

# New Hampshire Works



## Equal Opportunity Training



# Sign In forms

- Please make sure you sign the EO Training Form and submit to the person collecting who will forward to the Office of Workforce Opportunity.



# Nondiscrimination Plan

- Replaces Methods of Administration
- Components Include:
  - Assurances
  - Equal Opportunity Officers
  - Notice and Communication
  - Data and Information Collection and Maintenance
  - Affirmative Outreach
  - Governor's Oversight Responsibility Regarding Recipients Recordkeeping
  - Complaint Processing Procedures
  - Governor's Oversight and Monitoring Responsibilities
  - Corrective Actions/Sanctions



# Nondiscrimination Plan -- continued

- NH Works Policies related to Nondiscrimination Plan
  - Service Animals Providing Accommodation Policy
  - Same Sex Marriage Policy
  - Religious Accommodation Policy



# Nondiscrimination Plan (Continued)

- Sexual Harassment Policy
- Site Selection to Assure Accessibility
- Accommodations for Individuals with Disabilities



# Nondiscrimination Plan - continued

- State of NH Policies
  - Sexual Harassment
  - Prohibiting Discrimination on the Basis of Gender Identity or Gender Expression
  - Transgender Employment Policies and Procedures
  - ADA Reasonable Accommodation Policy



# Nondiscrimination Plan - continued

- NH Commission for Human Rights Policies
  - Pregnancy discrimination
  - Disability Discrimination
  - Mediation Resolution Program



# Protected Groups Under EO

- Age Discrimination
- Harassment
- National Origin
- Pregnancy
- Race/Color
- Religion
- Sex
- Limited English Proficiency





# Age Discrimination

- Age discrimination involves treating an applicant or employee less favorably because of his or her age.
- The Age Discrimination in Employment Act (ADEA) forbids age discrimination against people who are age 40 or older.
- Discrimination can occur when the victim and the persons who inflicted the discrimination are both over 40.



# Genetic

- Individuals' genetic tests and the genetic tests of an individuals' family members, as well as information about the manifestation of a disease or disorder in an individual's family members (i.e. family medical history).
- Family medical history is included in the definition of genetic information because it is often used to determine whether someone has an increased risk of getting a disease, disorder, or condition in the future.



# Harassment

- Is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older) disability or genetic information. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment or services, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in investigation, proceeding, or lawsuit under these laws, or opposing employment practices that they reasonably believe discriminate against individuals in violation of these laws.



# National Origin and Harassment

- It is unlawful to harass a person because of his or her national origin. Harassment can include, for example, offensive or derogatory remarks about a person's national origin, accent or ethnicity.
- Harassment is illegal when it creates a hostile or offensive environment or when it results in an adverse decision.



# Pregnancy Discrimination

Pregnancy discrimination involves treating a woman (an applicant or employee) unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.



# Race/Color Discrimination

- Race discrimination involves treating someone (an applicant or employee) unfavorably because he/she is of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Color discrimination involves treating someone unfavorably because of skin color complexion.
- Race/color discrimination also can involve treating someone unfavorably because the person is married to (or associated with) a person of a certain race or color.
- Discrimination can occur when the victim and the person who inflicted the discrimination are the same race or color.



# Religious Discrimination

- Religious discrimination involves treating a person (an applicant or an employee) unfavorably because of his or her religious beliefs. The law protects not only people who belong to traditional organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also other who have sincerely held religious, ethical, or moral beliefs.
- Religious discrimination can also involve treating someone differently because that person is married (or associated with) an individual of a particular religion.



# Sex Discrimination

- Involves treating someone (an applicant or employee) unfavorably because of that person's sex.
- Discrimination against an individual because of gender identity, including transgender status, or because of sexual orientation is discrimination because of sex in violation of Title VII.





# Sexual Harassment

- It is unlawful to harass a person (an applicant or employee) because of the person's sex.
- Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.
- Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.



# Language Access

- Serving NH's Limited English Proficient (LEP) Customers
  - Limited English Proficient (LEP) Individuals: A Limited English Proficient individual is someone who does not speak English as his or her primary language and who has a limited ability to read, speak, write or understand English. LEP individuals may be competent in English for certain types of communication (e.g.) speaking or understanding), but still be LEP for other purposes (e.g. reading or writing). Individuals maintain the right to self-identify as a LEP individual.
  - Language Assistance Services: Oral and written language services needed to assist LEP individuals to communicate effectively with staff, and to provide LEP individuals with meaningful access to, and an equal opportunity to participate fully in the services, activities, or other programs administered by the recipient.
  - Meaningful Access: Language assistant that results in accurate, timely, and effective communication at no cost to the LEP individual For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed or inferior as compared to programs or activities provided to English proficient individuals.



# Language Access Definitions

## (continued)

- **Effective Communications:** Communication sufficient to provide the Limited English Proficient (LEP) individual with substantially the same level of services received by individuals who are not LEP. For example, staff must take reasonable steps to ensure communications with an LEP individual is as effective as communications with others when providing similar programs and services.
- **Interpretation:** The act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.
- **Translation:** The replacement of written text from one language (source language) into an equivalent written text in another language (target language).
- **Vital Documents:** Paper or electronic written materials that contains information that is critical for accessing a recipient's program or activities, or is required by law.



