs are not violating their non-discrimination and equal opportunity obligations;
- Preparing monitoring reports and any needed corrective actions;
- Developing policies and procedures to ensure the effective implementation of State responsibilities under applicable law;
- Conducting or coordinating monitoring activities, including analyses of data and assessment of compliance with administrative obligations;
- Writing reports and formal communications regarding findings of monitoring activities;
- Providing equal opportunity and non-discrimination resources and referral information for complainants and general public;
- Reviewing complaints, data, and any available information to discern specific trends or patterns that could reflect possible, accessibility issues, or need for focused outreach;
- Providing technical assistance and training to State employees and contractors operating programs and activities; and
- Overseeing and assisting the development and implementation of non-discrimination plans and policy.

The State- and Recipient-level EO Officers and their support staff assume any additional duties that are necessary to carry out the requirements of 29 CFR Part 38.

### **Publication of EO Officer Name and Contact Information**

The State- and Recipient-level EO Officers and their support staff ensure the identity of EO Officers are known to applicants, registrants, eligible applicants/registrants, participants, employees, applicants for employment, and interested members of the public. The State's "Equal Opportunity Is the Law" poster is distributed to all recipients and subrecipients of WIOA funded programs and activities. The form can be edited to include the names and contact information for the recipient-level EO Officer. Every year, the EO & Accessibility Manager sends a letter to all Vermont AJC Network partners with a reminder of this requirement and links to the EO posters available in multiple languages. The State-level EO Officer and Department of Labor recipient-level EO Officer's names and contact information are also published on the Department's website.

## **Training and Tools Available to the State- and Recipient -Level EO Officers and Staff**

Commissioner Harrington, Mr. Ramsey and other support staff at the Vermont Department of Labor who are helping to ensure compliance with the non-discrimination and equal opportunity provisions of WIOA have the knowledge, skills and abilities necessary to fulfill their responsibilities. Examples of training and tools available to them include the following:

- All State of Vermont employees are required to complete EO related trainings, including Preventing and Addressing Sexual Harassment, Civility and Unconscious Bias in the Workplace and Diversity Online. New employees must complete this mandatory training within the first 180 days of employment.
- The State's Center for Achievement in Public Service offers many EO related live and recorded training that all state employees can access. This includes a Leadership track in the VTLEAD program called Leveraging Diversity.
- As the Department's designated Equity Liaison, the Equal Opportunity & Accessibility Manager attends regular meetings with the state's Office of Racial Equity. They also attend the NASWA EO Committee meetings and state-level committee meetings related to equal opportunity. The EO & Accessibility Manager acts as a resource and provides EO-related training to Department staff.
- All Workforce Development Division employees are required to complete an annual Civil Rights training presented by the state Economic Services Division.
- Department employees use tools developed by the Vermont State Office of Racial Equity and all State of Vermont employees are invited to participate in their annual conference.
- Department employees use tools developed by the U.S Department of Labor's Civil Rights Center.
- All Vermont State employees are members of Government Alliance on Race & Equity (GARE), which is a national network of government working to achieve racial equity and advance opportunities for all. GARE provides training and a plethora of resources and tools related to racial equity.
- All state employees have access to EO related statewide resources developed by state employees who are subject matter experts. Topics include, but are not limited to language access, inclusion, accessibility, resilience, and trauma prevention and gender and racial equity.

## **Policy Communication and Technical Assistance from State-level EO Officer**

The State-level EO Officer and support staff ensures that all WIOA Title I affiliated EO Officers and members of recipients' support staff who are assisting with responsibilities under the non-discrimination and equal opportunity provisions of WIOA are aware of and can effectively carry out these responsibilities. The EO & Accessibility Manager maintains a list of EO Officers for the AJC Network partners and sends communication on an annual basis regarding EO Officer responsibilities, training opportunities and other related technical assistance. The State-level EO Officer also posts [equal opportunity and non-discrimination related resources](#) for WIOA recipients on the Vermont Department of Labor website.

## **The State- and Recipient-level EO Officers Monitor Recipients and Sub-Recipients for Compliance**

The monitoring process outlined in [Element 6](#) of this plan includes a section on the Equal Opportunity Officer requirements set forth in [§38.28-38.33](#).

## Supporting Documentation

- 2-1 [Vermont AJC Partner Network EO Officers](#)
- 2-2 [EO Officer Responsibilities](#)
- 2-3 [Equal Opportunity Notice](#)
- 2-4 Training Provided by the Equal Opportunity & Accessibility Manager:
  - 2-4 a. [WISE training for new Workforce Development employees](#)
  - 2-4 b. [Language Access Refresher](#)
- 2-5 [State of Vermont New Employee Orientation Training](#)
- 2-6 [State of Vermont VTLEAD courses](#)
- 2-7 [Economic Services Division Civil Rights Training](#)
- 2-8 [Vermont State Office of Racial Equity](#) tools and resources:
  - 2-8 a. [2023 Language Access Report](#)
  - 2-8 b. [Impact Assessment Tool](#)
  - 2-8 c. [Action and Allyship Guide](#)
  - 2-8 d. [2023 Apiary for Movement Builders Conference](#)
- 2-9 [Civil Rights Center Tools, USDOL](#)
- 2-10 [Government Alliance on Race & Equity tools and resources](#)
- 2-11 [Vermont WIOA Language Access Plan](#)

## ELEMENT 3 – NOTICE AND COMMUNICATION (29 CFR 38.34–38.39)

### Purpose

The State of Vermont provides initial and continuing notice that it does not discriminate on any prohibited basis. The State is required to provide this notice to all registrants, applicants, eligible applicants or registrants, participants, applicants for employment, employees, unions, or professional organizations that hold agreements with a recipient within the State, any subrecipients receiving WIOA Title I financial assistance from a recipient within the State, and members of the public. When the State provides the required notice, it ensures that it is provided in a manner that is accessible to those with hearing or vision challenges and those with language access needs (LEP). The State ensures the uniform communication of the equal opportunity and non-discrimination policy through the provision and publication of required notices.

