

# **WORKFORCE SOLUTIONS TEXOMA POLICIES & PROCEDURES**

## **CHAPTER 16 EQUAL OPPORTUNITY, ADA COMPLIANCE, & CONFIDENTIALITY**

Policy previously a WST Program Policy (Chapter 8, Section 1 – Equal Opportunity) last updated July 16, 2008. Policy moved to Board Policy section to expand policy's scope.

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# CHAPTER 16 – EQUAL OPPORTUNITY, ADA COMPLIANCE , AND CONFIDENTIALITY

## 16.1. PURPOSE

It is the policy of the Workforce Solutions Texoma (WST) that all customers are treated in a fair, equitable manner and that a nondiscrimination and an equal opportunity policy is followed. WST is committed to ensuring that all customers in the Texoma Board area have equal access to all services, programs, and facilities. It is WST's policy that no customer will be denied access or services on the basis of race, color, religion, sex, national origin, age, disability, political affiliation, or belief. In addition, under the WIA requirements, there will be no discrimination against individuals either on the basis of citizenship/status as a lawfully admitted immigrant authorized to work in the United States in any WIA Title I-financially assisted programs and/or activities.

## 16.2 REFERENCES

References for WST's Equal Opportunity Policy include the following:

- " **Title VI Civil Rights Act of 1964**, as amended (Public Law 888-352)
- " **Department of Justice (DOJ) LEP Policy Guidance**, entitled **"Enforcement of Title VI of the Civil Rights Act of 1964 – National Origin Discrimination Against Persons with Limited English Proficiency"**
- " **Executive Order 13166: "Improving Access to Services for Persons with Limited English Proficiency"**
- " **"Checklist for Developing a Limited English Proficiency (LEP) Plan,"** National Association of State Work Force Agencies (NASWA) 07-02-03
- " **Texas Workforce Commission Letter WD 24-01** dated 06-22-01
- " **Federal Register: 08-08-03, Volume 68, Number 153, "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (Revised HHS LEP Guidance),** Department of Health and Human Services FR Doc 03-20179
- " **Title IX, Education Amendments of 1972**, as amended
- " **Section 504, Rehabilitation Act of 1973**, as amended (Public Law 93- 112)
- " **Age Discrimination Act of 1975**
- " **Texas Accessibility Standards of the Architectural Barriers Act**
- " **Americans with Disabilities Act of 1990** (Public Law 101-336)
- " **Section 188 of the Workforce Investment Act of 1998**
- " **Title 29 Code of Federal Regulations, Part 37 (29 CFR 37)**

### **16.3 GRIEVANCE/COMPLAINT**

It is also Board policy that no person who has filed a complaint, testified, assisted or participated in any manner in the investigation of a complaint shall be intimidated, threatened, coerced, or discriminated against, in retaliation for such participation. Complaints alleging violations concerning any non-criminal grievance or complaint of discrimination because of race, color, religion, sex, national origin, age, disability, or political affiliation or beliefs; disability issues; accessibility issues; and/or complaints from potential or active participants concerning workforce center issues/programs will be investigated and resolved. It is the goal of the WST that all complaints received are resolved in a timely manner. See Chapter 8, Section 2 - Program Grievance/Complaint Procedures for additional information.

The Equal Opportunity Is the Law Notice will be provided to all program applicants and participants through the Orientation to Complaint Notice or other appropriate programmatic complaint notice. Said Notice will contain a Contractor and Board EO Officer name, position, title, address, and telephone number (voice and TDD/TTY). Participants will receive their original, signed Notice and a signed copy will be kept in each participant's file.

### **16.4 EO OFFICER**

The WST will designate an Equal Opportunity Officer to ensure that all programs, procedures, and workforce centers are in compliance with all state and federal equal opportunity regulations. The EO Officer will also serve as the Complaint Officer for WST and handle investigation of complaints related to programmatic, nondiscrimination and equal opportunity issues. After monitoring and investigating complaints, the EO Officer will take corrective action to ensure that there are no violations of nondiscrimination and EO obligations. The EO Officer will also ensure that training is provided on at least an annual basis for Board and contractor staff on local, state, and federal EO Officer laws and regulations, including sexual harassment. Additional complaint/grievance policy and procedural information can be located at WST Policy 8.2.

#### **16.4.1 Workforce Center EO Liaisons**

WST service provider will ensure each workforce center has a designated Equal Opportunity Liaison that is trained in assisting customers in resolving program complaints and making referrals for discrimination-related complaints. Additional complaint/grievance policy and procedural information can be located at WST Policy 8.2.

### **16.5 SIGNAGE**

All workforce centers will post visible signage stating that alternative means of communication to individuals with disabilities are provided, and ensure that interested individuals, including individuals with visual and hearing impairments, can obtain information as to the existence or location of accessible services, activities, and facilities.

