

WORKFORCE SOLUTIONS TEXOMA POLICIES & PROCEDURES

CHAPTER 16 EQUAL OPPORTUNITY, ADA COMPLIANCE, & CONFIDENTIALITY

Policy Note: Policy was previously a WST Program Policy (Ch 8, Section 1–Equal Opportunity) last updated 7/16/08. Policy moved to Board Policy to expand policy's scope.

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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.

No customer shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied services, access to services or programs and/or facilities, in the administration of, or in connection with, any such program or activity financially assisted in whole, or in part under the WIA or in connection with partnering agencies, or employers on the basis of disability.

The need to provide a reasonable accommodation or modification will not be a factor in the selection of a participant for program participation, or for any opportunity which may have an impact on the customer's career development.

16.2 REFERENCES

References for WST's Equal Opportunity Policy [are listed at the end of this document under Appendix A.](#)

16.3 TYPES OF DISCRIMINATORY ACTIONS

Actions that are considered discriminatory may include, but are not limited to:

- Denying a qualified person with a disability the opportunity to participate in, or benefit from, the same program or activity afforded to other persons.
- Failing to give a qualified person with a disability an equal opportunity to get the same results or benefits from a program or activity that people without disabilities receive.
- Charging a particular person with a disability any extra fees to cover costs of accommodating the disability.
- Accepting any job orders from an employer that will not accept applications from qualified person with disability.
- Stereotyping people with disabilities when evaluating their skills, needs, abilities, and interest.
- Referring qualified persons with disabilities to different programs, activities, employers or types of jobs than other qualified people.
- Using tests or other assessment processes that measure the impairments of person with disabilities, not their skills and abilities.

- Failing to provide a reasonable accommodation of modification, or failing to take appropriate steps to ensure that communications with persons with disabilities are as effective as communications with others.
- Perpetuating discrimination by providing significant assistance to, or contracting with, an agency, organization or business that discriminates on the basis of a person's disability status.

All participating staff of Workforce Solution Texoma and partnering agencies are responsible for adherence to this policy expressed in both verbal and written communication.

16.4

DEFINITIONS

- Basic Services - Basic Services are those that are available to everyone seeking services at the Workforce Solution Texoma.
- Customer - For the purpose of this document, a customer is defined as a job seeker, someone from the business community, a program participant, and/or staff of partner agencies.
- Customer who has a disability - A customer who has a disability is defined as a person with a physical or mental impairment that substantially limits one or more major life activities.
- Reasonable Accommodation/Modification - A reasonable accommodation and/or modification is any change in the application or registration process, and/or the delivery of programs, policies, practices, procedures, and/or the environment that allows customers with a disability to have an equal opportunity to utilize the Workforce services. The goal is to enable an otherwise qualified person who has a disability to have an equal opportunity to perform satisfactorily to his/her fullest potential. The Workforce provides any reasonable accommodations for modifications at no cost to the customer. Requested accommodations must be provided unless they would cause an undue hardship, and requested modification must be provided unless they would fundamentally alter the nature of the service, program or activity.

16.3-54 GRIEVANCE/COMPLAINT

It is 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.

16.654 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.

16.654.1 Workforce Center Complaint Takers

WST service provider will ensure each workforce center has a designated Complaint Taker 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.

16.765 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.

16.876 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. WST monitoring staff will periodically perform a monitoring check for physical accessibility in all workforce centers and Board offices.

16.987 WIA NONDISCRIMINATION AND EQUAL OPPORTUNITY PROVISIONS

As noted in WD 17-10 and subsequent Q&A's, publications include brochures or other materials that are ordinarily distributed or communicated in written and/oral form, electronically and/or on paper, to staff, clients, or the public at large, to describe programs financially assisted under Title I^u of the Workforce Investment Act (WIA) or the requirements for participation."

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.

Publications that broadcast information in the news media are defined as newspaper, radio, television, web, and other media services. These publications must state that WST is an equal opportunity employer program and that auxiliary aids and services are available upon request to individuals with disabilities.

Staff will be trained in the use of the TDD/TTY and answer the TDD/TTY to the same extent as voice calls.