### Narrative

Pursuant to 29 CFR §§ 38.34 through 38.39, the State of Vermont ensures that notice of equal opportunity and non-discrimination are communicated uniformly by all recipients and service providers. The State ensures it is meeting its obligations by: 1) providing notice of equal opportunity and non-discrimination policy to every individual listed in 29 CFR § 38.34; 2) communicating the notice in a manner and form that is equally effective for individuals with disabilities and for individuals with language access needs; 3) posting the notice required by 29 CFR § 38.35 in conspicuous locations utilized by the individuals listed in 29 CFR §38.34, including the notice in memoranda and other communications with staff, and publishing the notice in employee and participant handbooks; 4) indicating on all publications, broadcasts, and other communications that the WIOA Title I financially assisted program or activity is an equal opportunity program/activity and that the appropriate services are available to individuals with disabilities; 5) including the notice and a discussion of equal opportunity rights in all orientation presentations and introductory materials; and 6) monitoring recipients and service providers to ensure compliance with 29 CFR §§ 38.34 through 38.39.

### **The State Provides the Equal Opportunity Notice**

All WIOA Title I registrants, applicants, eligible applicants or registrants, participants, applicants for employment, employees, unions or professional organizations that hold agreements with a recipient within the State, any subrecipients receiving WIOA Title I financial assistance from a recipient within the State, and members of the public receive or have direct access to a copy of the equal opportunity notice containing the specific wording found in [§ 38.35](#). The comprehensive One-Stop and American Job Center (AJC) case managers maintain a file checklist for each individual served that includes a discussion of participant rights under the non-discrimination and equal opportunity provisions of WIOA and 29 CFR Part 38. Every participant is also informed of their right to file a complaint of discrimination. Individuals served at the comprehensive One-Stop and AJCs sign a form and acknowledge receipt of this information and the signed receipt is maintained in the participant file.

### **The Notice is Effectively Communicated to Individuals with Disabilities and Individuals with Language Access Needs**

The State ensures that AJC Network partners and other recipients are equipped with the necessary resources and training to provide the notice to individuals with disabilities and to individuals with language access needs. Upon request, the notice will be made available in Braille and other preferred written languages. The State-level EO Officer and support staff coordinate with other State agencies that are the

subject matter experts to ensure that recipient programs have the resources necessary to communicate notices consistently and effectively to individuals with disabilities and/or language access needs. The state experts on serving people with disabilities are: [HireAbility](#) (Vocational Rehabilitation), [Disabilities Aging and Independent Living, Division for the Blind and Visually Impaired](#). The State experts on serving people with language access needs include [Office of Racial Equity](#), [Vermont Language Justice Project](#), and [State Refugee Office](#).

Other actions the State- and Recipient-level EO Officers and support staff are taking to ensure access for people with disabilities and/or language access needs include:

- The State EO Officer holds WIOA Title I recipients accountable for following [Vermont's WIOA Language Access Plan](#), which includes steps all recipients should take to ensure their programs are accessible to people with language access needs. The plan is updated on a biannual basis. Vermont chooses not to use census data as the primary method for determining the most common languages, but instead relies on subject matter experts and community partners to collect real-time data regarding the languages spoken in our state (see section E in the [Language Access Plan](#) for more information).
- The State is aligning WIOA Title I language access practices with what is recommended in Vermont's Office of Racial Equity's 2023 [Language Access Report](#).
- Staff at each AJC receive training on the resources available and are provided with the necessary tools to communicate the notice effectively to those with hearing or vision challenges, or language access needs.
- A Free Interpretation Services/language is prominently posted in all American Job Centers.
- The Equal Opportunity Notice is [publicly available](#) in all 14 languages identified in the [Vermont WIOA Language Access Plan](#). If an additional language is requested by a WIOA Title I program participant, the EO Officer arranges for professional translation services.

### **The State Posts and Disseminates the Notice**

The State ensures that the notice containing the specific wording found in [§ 38.35](#) is displayed in a conspicuous public place in all facilities where WIOA Title I financially assisted activities are conducted including American Job Centers, training providers, and other recipients. The notice is also displayed on the Vermont Department of Labor website.

The State Equal Opportunity Officer and support staff regularly updates Vermont Department of Labor staff on equal opportunity policy and obligations. The notice is included in the new employee welcome packet and is available on the Department's internal SharePoint site.

### **The State Includes the Required EO Statement in Publications, Broadcasts, and Other Communications**

The Vermont AJC Network partners and other WIOA Title I recipients are required to indicate that their WIOA Title I financially assisted program and/or activity is an "equal opportunity program" and that "auxiliary aides and services are available upon request to individuals with disabilities" in recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients or the public at large. Specifically, this requirement is for written or oral communications that describe WIOA Title I programs and/or the requirements to participate in WIOA Title I programs. If the communication includes a contact voice telephone number, then text telephone (TTY) or equivalent (relay service, videophone, captioned telephone, etc.) information must also be provided.

### **The State Requires Recipients and Service Providers to Include the Notice in Orientations**

Each WIOA Title I recipient must include equal opportunity and non-discrimination rights as part of the orientation for new participants, new employees, and the general public. A copy of the notice is provided to all new American Job Center participants to read and sign, acknowledging that they received it. The recipient-level EO officer or their support staff checks for this acknowledged form as part of routine onsite monitoring of the American Job Centers. In every instance, the new participant, new employee, or member of the public is provided with notice of the right to file a complaint with the state- or recipient-level EO officer or the Director of the U.S. Department of Labor Civil Rights Center.

### **The State- and Recipient-level EO Officers Monitor Recipients and Sub-Recipients for Compliance**

The monitoring process outlined in [Element 6](#) of this plan includes a section on the Notice and Communication requirements set forth in [§38.34–38.40](#).