In addition, all workforce centers will post the Equal Opportunity Is the Law Notice, 29 CFR 37.30, stating that they do not discriminate on any prohibited ground.

## **16.6 ARCHITECTURAL ACCESSABILITY**

All workforce centers will provide architectural accessibility for individuals with physical disabilities according to the standards for physical accessibility prescribed by the General Services Administration under the Architectural Barriers Act.

## **16.7 WRITTEN PUBLICATIONS**

All publications produced by the Board and any contractors will include the EO policy statement that indicates that the recipient is "an equal opportunity employer/program." In addition, all publications must include the statement that "auxiliary aids and services are available, upon request, to individuals with disabilities." Finally, all publications must include a TDD/TTY number that is in working order. Staff will be trained in the use of the TDD/TTY and answer the TDD/TTY to the same extent as voice calls.

## **16.8 REASONABLE ACCOMMODATION**

Whenever possible, reasonable accommodations will be provided to individuals with learning, emotional, behavioral or other disabilities, or with Limited English Proficiency to ensure their participation in all workforce center activities in accordance with the Texas Workforce Commission WD Letter 24-01.

WST will provide customers with reasonable accommodations, auxiliary aids and services, and communication and program accessibility, within financial parameters. All appropriate resources will be utilized to provide customers with disabilities counseling or other services to assist in providing programmatic access and to remove barriers to employment.

In accordance with WD Letter 57-07, WST arranged for the continued availability of qualified interpreter services for deaf and hard of hearing individuals. When interpretive services are required, service provider will contact WST Administrative Assistant so that the appropriate interpreter services may be procured. Both certified and non-certified interpreter services may be used depending on the activity to be interpreted. If the interpretive services are required for a legally binding agreement between the WFC and a customer (signing documents in a Workforce Orientation to Applicants, Parent/Relative Handbook Meeting, Employment Planning Session) where customer rights and responsibilities are discussed, a Certified Interpreter must be used. However, if the interpretive services are for informational purposes only (STAR class, resume writing), a Non-Certified Interpreter may be used. WST Administrative Assistant will ensure that the interpreter services follow instructions given in WD Letter 57-07. Each WST workforce center will maintain a list of qualified sign language interpreters. WST service provider management staff will be able to use this list to arrange qualified sign language interpreters upon customer request.

## **16.9 LIMITED ENGLISH PROFICIENCY (LEP)**

In accordance with Title VI with reference to Limited English Proficiency (LEP) individuals, WST will not “restrict an individual in any way in the employment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program” or “utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program [with respect to] individuals of a particular race, color, or national origin.” LEP individuals are identified as those who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. Individualized assessments for need will be balanced by the following four factors: “(1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people’s lives; and (4) the resources available to the grantee/recipient and costs.” Reasonable steps will be taken to provide meaningful access to benefits, information, services, activities, and programs to persons with Limited English Proficiency (LEP) with accommodations to ensure access on a basis equal with those proficient in English. Alternate language assistance will be provided to LEP individuals to assist in giving and receiving accurate and effective information. WST service provider will provide staff training to enable front desk employees access to interpreters for customers who require access to services in a language other than English.

## **16.10 CUSTOMER SATISFACTION SURVEYS**

WST will utilize its Customer Satisfaction Surveys in the interest of identifying continuous improvement opportunities to ensure appropriate accommodations, auxiliary aids, and services are available to assist customers with disabilities.

## **16.11 ALTERNATIVE DISPUTE RESOLUTION (ADR)**

Alternative Dispute Resolution (ADR) offers an alternative means to negotiate, mediate and/or arbitrate an agreeable alternative to filing grievances or use of the traditional justice system services. WST encourages the use of ADR as a viable option in settling disputes.

WST will maintain a current list of locally available certified Alternative Dispute Resolution Mediators/Arbitrators to assist with arbitration on an as needed basis.

## **16.12 STORAGE AND USE OF DISABILITY-RELATED AND MEDICAL INFORMATION**

WD 17-07 cites several CFR regulations that relate to storage in a confidential manner of recipient data and information collection and maintenance. Further CFR regulations pertain to collecting and maintaining on separate forms, and confidentiality requirements of medical information or history as for an employer/employee relationship. WST requires service providers to collect and store race/ethnicity, sex, age, disability status of applicants, registrants, eligible applicants, registrants, participants, terminees, and applicants for employment in a confidential, locked location within each workforce center. Such information will not be disclosed to potential employers and will only be used to meet federal data collection requirements and entered into state-mandated management information systems. Medical information or history collected to qualify individuals for program eligibility or for good cause purposes must also be collected and maintained in a confidential, locked location. WST Service provider will ensure staff are trained to keep all customer disability and medical information confidential. Such information is not to be disclosed to potential employers.