16.1016.8.1 COMMUNICATION AIDS

Workforce Solutions Texoma takes advance actions to ensure that communication with individuals with disabilities is as effective as communication with others. Assurances noted in this Policy will be followed in the area of ensuring that communications with individuals with impaired vision and hearing are as effective as communication with others. The following communication aids are available for anyone requesting them upon verbal request, without requiring documentation.

16.10.1 Computers Assistive Technology

- Microsoft Office Ease of Access Center
 - Magnifier
 - Narrator
 - On-Screen Keyboard
 - Windows Speech Recognition

- [Braille Printer](#)
- [Aladdin Genie Pro](#)
- [Large screen computer monitors](#)
- [Pocket Talkers](#)
- [Tape Recorders](#)

16.10.2

Telephones

- [TTY Phone](#)
- [Telephone with Voice Control](#)

16.10.3 Printed Material

- [Large Print](#)
- [EO Policy statement \(see 16.8\) printed in all customer related materials](#)

16.1198 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 WD 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.

16.11.1 Reasonable Accommodations/Modifications

Examples or Reasonable Accommodations/Modifications include, but are not limited to:

- Provision of readers, interpreters, and other auxiliary aids or service necessary to ensure that communications with customers with disabilities are as effective as communications with other customers.
- Modifications or adjustments to the environment in which, or the rules under which, the aid, benefit, service or training is provided.
- Modifications or adjustments to the manner in which a training program or other activity is conducted.

To determine reasonableness of a requested accommodation or modification, WST must determine whether the accommodation would impose an undue hardship or the modification would create a fundamental alteration.

16.11.1.1 Undue Hardship/Burden

Undue hardship is defined as significant difficulty of expense. In general, the factors to be considered in determining whether a particular accommodation would impose an undue hardship include:

- the *type* of accommodation that has been asked for;
- the *net cost* of the accommodation (taking into consideration the availability of tax credits and deductions, and /or outside funding, for the accommodation);
- the *overall size* of the recipient (including number of employees, number of participants, number and type of facilities, and size of budget);
- the *overall financial resources* of the recipient as a whole and the individual facility or facilities that would be involved with the accommodations; and
- the *effect* that providing the accommodation would have on the recipient's or facility's ability to serve other customers (or, for a work-related accommodation, its employees' ability to perform their duties), and the recipient's or facility's ability to carry out its mission.

16.11.1.2 Fundamental Alteration

The term "fundamental alteration" is defined in two ways:

- a change in the *essential nature* of a program or activity , or
- a cost that a recipient can demonstrate would result in an *undue burden*.

Where the facility making the accommodation is part of a larger entity, the structure and overall resources of the larger organization would be considered, as well as the financial and administrative relationship of the facility to the larger organization. In general, a larger entity would be expected to make accommodations requiring greater effort or expense than would be required of a smaller organization.

16.11.2 Reasonable Accommodations and Modifications Requests

Customers with accommodation or modification needs seeking WST services may direct their request to any staff person they come in contact with, including Resource Room staff. If the accommodation or modification is not readily available or requires additional consideration to determine whether an undue hardship or fundamental alteration would occur, the request will be forwarded to the Workforce Center manager, or other appropriate person, who will engage in

an interactive process with the customer requesting the accommodation or modification and who will make an individual determination about the request.

Reasonable accommodations and modifications involve taking individualized action at the time that a particular person with a known disability seeks to apply to or participate in a program or activity, based on that person's *individual* needs. WST is authorized to expend funds to provide an accommodation based on a review of the request, documentation submitted if applicable, and whether or not the request would create an undue hardship or fundamental alteration. The determination of which reasonable accommodation or modification is appropriate is based on individual circumstances relating directly to the customer. WST Service providers are requested to contact the Board EO Officer or Executive Director if assistance is needed in determining appropriate types of modifications or in determining available funding or if the request would create an undue hardship or fundamental alteration.