## **Supporting Documentation**

- 3-1 [Vermont WIOA Language Access Plan](#)
- 3-2 [Notice & Communication Resources for Recipients](#)
- 3-3 [State Equal Opportunity Notice](#)
- 3-4 [Equal Opportunity Notice professionally translated into 14 languages](#)
- 3-5 [Sample Babel Notice \(Vermont Department of Labor\)](#)
- 3-6 [https://labor.vermont.gov/sites/labor/files/documents/WFD-3 Statement of Rights.pdf](https://labor.vermont.gov/sites/labor/files/documents/WFD-3%20Statement%20of%20Rights.pdf) Language Access Poster (“Point to your language/Free interpretation available”)
- 3-7 [Vermont Department of Labor Equal Opportunity Notice](#)
- 3-8 [Vermont Job Link Equal Opportunity Statement](#)
- 3-9 [Vermont WIOA EO Tagline](#)
- 3-10 [Equal Opportunity Notice on Vermont Department of Labor website](#)
- 3-11 [Office of Racial Equity Language Access Report 2023](#) (p 57 includes the list of languages and pp 69-71 refers to Department of Labor SharePoint Language Access resources for staff)
- 3-12 [Language Access Guidance Summary \(Chief Marketing Office\)](#)
- 3-13 [Statewide contracts for translation and interpretation](#)

## **ELEMENT 4 – DATA AND INFORMATION COLLECTION AND MAINTENANCE (29 CFR 38.41–38.45)**

### **Purpose**

The State must ensure that it, and each recipient, complies with the requirements of 29 CFR part 38 related to the collection of data and maintenance of records. The State must ensure that a data and information collection system is established and maintained for all of its recipients and WIOA financially assisted programs and activities. To ensure that the Governor, State Equal Opportunity Officer, and the Civil Rights Center (CRC) are able to conduct statistical and other quantifiable analysis, the State requires that all data and information is collected and recorded in a uniform, accessible manner that follows procedures prescribed by the Director of the CRC.

### **Narrative**

Pursuant to 29 CFR §§ 38.41 through 38.45, the State operates a uniform system for data collection, record maintenance, and the security of confidential information. The State ensures that: 1) participant data is collected in a manner that complies with 29 CFR Part 38; 2) the system and format in which records and data are kept have been designed to allow the State and Recipient-level EO Officers and the CRC to conduct statistical and other quantifiable data analyses; 3) that all confidential and sensitive information is secured in accordance with 29 CFR Part 38 and the State's policies; 4) each recipient maintains a log of complaints in accordance with 29 CFR § 38.41(c); 5) each recipient maintains records for three years in a manner and form that permits CRC to access the records; and 6) each recipient promptly notifies the Director of the CRC of the information required by 29 CFR §38.42.

### **Participant Data is Collected in a Manner that Complies with 29 CFR §38.41**

The State ensures that recipients collect information on applicants, registrants, eligible applicant/registrants, participants, terminees, employees, and applicants for employment. The state- and recipient-level EO officers will issue a policy letter by the end of 2024 that details the information that must be collected. Recipients shall be required to collect the following information on applicants, registrants, eligible applicants/registrants, terminees, employees, and applicants for employment:

- 1) Race/ethnicity
- 2) Sex
- 3) Age
- 4) Disability status, if known
- 5) Language Access Needs and preferred language

Recipients are required to collect all information in a manner that complies with 29 CFR Part 38 and must indicate race and ethnicity according to the guidelines of the Office of Management and Budget. Intake forms include questions about language access needs and preferred language and notify recipients of the duty to collect this data. Participant data is collected during the intake process and updated as needed throughout an individual's participation in the WIOA system.

Vermont Department of Human Resources (DHR) collects voluntary demographic information for job applicants and employees in state government positions. One of the tools they use for collecting this information is the EEO Compliance Survey, which is given to new employees to complete as part of the onboarding process. Applicant and employee demographic information is kept confidential within DHR and



not disclosed to hiring managers or agency/department leaders. The Vermont Department of Labor and other state agencies and departments who are WIOA Title I recipients cannot collect or report on their own employee demographic information, but DHR produces annual workforce reports that provide statewide equal opportunity analysis on underrepresented racial and ethnic groups (UREG) and sex. It also provides an analysis of workforce characteristics like age distribution and employee distribution by generation.

### **The State Data Collection and Record System Allows for Statistical or Other Quantifiable Data Analyses**

The State uses both electronic and paper records for its WIOA programs. For programs that collect data electronically, the State uses third party software operated by a multistate partnership known as America's Job Link Alliance. In Vermont, this product is known as Vermont Job Link (VJL). Any data that must be collected on paper records is entered into a standardized form.

All data collected in the State's Vermont Job Link Case Management System is kept in a form that allows the Governor, the State-level EO Officer, and the CRC to conduct statistical or other quantifiable data analyses. Vermont Job Link collects and stores required data on secured servers. Reports are easily accessed by authorized grant management staff. Participant data is kept individually and in an aggregated report. The Governor, State-level EO Officer, and CRC are able to effectively monitor recipient equal opportunity performance, identify individual instances of discrimination, and identify groups who have been discriminated against.

### **Data, Confidential Records, and Sensitive Information are Secured and Kept Confidential**

All records are handled confidentially in accordance with applicable provisions of 29 CFR Part 38. The Vermont Department of Labor has adopted comprehensive policies and procedures to ensure that all data is kept secure, and that all staff are trained on ensuring data security. The Department also complies with information security policies set forth by the Vermont Agency of Digital Services.

The demographic information collected is available to staff for purposes of determining eligibility, data-analysis and reporting. This information is not available to the general public. Staff members are informed of the confidentiality requirements during orientation, in subsequent comprehensive annual trainings, and by reviewing Department and State information security policies.

All electronic records are hosted on secure servers and sites. Records are only accessible by authorized users and are password protected.

Where medical or disability-related information has been collected, it is kept on separate forms. Any forms containing medical or disability-related information are stored in a separate area, and are kept secure at all times through locked cabinets or password protected devices. Only certain individuals are permitted access to this information under the following limited circumstances:

- 1) Program staff are permitted access if they are responsible for documenting eligibility and disability is an eligibility criterion for the particular program or activity.
- 2) First aid and safety personnel are permitted access if access to the underlying documentation relating to a participant's medical condition is needed in an emergency.
- 3) Government officials are permitted access to the records if they are engaged in enforcing 29 CFR Part 38 or any other federal laws.