## **16.13 ASSURANCES**

In Accordance with Federal, State, and Local Laws/Rules/Regulations/Policies, Workforce Solutions Texoma agrees to abide by the following:

- WST and subrecipient subcontractors will comply with and ensure the Workforce Center Operator complies with the Texas Workforce Commission's policy directives, including Workforce Development Letters, Technical Assistance Bulletins, and Contracts entered into between WST and the Texas Workforce Commission.
- WST and subrecipient subcontractors will ensure through monitoring and oversight that the Workforce Center Operator abides with all applicable Equal Opportunity and Americans With Disabilities Act requirements with a goal of equal access and fair treatment for all customers and employees.
- WST and subrecipient subcontractors will take all necessary steps to maintain the integrity of expenditure of public funds arising from awarded grants.
- WST and subrecipient subcontractors will make a good faith effort to ensure that the employees and personnel of our local workforce development system reflect the demographic composition of the Texoma area.
- WST and subrecipient subcontractors will not deny services under any grant to any person and are prohibited from discriminating against any employee, applicant for employment, or beneficiary because of race, color, religion, sex, national origin, age, physical or mental disability, temporary medical condition, political affiliation or belief, citizenship or his/her participation in any WST administered program or activity.

- WST and subrecipient subcontractors will take appropriate steps to ensure that the evaluation and treatment of employees and applicants for employment are free from discrimination.
- WST and subrecipient subcontractors will not knowingly employ an undocumented worker and will implement policies and procedures concerning this law by following Agency guidance in this area.
- WST and subrecipient subcontractors will ensure that individuals with visual and those with Limited English Proficiency are provided program information in an alternate format and that when provided, that information is documented in customer's file. Examples may include providing an auditory recording of program information to visually impaired customers; providing written program materials in Spanish or furnishing a Spanish-language interpreter to an individual that does not speak English.
- WST and subrecipient subcontractors will ensure that communications to individuals with impaired vision and hearing and who are limited English speakers are as effective as communications as with others. Examples may include furnishing a sign-language interpreter during customer orientations and workforce program activities; utilizing the Language Line to communicate with individuals who are not primary English speakers; making available headsets and Pocket Talkers to communicate with hard of hearing individuals.
- WST will ensure selections of a site or facility location are not discriminatory by using a team of individuals for the site/facility selection process.
- WST and subrecipient subcontractors will ensure that an individual with a disability is not required to accept an accommodation, aid, benefit, service, training or opportunity that s/he chooses not to accept. For all customers, customer choice of all workforce opportunities will be honored, within the parameters of funding and federal/state/local guidelines.
- WST and subrecipient subcontractors will ensure that the EO Notice is provided to individuals with visual impairments in an alternative format, such as a voice recording of the EO Notice, and that documentation of same is maintained in the participant's case notes.
- WST does not deny a qualified individual with a disability the opportunity to participate as a member of the Workforce Development Board.
- WST administers licensing and certification programs in a manner that is not discriminatory on the basis of disability.

- WST and subrecipient subcontractors will not charge applicants, participants, or groups of individuals with disabilities for providing auxiliary aids or program accessibility.
- WST will ensure that the following assurances are placed in each Request for Proposal (RFP) and Request for Quotes (RFQ) as well as subsequent contracts, letters of agreement, and like documents:
  - Certifications regarding lobbying, debarment, suspension and other responsibility matters, and drug-free workplace requirements or certification regarding debarment, suspension, ineligibility and voluntary exclusion lower tier covered transactions.
  - Certification regarding conflict of interest.
  - Texas Corporate Franchise Tax Certification.
  - Certification regarding repayment of public subsidies by business convicted of knowingly employing undocumented workers.
  - Accessibility in compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 in the event that a proposal/quote involves an alternate facility location.
  - Where program administration/delivery is involved, Nondiscrimination and Equal Opportunity compliance of the following laws:
    - Titles VI and VII of the Civil Rights Act of 1964, as amended which prohibits discrimination on the bases of race, color and national origin;
    - Section 504 of the Rehabilitation Act of 1973, as amended which prohibits discrimination against qualified individuals with disabilities;
    - Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs;
    - The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age;
    - Americans with Disabilities Act of 1990, as amended;
    - Non-traditional Employment for Women Act of 1991, as amended;
    - Section 188 of the Workforce Investment Act which 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;
- RECORDS RETENTION AND CONFIDENTIALITY
  - WST and subrecipient subcontractors will comply with requirements for custody and retention of records as set forth in OMB Circular A-102 or A-110, as applicable, UGMS, and Appendix K of the FMGC.
  - WST and subrecipient subcontractors will maintain the confidentiality of any information that identifies or may be used to identify any participant.

- WST and subrecipient subcontractors will not divulge any such information without the written permission of the applicant/participant, unless the information is to be used for right of access for program/performance monitoring or reporting purposes as described in the Agency Board Agreement for an Integrated Workforce System.
- WST and subrecipient subcontractors will not release any employee or applicant/participant identifiable information obtained from Agency Unemployment Insurance Records.