16.11.3 Determining Undue Hardship or Fundamental Alteration

WST must go through a formal process to determine whether a particular requested accommodation would cause **undue hardship**, or a particular requested modification would result in a **fundamental alteration**. The required process includes the following steps:

- 1) WST must consider all of the factors listed in the definition of **undue hardship** or **fundamental alteration**, as appropriate, before reaching a decision to deny a requested accommodation or modification.
- 2) If WST determines that the requested accommodation will cause an undue hardship, or that the requested modification would result in a fundamental alteration, all of the following actions must be taken:
 - 2a) Prepare a written statement of the reasons underlying the determination.
 - 2b) Provide a copy of the statement of reasons to the person or persons who requested the accommodation or modification.
 - 2c) Take any other actions that will *not* cause undue hardship or result in a fundamental alteration, but that will enable the person (s) with a disability to receive the aid, benefits, services, training, or employment offered by WST, to the maximum extent possible.

16.11.4 Wait Period for Decision on Reasonable Accommodation or Modification

Decisions requiring additional review or planning by WST staff will be made within five working days of the request. If the interactive process requires additional communication with the customer during the five-day period that communication will take place by phone, mail, e-mail, or in person and the method of communication will be at the discretion of the customer. If a determination is made that a requested accommodation would pose an undue hardship, or a requested modifications would cause a fundamental alteration, the written statement of reasons for reaching that conclusion must be provided to the customer. If the customer needs the written determination to be provided in an alternate format, the format used will be at the discretion of the customer.

16.11.5 Request for Testing Accommodation

Customers are responsible for requesting accommodation. If the disability and/or the need for accommodation is not obvious, WST may request documentation, as noted above. Testing accommodation will be provided based on documentation submitted, if applicable, and whether or not the request would create an undue hardship, or a fundamental alteration of the nature of the test. However, the specific test used, in combination with appropriate accommodations or modifications, must be able to provide a valid and reliable evaluation of the knowledge, skills, abilities, and/or interests of the customer with a disability. If the nature or the extent of a particular customer's disability, or the limitations of the test itself, prevent the test from providing a valid or reliable evaluation in a particular case, an alternate test or assessment tool must be offered.

All testing results/assessments are kept in the customer's confidential file in a secured area; unless the results of the test or assessment indicate that the customer was provided with accommodations for the testing/assessment process. In such cases, the test/assessment results must be stored in separate files, apart from any other information about the customer, and access to the results must be limited, as required for all medical or disability-related information about a particular individual.

16.11.6 Documentation of Reasonable Accommodation Requests/Actions

When the disability and/or the need for accommodation is not obvious, staff may ask the customer for reasonable documentation about his/her disability and functional limitations to support the customer's request. Reasonable documentation means WST may require only the documentation that is needed to establish that a person has an actual, current disability, and that the disability necessitates a reasonable accommodation. WST staff cannot ask for documentation that is unrelated to determining the existence of a disability and the necessity for an accommodation.

In requesting documentation, WST staff should specify what types of information it is seeking regarding the disability, its functional limitations, and the need for reasonable accommodation. For example, the person can be asked to sign a limited release allowing WST to submit a list of specific questions to the health care or vocational professional. WST must maintain the confidentiality of all medical information collected during this process, regardless of where the information comes from.

If a person provides insufficient documentation of a disability in response to WST's initial request, WST may require the person to go to a health care professional of WST's choice. However, WST should explain why the documentation is insufficient and allow the person an opportunity to provide the missing information in a timely manner.

As an alternative to requesting documentation WST may simply discuss with the customer the nature of the person's disability and functional limitations. It would be useful for WST to be very specific why the information is requested and what information is needed to verify the existence of a disability and support the customer's the need for a reasonable accommodation.

Under Federal disability nondiscrimination law, WST cannot ask for documentation when: (1) both the disability and the need for reasonable accommodation are obvious, or (2) the person has already provided WST with sufficient information to substantiate the he/she has an actual, current disability and needs the reasonable accommodation requested.

If a customer's disability or need for reasonable accommodation cannot be established, then he/she is not entitled to reasonable accommodation. On the other hand, failure by WST to initiate or participate in an interactive process with the individual after receiving a request for reasonable accommodation could result in liability for failure to provide a reasonable accommodation.

To ensure compliance with the law, efforts taken to provide accommodation should be documented and maintained in customer's file. If the customer is not enrolled in one of WST's programs, documentation of this information can still be maintained in the Cabinet NG Client File cabinet under the medical docs tab.