The State shall ensure that recipients and service providers follow policy on the provision of information regarding restrictions on the activities of individuals with disabilities and regarding reasonable

accommodations for those individuals. The provision of any such information will be limited to the status of a disability or medical condition and the need for restrictions on activities or reasonable accommodations.

The State shall keep confidential the identity of any individual who furnishes information relating to, or assists in, an investigation or compliance review. The identity of the individual who files the complaint shall be kept confidential. If the State is required to disclose an individual's identity, that individual shall be protected from retaliation.

### **The State Ensures That Each Recipient Maintains a Log of Complaints**

Each recipient and service provider maintains a log of complaints filed alleging discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, or participation in a WIOA Title I-financially assisted program or activity. American Job Centers report to the State Monitor Advocate on a quarterly basis and transmit a certified copy of each location's log of complaints. These logs are collected and reported to the Recipient-level EO Officer.

The State uses a standardized log that contains the following information regarding complaints of discrimination:

- 1) Name and address of complainant
- 2) Basis of the complaint
- 3) A description of the complaint
- 4) The date the complaint was filed
- 5) The disposition and date of disposition of the complaint

Recipient EO Officers inform the State-level EO Officer about complaints and investigations. The State-level EO Officer regularly monitors and reviews complaint logs and receives updates on the complaint logging procedures on an as needed basis. When necessary, the State-level EO Officer will require recipients to undergo further training in instances where logs have been found to be incomplete or inadequate. The state- and recipient-level EO officer will monitor complaint logs to ensure that identifying information is maintained in a confidential manner.

### **Each Recipient Maintains Records for Three Years in a Manner and Form that Permits Access by CRC**

The State ensures that recipients maintain the following records for a period of three years:

- 1) Records of applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment;
- 2) Any record or copy of a complaint of discrimination, including all relevant records regarding the complaint and actions taken on the complaint;
- 3) Any record or copy of a compliance review, including all relevant records regarding the compliance review or the action taken; and
- 4) Other records that are required by the Director of the CRC or by 29 CFR Part 38.

The State ensures that each recipient maintains both electronic and paper records in a manner that permits the Director of the CRC to access the records during its hours of operation.

### **Each Recipient Promptly Notifies the CRC of Information Required by 29 CFR § 38.42**

The State, each recipient, and each grant applicant are required to promptly notify the CRC Director when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the prohibited bases listed in 29 CFR § 38.42(a). The State ensures that the notification sent to the CRC

includes, at minimum: 1) the names of the parties to the action or lawsuit; 2) the forum in which each case was filed; and 3) the relevant case numbers.

The State shall ensure that each recipient and grant applicant have the resources necessary to promptly provide any information that the Director of the CRC considers necessary to:

- 1) investigate complaints and conduct compliance reviews on bases prohibited under the non-discrimination and equal opportunity provisions of WIOA and 29 CFR Part 38; and
- 2) determine whether or not the grant applicant, if financially assisted, would be able to comply with the non-discrimination and equal opportunity provisions of WIOA or 29 CFR Part 38.

The State shall ensure that each recipient is prepared to provide information or submit reports that the Director of CRC considers necessary to determine compliance with the non-discrimination and equal opportunity provisions of WIOA or 29 CFR Part 38. The State-level EO Officer shall provide the resources and support necessary to achieve efficient and effective compliance

### **The State- and Recipient-level EO Officers Monitor Recipients and Sub-Recipients for Compliance**

The monitoring process outlined in [Element 6](#) of this plan includes a section on the Data and Information Collection and Maintenance requirements set forth in [§38.41–38.45](#).

## **Supporting Documentation**

- 4-1 [Standard Complaint Log](#)
- 4-2 [State of Vermont EEO Compliance Survey](#)
- 4-3 [State of Vermont Workforce Reports](#)
- 4-4 [VDOL Policy 4 – Protection of Confidential Information](#)
- 4-5 [Vermont Agency of Digital Services Policies](#)

## ELEMENT 5 – AFFIRMATIVE OUTREACH (29 CFR 38.40)

### Purpose

The State and WIOA Title I recipients must take appropriate steps to ensure that they are providing equal access to WIOA Title I financially assisted programs and activities. The State must ensure that each recipient's efforts focus on including persons of different genders, various racial, ethnic, and national origin groups, various religions, individuals with language access needs, individuals with disabilities, and individuals in different age groups.

### Narrative

The Vermont 2024-2027 [WIOA Combined State Plan](#) prioritizes reaching out and providing equitable service to individuals with barriers to employment, including displaced homemakers; low-income individuals; Indians, Alaska Natives, and Native Hawaiians; individuals with disabilities, including youth who are individuals with disabilities; older individuals; ex-offenders; homeless individuals, or homeless children and youth; youth who are in or have aged out of the foster care system; individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers; farmworkers (as defined at section 167(i) of WIOA and Training and Employment Guidance Letter No. 35-14); individuals within two years of exhausting lifetime eligibility under the Temporary Assistance for Needy Families program; single parents (including single pregnant women); and long-term unemployed individuals. Additional populations include Veterans and unemployed workers (see page 6 of the Plan).

In the signed [Memorandum of Understanding](#), Vermont's American Job Center Network partners agree that "activities, employment, information, and services available to job seekers and employers through the Vermont AJC Network must be both physically and programmatically accessible to all people. A person's race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, age, political affiliation or belief, disability, veteran's status, or physical or mental condition will not impede their ability to access services, events, or programs." (see page 9 of the MOU).

The State ensures that recipients are complying with the affirmative outreach requirements found in 29 CFR § 38.40 by requiring them to:

- Create and post advertisements for WIOA Title I programs and activities that include various populations;
- Send notices about openings in WIOA Title I programs and activities to schools or community service groups that serve various populations; and
- Coordinate with partner entities to improve outreach and broaden the population of individuals considered for participation and employment.

