

§ 37.42

assisting in, an investigation or a compliance review, including the identity of any individual who files a complaint, must be kept confidential to the extent possible, consistent with a fair determination of the issues. An individual whose identity it is necessary to disclose must be protected from retaliation (see § 37.11).

§ 37.42 What are a recipient's responsibilities under this part to provide universal access to WIA Title I-financially assisted programs and activities?

Recipients must take appropriate steps to ensure that they are providing universal access to their WIA Title I-financially assisted programs and activities. These steps should involve reasonable efforts to include members of both sexes, various racial and ethnic groups, individuals with disabilities, and individuals in differing age groups. Such efforts may include, but are not limited to:

- (a) Advertising the recipient's programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations;
- (b) Sending notices about openings in the recipient's programs and/or activities to schools or community service groups that serve various populations; and
- (c) Consulting with appropriate community service groups about ways in which the recipient may improve its outreach and service to various populations.

Subpart C—Governor's Responsibilities To Implement the Nondiscrimination and Equal Opportunity Requirements of WIA

§ 37.50 To whom does this subpart apply?

This subpart applies to State Programs as defined in § 37.4. However, the provisions of § 37.52(b) do not apply to State Employment Security Agencies (SESAs), because the Governor's liability for any noncompliance on the part of a SESA cannot be waived.

29 CFR Subtitle A (7-1-09 Edition)

§ 37.51 What are a Governor's oversight responsibilities?

The Governor is responsible for oversight of all WIA Title I-financially assisted State programs. This responsibility includes ensuring compliance with the nondiscrimination and equal opportunity provisions of WIA and this part, and negotiating, where appropriate, with a recipient to secure voluntary compliance when noncompliance is found under § 37.95(b).

§ 37.52 To what extent may a Governor be liable for the actions of a recipient he or she has financially assisted under WIA Title I?

(a) The Governor and the recipient are jointly and severally liable for all violations of the nondiscrimination and equal opportunity provisions of WIA and this part by the recipient, unless the Governor has:

- (1) Established and adhered to a Methods of Administration, under Section 37.54, designed to give reasonable guarantee of the recipient's compliance with such provisions;
- (2) Entered into a written contract with the recipient that clearly establishes the recipient's obligations regarding nondiscrimination and equal opportunity;
- (3) Acted with due diligence to monitor the recipient's compliance with these provisions; and
- (4) Taken prompt and appropriate corrective action to effect compliance.

(b) If the Director determines that the Governor has demonstrated substantial compliance with the requirements of paragraph (a) of this section, he or she may recommend to the Secretary that the imposition of sanctions against the Governor be waived and that sanctions be imposed only against the noncomplying recipient.

§ 37.53 What are a Governor's oversight responsibilities regarding recipients' recordkeeping?

The Governor must ensure that recipients collect and maintain records in a manner consistent with the provisions of § 37.37 and any procedures prescribed by the Director under § 37.37(b). The Governor must further ensure that recipients are able to provide data and

reports in the manner prescribed by the Director.

§ 37.54 What are a Governor's obligations to develop and maintain a Methods of Administration?

(a) (1) Each Governor must establish and adhere to a Methods of Administration for State programs as defined in § 37.4. In those States in which one agency contains both SESA or unemployment insurance and WIA Title I—financially assisted programs, the Governor should develop a combined Methods of Administration.

(2) Each Methods of Administration must be designed to give a reasonable guarantee that all recipients will comply, and are complying, with the non-discrimination and equal opportunity provisions of WIA and this part.

(b) The Methods of Administration must be:

(1) In writing, addressing each requirement of § 37.54(d) with narrative and documentation;

(2) Reviewed and updated as required in § 37.55; and

(3) Signed by the Governor.

(c) [Reserved]

(d) At a minimum, each Methods of Administration must:

(1) Describe how the State programs and recipients have satisfied the requirements of the following regulations:

(i) Sections 37.20 through 37.22 (assurances);

(ii) Sections 37.23 through 37.28 (Equal Opportunity Officers);

(iii) Sections 37.29 through 37.36 (Notice and Communication);

(iv) Sections 37.37 through 37.41 (Data and Information Collection and Maintenance);

(v) Section 37.42 (Universal Access);

(vi) Section 37.53 (Governor's Oversight Responsibilities Regarding Recipients' Recordkeeping); and

(vii) Sections 37.76 through 37.79 (Complaint Processing Procedures); and

(2) Include the following additional elements:

(i) A system for determining whether a grant applicant, if financially assisted, and/or a training provider, if selected as eligible under section 122 of the Act, is likely to conduct its WIA

Title I—financially assisted programs or activities in a nondiscriminatory way, and to comply with the regulations in this part;

(ii) A system for periodically monitoring the compliance of recipients with WIA section 188 and this part, including a determination as to whether each recipient is conducting its WIA Title I—financially assisted program or activity in a nondiscriminatory way. At a minimum, each periodic monitoring review required by this paragraph must include:

(A) A statistical or other quantifiable analysis of records and data kept by the recipient under § 37.37, including analyses by race/ethnicity, sex, age, and disability status;

(B) An investigation of any significant differences identified in paragraph (A) of this section in participation in the programs, activities, or employment provided by the recipient, to determine whether these differences appear to be caused by discrimination. This investigation must be conducted through review of the recipient's records and any other appropriate means; and

(C) An assessment to determine whether the recipient has fulfilled its administrative obligations under section 188 or this part (for example, recordkeeping, notice and communication) and any duties assigned to it under the MOA;

(iii) A review of recipient policy issuances to ensure they are non-discriminatory;

(iv) A system for reviewing recipients' job training plans, contracts, assurances, and other similar agreements to ensure that they are both non-discriminatory and contain the required language regarding non-discrimination and equal opportunity;

(v) Procedures for ensuring that recipients comply with the requirements of Section 504 and this part with regard to individuals with disabilities;

(vi) 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 WIA or this part are aware of and can