16.912 INTERPRETER SERVICES

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. WST will attempt to maintain an active listing of procured interpreters at the Board, while following [WD Letter 57-07](#) guidance that states [that the "costs of interpreter services do not exceed the rates](#)

listed on the U.S. Department of Health and Human Services.” In accordance with procurement Standards, Certified Interpreters can be retained as follows:

- 1) Lowest Cost
—If lowest cost service is unavailable when services are needed, proceed to the
- 2) next lowest cost agency.

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 and 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, Resource Room job search activities), a Non-Certified Interpreter may be used. WST Administrative Assistant will ensure that procurement of interpreter services follow instructions given in WD Letter 57-07.

Assurances noted in this policy will be followed to 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.

Workforce Center staff may request interpreter services for customers who indicate interpreter services are needed to participate in workforce programs. It may be necessary for this request to occur between 24-48 hours prior to the need for the interpreter service if said interpreter is needed in person. See 16.13 for information on access to the Language Line for customers with English translation needs.

When a customer has requested interpreter services, staff will submit a voucher to the Workforce Systems Director or designee prior to interpreter services being provided. WST will select an interpreter from a previously procured list and notify WST case management staff of interpreter availability. After management approves the voucher amount and once service is complete, the interpreter will turn their invoice into the Workforce Center Board Administration Office. WST will forward a check to the interpreter service provider for the approved amount. If continued services are required, the Workforce Systems Director or designee will adjust the invoice to approve additional hours.

16.13 RELAY SERVICES

The Americans with Disabilities Act of 1990, Title II, requires that effective communication tools be provided for individuals requiring accommodation.

_____To ensure accessibility for deaf, hard of hearing, or speech-disabled individuals, the use of relay services for communication may be required. Following is a list of relay services and providers that are free of charge to the public:

16.13.1 Customer Access to Relay Services

Of customers who have have questions about accessing accommodation devices or relay services, should be referred to refer them to the Public Utilities Commission (PUC) of Texas. :

PUC provides information on the following:

- ~~Internet and video relay~~
- ~~Relay Texas~~
- ~~Glossary of relay terms~~
- ~~Video phone~~
- ~~Registered vendors for TTY devices~~

PUC contact information follows:±

<http://www.puc.state.tx.us/relay/index.cfm>

Phone: (512) 936-7132

Phone: (512) 936-7147 (TTY)

E-mail: relaytx@puc.state.tx.us

WST Service Provider is referred to, refer to TA Bulletin 225 for additional information on accessing Relay Services.

16.13.2 Internet Relay (IR)

IR customers access relay services through a Web site, with no special modem or software required. The IR customer types into a text box on the browser window and the message is sent to a relay agent who in turn reads the typed communication to the voice user. The relay agent types the voice user's response and the response appears on the IR customer's -screen.

IR providers include the following:

- ~~AT&T—www.relaycall.com~~
- ~~MCI—www.ip-relay.com~~
- ~~Sorenson—www.siprelay.com~~
- ~~Sprint—www.sprintip.com~~

16.13.3 Video Phone (VP)

VP enables customers with a Web camera and high-speed Internet connection to speak through a video interpreter in American Sign Language (ASL). The relay agent interprets the sign language to the voice user and then translates the

voice user's response back to the VP customer in ASL. Many IR providers also offer a VP option.

VP providers include the following:

- Hamilton—www.hamiltonrelay.com
- Hands On—www.hovrs.com
- Life Links—www.lifelinksrvs.com
- Viable—www.viable.net

16.13.4 Teletypewriter (TTY)

A TTY is a typing device that connects to the telephone of an individual who is deaf, hard of hearing, or speech disabled. The TTY is used to communicate with a relay agent who reads the typed communication to a hearing individual. The relay agent then transmits the hearing individual's spoken words by typing them back to the TTY user.

16.13.5 Voice Carry-Over (VCO)

VCO allows deaf or hard of hearing customers to use their own voices during a call. Using VCO and a specially designed telephone with a text screen, a VCO user can speak directly to a hearing individual. A relay agent types the hearing individual's reply.

16.13.6 Hearing Carry-Over (HCO)

HCO uses the TTY device to allow individuals with speech disabilities to type their part of the conversation. A relay agent reads the HCO user's text to the hearing/voice user.