### Recipients Use Focused Advertisements for WIOA Programs

When recipients are advertising their WIOA Title I programs and activities, they are required to take a strategic approach in order to ensure they are including a variety of populations in their outreach. Focused advertisements should be designed to include persons of different genders, various racial and ethnic/national origin groups, various religions, individuals with language access needs, individuals with disabilities, individuals in different age groups, and veterans.

Advertisements and other marketing materials should be created with accessibility in mind, using the best practice guidance provided by the State Chief Marketing Office on their [Creating Accessible Communications webpage](#).

### **Recipients send notices about openings in recipients' programs and/or activities to schools or community service groups that serve various populations**

With the goal of reaching a wide variety of potential participants and employees, all WIOA Title I recipients are required to include a diverse group of individuals, schools, and community service groups in their WIOA Title I outreach efforts.

The State-level EO Officer and support staff regularly participate in statewide committees and groups that are focused on serving people from historically marginalized populations in Vermont. Most of these groups have mechanisms for communicating about WIOA Title I opportunities. These committees and groups include the [Refugee and Immigrant Service Provider Network](#), [Vermont Assistive Technology Council](#), [Governor's Workforce Equity and Diversity Council](#), and [Vermont Language Justice Project Task Force](#). Additionally, the State-level EO Officer and support staff do regular outreach to individuals and community organizations throughout the state who serve Vermonters experiencing significant barriers to employment and training services.

### **Recipients Coordinate with Partner Entities to Improve Outreach**

All WIOA Title I recipients are required to coordinate with partner entities such as education, social service, local government, businesses, and community groups to improve outreach. When engaging with partners, participants should consider the outreach and engagement best practices found on page 54 of the [Office of Racial Equity Language Access Report](#).

In order to eliminate duplication and strengthen outreach efforts, the Vermont American Job Center Network partners work collaboratively to promote openings in the statewide employment and training services offered in Vermont. Together, network partners conduct outreach and provide resources to individuals who need specific assistance in overcoming barriers to employment.

In addition to the AJC Network Partners, Vermont Department of Labor maintains relationships with shelters, rehabilitation centers, cultural organizations, and other community groups to ensure that programs and activities draw participants from various backgrounds.

### **The State- and Recipient-level EO Officers Monitor Recipients and Sub-Recipients for Compliance**

The monitoring process outlined in [Element 6](#) of this plan includes a section on the Affirmative Outreach requirements set forth in [§38.40](#).

## **Supporting Documentation**

- 5-1 [Vermont WIOA Combined State Plan](#)
- 5-2 [Vermont One-Stop American Job Center Network Partner MOU](#)
- 5-3 [Creating Accessible Communications \(Chief Marketing Office\)](#)
- 5-3 [Office of Racial Equity Language Access Report 2023](#) (p 54 includes equitable outreach and engagement resources)
- 5-4 [Vermont WIOA Language Access Plan](#)

## **ELEMENT 6 – GOVERNOR OVERSIGHT RESPONSIBILITIES AND MONITORING (29 CFR 38.51–38.53)**

### **Purpose**

The State-level EO Officer, on behalf of the Governor, is responsible for ensuring compliance with the non-discrimination and equal opportunity provisions of WIOA section 188 and 29 CFR Part 38 including the elements listed in 29 CFR §38.54(c). At a minimum, states are required to conduct an annual analysis of records and data kept by the recipient under [§ 38.41](#), including analyses by race/ethnicity, sex, limited English proficiency, preferred language, age, and disability status, and to conduct investigations of any significant differences found. The goal of the investigation is to determine if the differences appear to be caused by discrimination. States are also required to do an annual assessment to determine if recipients are fulfilling their administrative obligations under Section 188 of WIOA and as listed in the State’s Non-Discrimination Plan.

### **Narrative**

The Vermont State-level EO Officer and the Recipient-level EO Officer for the single area state ensure that all WIOA financially assisted programs and activities throughout Vermont are complying with the non-discrimination and equal opportunity provisions of WIOA Section 188 and 29 CFR Part 38. This is accomplished through an annual monitoring process to determine whether each recipient is conducting its WIOA Title I financially assisted program in a non-discriminatory manner and if they are complying with the non-discrimination and equal opportunity administrative requirements.

### **Statewide Monitoring Roles and Responsibilities**

As stated previously, Vermont operates as a single-area state. The State- and Recipient-level EO Officers have distinct and separate responsibilities for monitoring compliance with requirements set forth in 29 CFR Part 38.

The State-level EO Officer and support staff are responsible for monitoring Vermont American Job Center (AJC) Network partners as reflected in the state’s One-Stop American Job Center Services Memorandum of Understanding (MOU). Section V.m. of the MOU requires all AJC Network partners to comply with the WIOA Non-Discrimination and Equal Opportunity requirements.

The Recipient-level EO Officer and support staff are responsible for monitoring the WIOA Title I subrecipients, including eligible training providers, OJT employers, grant recipients and other service providers. They are also responsible for following their WIOA monitoring policy outlined in Administrative Memo 036, which includes an internal review of non-discrimination and equal opportunity communications to ensure WIOA participants are made aware of their rights, including their right to file a complaint.

The following table outlines these separate compliance monitoring roles and responsibilities:

State-level EO Officer & Staff	Recipient-level/One-stop Operator EO Officer & Staff
<ul style="list-style-type: none"> <li>• Conducts annual compliance monitoring of State AJC Network partners:               <ul style="list-style-type: none"> <li>➤ State Workforce Development Board</li> <li>➤ Vermont Department of Labor</li> <li>➤ Agency of Education</li> <li>➤ Division of Vocational Rehabilitation</li> <li>➤ Division for Blind and Visually Impaired</li> <li>➤ Economic Services Division</li> <li>➤ Community Service Employment Program recipient</li> <li>➤ Community Services Block Grant recipients</li> <li>➤ Migrant &amp; Seasonal Farmworker Programs</li> <li>➤ Native American Programs</li> <li>➤ Job Corps contractors and providers</li> <li>➤ YouthBuild Programs</li> <li>➤ Reentry Employment Opportunities</li> <li>➤ Community College of Vermont</li> <li>➤ Vermont State University, Randolph campus</li> <li>➤ Vermont Student Assistance Corporation</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Conducts annual compliance monitoring of WIOA Title I subrecipients               <ul style="list-style-type: none"> <li>➤ Grant recipients</li> <li>➤ Eligible Training Providers and other service providers</li> <li>➤ OJT Employers</li> </ul> </li> <li>• Conducts annual internal review of Notice and Communications (Element 3)</li> </ul>

### Elements of the Monitoring Process

The EO Officers and their support staff conduct an annual desk review of each recipient/subrecipient.

Elements of a Desk Review include:

1. Notification Letter with Questionnaire and Supporting Documentation requirements
2. Statistical Analysis
3. Desk Review of completed Questionnaire and Supporting Documentation submitted by recipient
4. Monitoring Report
5. Follow-Up, if needed (corrective actions, sanctions and resolution)

If significant findings are identified during a desk review or there is insufficient evidence to determine compliance, the EO Officers or their support staff may conduct an on-site review. An on-site review is also conducted when an equal opportunity related complaint is received about an AJC Network partner or subrecipient. Depending on the findings or complaint, the On-Site Review may include staff interviews, procedure/file review, and inspection of the site to determine notice and accessibility compliance.

### Conducting Statistical Analysis

State- and recipient-level EO officers conduct an annual statistical or other quantifiable analysis of records and data kept by the Vermont AJC Network partners and subrecipients, including analyses by race/ethnicity, sex, limited English proficiency, preferred language, age, and disability status. If significant differences are found, EO officers and their support staff conduct an investigation to determine if discrimination has occurred. This includes whether or not an individual may have been excluded from participation in, denied

benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with the recipient's services.

### **Monitoring Administrative Obligations**

Through the established monitoring process, the State- and Recipient- level EO Officers and their support staff conduct an annual assessment to determine whether the Vermont AJC Network partners and subrecipients have fulfilled their administrative obligations under Section 188 of WIOA and any duties assigned to the under the Non-Discrimination Plan. Focus areas for annual monitoring include:

- Equal Opportunity Officers: [§38.28–38.33](#)
- Notice and Communication: [§38.34–38.40](#)
- Data and Information Collection and Maintenance: [§38.41–38.45](#)
- Affirmative Outreach: [§38.40](#)
- Language Access: [§38.90](#)
- Complaint Processing Procedures: [§38.72–38.73](#)
- Accessibility Requirements: [§38.13](#)
- Policy Issuance: [§38.54\(c\)\(2\)\(ii\)](#)
- If the recipient under review is granting or otherwise providing Title I WIOA financial assistance to another entity (subrecipient), the review will also include:
  - Assurances: [§38.25–38.45](#)
  - Compliance Review: [§38.50–38.55](#)

### **Imposing Corrective Actions and Sanctions for Recipient Non-Compliance**

The State- or Recipient-level EO Officer may impose corrective actions whenever a Vermont AJC Network partner or subrecipient is cited as a result of a monitoring review or complaint investigation. The EO officers will require a voluntary corrective action plan in each instance where discrimination or non-compliance is found during a monitoring review or complaint investigation. The corrective action plan must address the particular act of discrimination or other finding of non-compliance, must completely correct the discrimination or other finding, and must include timetables by which to correct the discrimination or other finding. To ensure that the discrimination/finding does not recur, a written assurance must accompany a corrective action plan stating that the recipient will cease in its discriminatory practices where necessary, and retroactive or prospective relief will be required.

If a monitoring review reveals deficiencies or noncompliance that cannot be resolved or corrected on a voluntary basis, the State-level EO Officer or Recipient-level EO Officer provides technical assistance. A follow-up site visit is conducted to evaluate the degree of progress made toward resolving existing noncompliance factors.

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

- Imposition of reparation for discriminatory practices;
- Establishment and issuance of policies as applicable to the violation;



- Placement into a training program or hire into a vacant position for which one may have been qualified, but denied;
- Discontinuing referral of participants to sites against which discrimination allegations have been alleged and proven;
- Removal of participants from sites refusing to implement corrective action; and
- Deferral of new grants or other WIOA Title I financial assistance.

When necessary, the case will be referred to the U.S. Department of Labor, Civil Rights Center for enforcement or recommendation for suspension of funds until compliance is met.

### **Recipient Right to Appeal**

If a Vermont AJC Network partner or subrecipient disagrees with the monitoring findings, they must appeal in writing to the EO Officer or the support staff person who completed the monitoring report within 30 calendar days of the date of the monitoring report. The appeal letter must identify the issue(s) in dispute and must contain a full statement of the entities' position with respect to such issues and the pertinent facts and reasons in support of their position. In addition to the required written statement, the entity must also provide copies of any documents supporting its claim. Those portions of the monitoring report not specified for review in the appeal letter shall be considered resolved and not subject to further review. When no timely appeal is made, the monitoring report shall be considered final and not subject to further review.

If the staff person who received the appeal letter is not the State-level EO Officer, that staff person is responsible for forwarding the appeal letter to the State-level EO Officer in a timely manner. The State-level EO Officer or designee will then determine if the dispute is reviewable. If it is determined reviewable, the State level EO-Officer or designee may hold meeting with the appellant and the person who conducted the monitoring review to discuss the pertinent issues of the dispute and gather any additional statements and documentation not provided in the appeal letter. Based on the review, the State-level EO Officer or designee will prepare a written decision to send to the appellant. The decision made by the State-level EO Officer or designee shall be final.