16.13.7 Speech-to-Speech (STS)

STS allows an individual with a speech disability to connect to a specially trained agent who serves as the caller's voice and repeats his or her responses to the called party when necessary.

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16.149 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~~ employees’ access to interpreters for customers who require access to services in a language other than English. WST has a contract with The Language Line, www.language.com, 800-367.9559, Account #504151. WST Staff are instructed to use the Language Line in the event translation services are needed for customers who speak in a language other than English. WST Contractor will send a Purchase Request to TWDB Fiscal Department as notification of the customer name, fund code, and date of service to process the Language Line’s billing charges. The Language Line will bill WST directly for charges on a per minute basis.

16.1540 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.

16.1611 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 Board will maintain a current list of locally available certified Alternative Dispute Resolution Mediators/Arbitrators to assist with arbitration on an as-needed basis.

16.17.12 STORAGE AND USE OF DISABILITY-RELATED RELATED/DISCLOSURE AND -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 disability and medical information on separate forms, and confidentiality requirements of medical information or history for an employer/employee relationship. WST requires service providers to collect and store race/ethnicity, sex, ~~age and~~ age, disability status of applicants, registrants, eligible applicants, registrants, participants, terminees, and applicants for employment in a confidential 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 the local CabinetNG paperless system and state-mandated management information systems. Access to files containing medical or disability-related information is limited to staff members who work with the particular customer and require the confidential file information. This group is more limited than the group of staff members or other who may be informed about a customer's medical or disability status. For example, access to medical documentation that a participant is an individual with a disability should be limited to those staff that needs to ensure that there is documentation supporting that disability status – for example, for purposes of documenting eligibility for a program or activity that includes disability status as an eligibility criterion.

Medical information or history collected to qualify individuals for program eligibility or for good cause purposes must also be collected and maintained in the Cabinet NG paperless system in a confidential manner. WST Service provider will ensure ~~staff~~ are staff is trained to keep all customer disability and medical information confidential. Such information is not to be disclosed to potential employers.

WST and its service provider will ensure that the provisions of Section 504 of the Rehabilitation Act of 1973 requiring that individuals with disabilities be afforded equal opportunity to participate in and benefit from WIA 188 services and activities are followed.

16.17.1 Disability-Related Inquiries

Whether it is lawful to ask questions that may lead to the disclosure of a disability, or of medical related information, depends upon the context. Some practices that are legal in the context of providing services are illegal in the context of employment-related activities. Both types of activities take place in WST offices, so it is essential to make sure that the type of questions you plan to ask are lawful in the context of the type of activity you or your staff members will be performing while asking the questions.

Before asking any questions that may lead to the disclosure of medical- or disability-related information, staff must clearly inform the person that:

- 1) providing the information is voluntary;
- 2) the information will be kept confidential;
- 3) refusal to provide information will not subject the applicant, employee or participant to any adverse treatment; and
- 4) the information will be used only in accordance with law. Staff may also wish to inform the customer why they are asking the medical or disability-related questions so that the customer has the information that he/she needs in order to decide whether to disclose his/her medical or disability-related information.

16.17.2 Non-Disability-Related Inquiries

Staff may always ask questions that are not considered "disability-related."

Examples of questions staff may ask include:

- whether a customer can perform specific job functions.
- if the customer has the needed experience education or license.
- non-disability-related impairments the customer may have.
- whether the customer will need accommodations for the application process if the customer has disclosed the disability or the disability is obvious.
- if the customer currently uses illegal drugs.

Following is a list of sample questions that staff may ask of all customers:

Greeter at the time of the first interaction with a customer:

- ✓ What is your overall goal in using the Workforce Center?
- ✓ What specific things are you trying to accomplish today?
- ✓ In what other ways can we assist you today?

Resource Room Staff at the initial contact with all customers:

- ✓ Will you need any support or assistance to use the equipment or participate in the services you are seeking today?

Case Management or Facilitator staff upon initial interview for expanded services:

- ✓ What do you think might help you to be successful?
- ✓ What are things you have tried before that work for you?
- ✓ Are there other organizations or resources with which you interact that you would find helpful or have us contact?

16.17.3 Customer Information Disclosure to Employers

As a general rule, WST and service provider staff must not disclose medical or disability-related information about a customer to an employer to whom WST is referring a customer or an employer who is considering hiring the customer.