### **Supporting Documentation**

- 6-1 [Recipient Annual Monitoring Questionnaire](#)
- 6-2 [Recipient Annual Monitoring Report Template](#)
- 6-3 Data Analysis Tools:
  - 6-3 a. [Populations Served Analysis](#)
  - 6-3 b. [WIOA/Wagner Peyser Analysis](#)
  - 6-3 c. [ETPL Analysis](#)
- 6-4 [Vermont Department of Labor, Workforce Development Division Admin Memo 036 – Monitoring Policy](#)

## ELEMENT 7 – COMPLAINT PROCESSING PROCEDURES (29 CFR 38.72-38.73)

### Purpose

The State ensures that all WIOA Title I recipients have complaint processing procedures that are applicable to discrimination-related complaints. Procedures must be in accordance with 29 CFR § 38.72 and recipients must publish these procedures according to 29 CFR § 38.73. The State ensures that every individual served by a WIOA Title I recipient, service provider, program or activity is made aware of the right to file a complaint and the process to do so. Every applicant, registrant, eligible registrant/applicant, participant, trainee, and employee must have access to recipient's complaint procedures.

### Narrative

The State complies with 29 CFR §§ 38.72 and 38.73 by: 1) assigning responsibility for review of complaints of discrimination or other 29 CFR Part 38 violations to the recipient Equal Opportunity Officer; 2) adopting and updating procedures that comply with 29 CFR § 38.72; and 3) publishing the complaint processing procedures on behalf of service providers. The State pledges to continue to update complaint processing procedure materials to ensure they meet the requirements of 29 CFR Part 38.

#### **The State Requires the Recipient EO Officer to Receive Complaints of Discrimination**

The State-level EO Officer requires each Recipient-level EO Officer to be the designated recipient of complaints against the recipient or subrecipients. All complaints alleging discrimination, harassment, intimidation, or retaliation on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, or participation in a WIOA Title I-financially assisted program or activity must be referred to the recipient EO Officer. Any [small recipient](#) or [service provider](#) who is not required to designate an EO Officer, must have a complaint process that lists the State- or Comprehensive One-Stop Recipient-level EO Officer (see [Element 2](#)) as the contact for complaints.

Additionally, all [employment services complaints](#) received by service providers and American Job Center Staff are required to be sent to the VDOL State Monitor Advocate and/or General Counsel at ([labor.complaints@vermont.gov](mailto:labor.complaints@vermont.gov)), who then refers complaints of discrimination, harassment, intimidation or retaliation to the State-level EO Officer ([labor.eoofficer@vermont.gov](mailto:labor.eoofficer@vermont.gov)) for processing.

The Vermont Department of Labor's Complaint and Grievance Manual, which is included in the State's WIOA Manual, directs the recipient EO Officer to receive, review, and investigate all complaints of discrimination. Additionally, the recipient EO Officer is directed to ensure that the review and determination complies with 29 CFR Part 38 and is completed on the forms required by the U.S. Department of Labor Civil Rights Center (CRC).

#### **The State Adopts Complaint Processing Procedures That Comply with 29 CFR § 38.72**

The State adopts and annually reviews a uniform complaint processing procedure that must also be adopted and implemented by recipients and service providers. The State's uniform procedures consist of the following elements:

- 1) Within 90 business days of the date on which the complaint is filed, the recipient must issue a written Notice of Final Action.

- 2) The recipient must provide the complainant with an Initial Written Notice. The Initial Written Notice must be issued within ten (10) business days of receipt of the complaint, and at a minimum must contain the following information:
  - a. an acknowledgement that the recipient has received the complaint;
  - b. a notice that the complainant has the right to be represented throughout the complaint process;
  - c. the equal opportunity notice required by 29 CFR §38.35;
  - d. notice that the complainant has the right to request and receive, at no cost, auxiliary aids and services and language assistance services; and
  - e. that the Initial Written Notice will be translated into non-English languages.
- 3) The recipient must provide to the complainant a written statement of the issues. At a minimum, the written statement of the issues must contain:
  - a. a list of issues raised in the complaint; and
  - b. following each issue in the list, the recipient must state whether the recipient will accept or reject the issue for investigation and provide an explanation for each rejection.
- 4) A minimum 30-day period for fact-finding or investigation of the circumstances underlying the complaint.
- 5) A minimum 20-day period during which the recipient attempts to resolve the complaint, including alternative dispute resolution, which is described in the complaint procedures.
- 6) The complainant will receive a written Notice of Final Action within 90 business days of filing the complaint. The Notice must include the recipient's decision on the issue and an explanation of the reason underlying the decision or a description of how the parties resolved the issue.
- 7) The Notice must state that the complainant has the right to file a complaint with the CRC within 30 business days of the date on which the Notice of Final Action is issued if they are dissatisfied with the Recipient's final action on the complaint.
- 8) If a recipient determines that it does not have jurisdiction over a complaint, it must notify the complainant, in writing, immediately. The communication will include a statement of the reasons for that determination and notice that the complainant has a right to file a complaint with CRC within 30 business days of the date on which the complainant receives the notice.

The recipient must adopt the State's uniform Alternative Dispute Resolution (ADR) procedures. The recipient ADR procedures must contain:

- 1) The complainant may attempt ADR at any time after the complainant has filed a written complaint with the recipient but before the recipient issues the Notice of Final Action.
- 2) Only the claimant may choose to utilize ADR in place of the standard process.
- 3) Notification that a party to any agreement reached under ADR may file a complaint with the CRC in the event the agreement is breached within 30 business days of the date when the non-breaching party learns of the alleged breach. CRC will evaluate the circumstances to determine whether the agreement has been breached. If it is determined that the agreement has been breached, the complainant will be notified that they may file a complaint with CRC based on the original allegations and the deadline for filing will be waived.

- 4) If the parties do not reach an agreement under ADR, the complainant may file a complaint with CRC.

### **Each Recipient Publishes the Complaint Processing Procedures**

Each recipient publishes the complaint processing procedures and provides them to applicants, registrants, eligible applicants/registrants, employees, terminatees, and the general public. Notice of the rights under the complaint processing procedures must be acknowledged as part of the intake form used by WIOA financially assisted programs and activities. The procedures are made available at all American Job Centers. Annually, the State-level EO Officer will review the standard complaint processing procedures and update them as necessary. When applicable, each recipient is required to amend their complaint procedures to match the State standard complaint processing procedure.