WST may disclose information related to a customer's disability to an employer only if:

- 1) the job-seeker customer has made an independent decision to disclose to the employer;
- 2) the job-seeker has specifically asked WST or its center staff to make the disclosure on his or her behalf; and
- 3) the disclosure request has been initiated by the job-seeker customer, not by the center staff.

Staff will ensure that this type of disclosure must be voluntary on behalf of the customer and a signed release is obtained from the job-seeker customer. Staff cannot request, persuade, coerce or otherwise pressure the customer to get him or her to disclose medical or disability-related information.

Staff working on behalf of employers should not have access to any customer's file containing medical or disability-related information, except where necessary to document a customer's disability status for eligibility for an employer's remedial, voluntary, or affirmative action program.

16.183 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~~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.

16.193 RECORDS RETENTION AND CONFIDENTIALITY

WST makes the following assurances with reference to 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.

16.20 DEMOGRAPHIC DATA / OUTREACH PLAN

TWDB is required to develop an outreach plan that applies current demographic data for local populations in the Texoma area. Local labor market needs provide the core direction for workforce investments. To identify local labor market needs, staff conducts analysis of local, state and national data that identifies demographic, industrial and employment trends and potential skill shortages. Data is analyzed from the Texas Workforce Commission's SOCRATES, Texas Industry Profiles, Tracer and resources from other providers. Employer needs identified through the workforce centers' involvement with employers are shared among business services and Board staff. Information gathered through these sources is supplemented and validated by input from interested parties. This information is analyzed prior to the development of the Plan's strategic and operational goals and objectives. A variety of outreach strategies are used on an on-going basis to increase awareness of services. These include: highlighting special events/services on the Board website; making presentations about workforce services and programs at schools, civic clubs, chambers of commerce, community events, other agency meetings/events and to individuals in key organizations within the community; using a variety of marketing formats—print, radio, television, and billboards; and participating in community events such as resource fairs, business expos, job fairs, and similar opportunities.

APPENDIX A – Laws and Regulations:

<u>LAW/REGULATION/ RESOURCE</u>	<u>PUBLIC LAW</u>	<u>PURPOSE</u>	<u>DATE</u>
<u>Equal Pay Act of 1963, as amended</u>	<u>88-38</u>	<u>Requires equal pay for men and women performing substantially equal work.</u>	<u>06/10/63</u>
<u>Title VI of the Civil Rights Act of 1964, as amended</u>	<u>88-352</u>	<u>Provides that no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.</u>	<u>07/02/64</u>
<u>Title VII of the Civil Rights Act of 1964, as amended</u>	<u>88-352</u>	<u>Forbids discrimination in all areas of the employer-employee relationship, from advertising for new employees through termination or retirement, on the basis of race, color, sex (including pregnancy, childbirth, or abortion), religion, or national origin.</u>	<u>07/02/64</u>
<u>Age Discrimination in Employment Act of 1967, as amended</u>	<u>90-202</u>	<u>Prohibits discrimination against employees or job applicants because of age when they are aged 40 or older, subject to certain narrow exceptions.</u>	<u>12/15/67</u>
<u>Section 504 of the Rehabilitation Act of 1973, as amended</u>	-	<u>Prohibits discrimination against "qualified individuals" with disabilities by recipients of federal financial assistance. Coverage includes recipient's beneficiaries, employees, and applicants for employment. Provides for program accessibility, which may include the removal of architectural, transportation, and communication barriers if this is the only means by which a program can be made accessible.</u>	<u>09/26/73</u>
<u>Age Discrimination Act of 1975, as amended</u>	-	<u>Prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.</u>	<u>11/18/75</u>
<u>Pregnancy Discrimination Act of 1978</u>	<u>95-555</u>	<u>Prohibits discrimination against pregnant women.</u>	<u>10/31/78</u>
<u>Texas Commission on Human Rights Act of 1983 (PDF)</u>	-	<u>Texas law combines most of the prohibitions of the federal anti-discrimination statutes into one law. Prohibits discrimination in employment based on race, color, national origin, religion, sex, age, or disability status by public or private employers in the State of Texas.</u>	<u>06/26/83</u>