### **The State- and Recipient-level EO Officers Monitor Recipients and Sub-Recipients for Compliance**

The monitoring process outlined in [Element 6](#) of this plan includes a section on the Complaint Processing and Procedure requirements set forth in [§38.72-38.73](#).

## **Supporting Documentation**

- 7-1 [VDOL Complaint and Grievance Manual](#)
- 7-2 [VDOL Employment Service Complaint Procedure](#)
- 7-3 [EO Complaint Form](#)
- 7-4 [Complaint Log](#)
- 7-5 [Workforce Development Form WFD-3](#)

## ADDITIONAL ELEMENTS – GRANT APPLICANT/RECIPIENT AND TRAINING PROVIDER COMPLIANCE (29 CFR 38.54 (c)(2))

### Purpose

In addition to the previous elements, the State is required to address seven other elements as part of the State of Vermont Non-Discrimination Plan. The State must demonstrate that it has: 1) a system for determining whether a grant applicant or training provider is likely to conduct its programs or activities in a nondiscriminatory way and comply with 29 CFR Part 38; 2) procedures for reviewing of recipient policy issuances to ensure they are nondiscriminatory; 3) a system for reviewing recipients' job training plans, contracts, assurance and other agreements to ensure that they are nondiscriminatory and contain the language required by 29 CFR Part 38; 4) procedures for ensuring that recipients comply with the non-discrimination and equal opportunity requirements of 29 CFR § 38.5; 5) procedures for ensuring that recipients comply with the requirements of applicable federal disability non-discrimination law; 6) a system of policy communication and training to ensure that EO Officers and members of the recipients' staffs who have been assigned responsibilities under the non-discrimination and equal opportunity provisions of WIOA or are aware of and can effectively carry out these responsibilities and 7) procedures for obtaining prompt corrective action or applying sanctions when noncompliance is found.

### Narrative

The State ensures compliance with the additional elements listed in 29 CFR § 38.54(c)(2) through the measures and commitments described in previous elements of this Non-Discrimination Plan. The following narrative addresses each required additional element and provides a reference to where it is addressed in the Plan. All supporting documentation is found within the sections where each requirement is addressed.

#### **The State has a system for determining whether a grant applicant or training provider is likely to conduct its programs or activities in a nondiscriminatory way and comply with 29 CFR Part 38**

All grant applications and agreements, agreements with training providers and agreements with other WIOA Title I finally assisted entities include assurances that they will comply with the non-discrimination requirements under WIOA Title I. [Element 1](#) contains the requirements and [Element 6](#) contains the monitoring protocol.

The State and Recipient-level EO Officers conduct an annual analysis of records and data kept by the recipient (including grant applicants and training providers) under [§ 38.41](#), including analyses by race/ethnicity, sex, limited English proficiency, preferred language, age, and disability status, and to conduct investigations of any significant differences found. The goal of the investigation is to determine if the differences appear to be caused by discrimination. [Element 6](#) contains this monitoring protocol.

#### **The State reviews recipient policy issuances to ensure they are nondiscriminatory**

The state and recipient-level EO officers conduct an annual review of WIOA Title I service-related policies issued by Vermont AJC Network partners and subrecipients to determine whether they are fair and equitable. [Element 6](#) contains this monitoring protocol.

#### **The State has a system for reviewing recipients' job training plans, contracts, assurance and other agreements to ensure that they are nondiscriminatory and contain the language required by 29 CFR Part 38**

All grant job training plans, applications, contracts, and other agreements with other WIOA Title I financially assisted entities include assurances that they will comply with the non-discrimination requirements under found in 29 CFR part 38. [Element 1](#) contains the assurance requirements and [Element 6](#) contains the monitoring protocol.

**The State has procedures for ensuring that recipients comply with the non-discrimination and equal opportunity requirements of 29 CFR § 38.5**

The State and Recipient-level EO officers conduct an annual analysis of records and data kept by the recipient (including grant applicants and training providers) under [§ 38.41](#), including analyses by race/ethnicity, sex, limited English proficiency, preferred language, age, and disability status, and to conduct investigations of any significant differences found. The goal of the investigation is to determine if the differences appear to be caused by discrimination. This includes whether or not an individual may have been excluded from participation in, denied benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with the recipient's services. [Element 6](#) contains this monitoring protocol.

**The State has procedures for ensuring that recipients comply with the requirements of applicable Federal disability non-discrimination law, including Section 504; Title II of the Americans with Disabilities Act of 1990, as amended, if applicable; WIOA Section 188, and this part with regard to individuals with disabilities**

The Affirmative Outreach section of the Plan ([Element 5](#)) describes the reasonable efforts that Vermont recipients are required to take to provide equitable access to their WIOA Title I financially assisted programs and activities. This includes efforts to reach out to and equitably serve individuals with disabilities.

The State—and Recipient-level EO officers conduct an annual analysis of records and data kept by the recipient under [§ 38.41](#), including analyses by disability status. If any significant differences are found, investigations are conducted to determine whether the differences appear to be caused by discrimination.

[Element 6](#) contains the protocols and tools for monitoring compliance for accessibility and affirmative outreach. It also includes the requirements and tools for conducting the annual statistical analysis.

**The State has a system of policy communication and training to ensure that EO Officers and members of the recipients' staffs who have been assigned responsibilities under the non-discrimination and equal opportunity provisions of WIOA or are aware of and can effectively carry out these responsibilities**

The State-level EO Officer and designated staff issue annual communications to WIOA Title I affiliated EO officers describing their responsibilities under WIOA and providing training opportunities and other technical assistance. [Element 2](#) describes this process and [Element 6](#) contains the monitoring protocol for ensuring requirements are being met under [§38.28–38.33](#).

**The State has procedures for obtaining prompt corrective action or applying sanctions when noncompliance is found**

The Corrective Action and Sanction procedures are explained in [Element 6](#).