Civil Rights Restoration Act of 1987	100-259	Legislative action to restore the prior consistent and long-standing executive branch interpretation and institution-wide application of certain equal opportunity/Civil Rights laws. This action was thought necessary because the Supreme Court had cast doubt on or narrowed prior interpretations of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.	03/22/88
Civil Rights Act of 1991	102-166	Provides some clarification of provisions in Title VII of Civil Rights Act of 1964 that had been made unclear by recent Supreme Court decisions. Also authorized compensatory and punitive damages for individuals who can prove they were victims of intentional discrimination. Allows additional remedied under federal law to deter unlawful harassment and intentional discrimination in the workplace.	11/21/91
Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency	-	EO 13611 requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them.	08/11/00
Department of Justice 2002 Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons	-	Final DOJ guidance pursuant to Executive Order 13166 concerning discrimination against Limited English Proficient Persons	06/18/02
Code of Federal Regulations, Title 29, part 32 (29 CFR 32), Subparts B and C, and Appendix A	-	Regulations effectuating Section 504 of the Rehabilitation Act of 1973. Mandates nondiscrimination on the basis of disability in programs receiving or benefiting from federal financial assistance	12/30/2005 rev 07/01/06

Genetic Information Nondiscrimination Act of 2008 (GINA)	110-233	This law makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about the genetic test of an individual and/or any family member and information about his/her family medical history. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.	05/21/08
Code of Federal Regulations, Title 29, Part 37 (29 CFR 37), as amended	-	Implements the nondiscrimination and EO Provisions of Section 188, WIA. Prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only citizenship or participation in WIA Title I financially assisted programs or activities.	07/01/08
DOJ LEP Guidance	-	Provides DOJ Letters and Compliance Tools for compliance with Executive Order 13166	08/11/08
ADA Amendments Act of 2008 (ADAAA)	110-325	An Act To restore the intent and protections of the Americans with Disabilities Act of 1990.	09/25/08
Americans with Disabilities Act of 1990	101-336	Extends civil rights protections for persons with disabilities to all employers of 15 or more employees. It has elements of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973. It deals with employment, public services, public accommodations, telecommunications, and miscellaneous provisions.	07/26/09 rev 07/26/94

Appendix B: References

US DOL MOA Elements 1-9 and Section 188 Disability Checklist Training

<http://www.dol.gov/oasam/programs/crc/Sec188.htm>

USDOL Notice on Limited English Proficient Persons,

<http://www.justice.gov/crt/cor/lep/DOLrecipientguidancefin.pdf>, 5/29/03

TWC LEP Guide for Workforce Professionals,

http://www.twc.state.tx.us/boards/guides/lep_guide_all.pdf, 2007.

TWC EEO Notice 8, https://intra.twc.state.tx.us/intranet/pi/docs/eeo_8ands.pdf

TWC EO 01-01, Designation of Equal Opportunity Officers, 2/6/01

TWC EO 02-01, Required WIA Notice and Communication, 2/6/01

TWC EO 03-01, Limited English Proficiency Guidance, 6/15/01

TWC EO 04-01, And Justice For All, 12/3/01

WD 24-01 - Prohibition Against Discrimination Based on Disability or Limited English Proficiency in the Administration of Workforce Services 6/22/01

WD 17-07 - Equal Opportunity Storage and Use of Disability-Related and Medical Information, 3/1/07

WD 18-07 – Equal Opportunity Discrimination Complaint Procedures, 3/1/07

WD 57-07, Interpreter Services for Deaf and Hard of Hearing Individuals, 10/9/07

WD 17-10 - Outreach and Promotional Materials, Advertising, Sponsorships, Employee Apparel, and Award Ceremonies Charged to Grant Awards and Subawards Funded through the Texas Workforce Commission, 5/11/10

WD 17-10 Q&A - Outreach and Promotional Materials, Advertising, Sponsorships, Employee Apparel, and Award Ceremonies Charged to Grant Awards and Subawards Funded through the Texas Workforce Commission Questions and Answers, 6/18/10

TA 225 – Customers Requiring Relay Services, 7/9/10

IN 02-04 – “A Model for Accessibility” by the Center on Disability Studies, 3/18/04