# WIOA Regulatory Requirements pertaining to Limited English Proficient Individuals

- Convey, in non-English languages, how to access services, training
- Language assistance services must be accurate, timely and free
- Provide Limited English Proficient (LEP) individuals notice of free language assistance services
- Do not require an LEP individual to provide an interpreter
- Translate vital information and make it available
- If you know the preferred language, only use that language
- Develop a written language access plan



# Equal Opportunity Assurances

As a condition of the award of financial assistance from the US Department of Labor under Title I of WIOA, the grant applicant assures that it has the ability to comply with the nondiscrimination and equal opportunity provisions of the following laws and will remain in compliance through the duration of the award of federal financial assistance:

- Workforce Innovation and Opportunity Act,
- Title VII of the Civil Rights Act of 1964,
- Section 504 of the Rehabilitation Act of 1973,
- the Age Discrimination Act of 1975,
- and Title IX of the Education Amendments of 1972.



# Where do I find Assurance Statements?

- Request for Proposals (RFP), Contracts, Agreements, Memorandum of Understanding,
- Handbooks
- Internal manuals
- Written Notices
- Recruitment and orientation materials
- Individual Training Agreement Application
- On-the-Job Training Contracts
- Work Experience Contracts

**Notify the public of their rights**



# Equal Opportunity Officer

- All NH Works Partners have an Equal Opportunity Officer.
- State EO Officer serves as the Liaison with US Dept. of Labor's Civil Rights Center
- Conducting outreach and education about equal opportunity and nondiscrimination requirements, including how to file a complaint of discrimination.



# Selecting an Equal Opportunity Officer

- Must be a “senior-level” employee
- Must have access to the “top officials” to report directly on EO matters.
- Must not be assigned other (non EO-related) duties or activities that create either an actual or apparent conflict of interest with the responsibilities of an EO officer. If this occurs, an alternative NH Works or State EO Officer would handle the grievance.





# Equal Opportunity Officer's Roles and Responsibilities

- Know WIOA Section 188 and related civil rights laws that apply to your programs and activities.
- Know your programs and activities from start to finish.
- Develop policies and procedures that apply across the board
  - Assurances
  - Taglines
  - Discrimination complaints
  - Harassment and hostile environment
  - Serving persons with disabilities
  - Serving limited english proficient persons (LEP)
  - Handling religious-based accommodation requests
- Regularly train responsible staff
- Monitor your programs and activities



# Notice and Communication

- Ensure “Equal Opportunity is the Law” posters are posted; Note – in three languages
- Appropriate usage of the Babel notices
- Ensure all applicants are aware of the EO grievance procedures and how to access and submit a grievance. (Clients and staff); Clients attestation to receipt of grievance procedures at intake or staff at hiring.
- Communication through effective methods – interpreters, braille, readers, language line, Relay Line, etc.



# Notice and Communication (continued)

- Use of TAG line on letterhead, brochures, etc.
  - “(name of organization) , a member of the NH Works/America’s Job Center System and WIOA financially assisted program, is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with a disability. Relay or TTY phone number (NHES: Relay NH 1-800-735-2964)



# Web Requirements

- ...comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor.



# Notice and Communication Implementation

- Updated EO is the Law Posters
- Notice of EO/Grievance/Complaint Information when registering
- Participant and Employee File Checklist
- Orientation Agenda/power points
- EO training – including attendees signatures
- Recruitment and promotional materials – everyone funded with WIOA funds



# Governor's Oversight Responsibility Regarding Recordkeeping

- Collection and maintenance of equal opportunity data as requested in PIRL (Participant Information Record Layout)
- Self reported data (not observed)
- Data remains confidential and used only for recordkeeping and reporting and/or determining eligibility.
- Medical or disability-related information collected on separate forms.
- Access to the information for
  - Documenting eligibility (if criterion for program or activity)
  - First aid and safety personnel for medical condition in an emergency
  - Requested accommodations



# Governor's Oversight Responsibility Regarding Recordkeeping - continued

- EO Grievance Complaint Logs
- Reporting to Civil Rights Center if there is an EO administrative enforcement or lawsuit filed
- All EO records must be maintained for a minimum of not less than three years from the close of the applicable program year. (Records include records of applicants, registrants, eligible applicants/registrants, participants, terminees, employees and applicants for employment.)



# Affirmative Outreach

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





# Complaint Processing Procedures

## Complaint Filing

- Any person (or specific class of individuals) or the person's representative may file a written complaint if the person has been discriminated against 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, political affiliation or belief, citizenship status, or participation in any WIOA Title I-financially assisted program or activity as prohibited by WIOA or this part. Furthermore, if there has been or is being retaliated against a complaint may be filed with either the recipient's EO Officer or the Civil Rights Center Director. A complaint must be filed within 180 days of the alleged discrimination or retaliation. The Civil Rights Center Director may extend the filing time should a good cause be demonstrated.



# Complaint Processing Procedures - continued

Each **complaint must be filed** in writing, either electronically or in hard copy, and must contain the following information:

- (a) **The complainant's name, mailing address, and, if available, email address** (or another means of contacting the complainant);
- (b) The **identity of the respondent** (the individual or entity that the complainant alleges is responsible for the discrimination);
- (c) A **description of the complainant's allegations**. This description must include enough detail to allow the EO Officer or Director to decide whether:
  - There is **jurisdiction** over the complaint;
  - The complaint was filed within the **time range**;
  - The complaint indicates **noncompliance with any of the nondiscrimination and equal opportunity provisions**;
  - The **written or electronic signature of the complainant** or the written or electronic signature of the complainant's representative.
  - **A complainant may file a complaint by completing and submitting CRC's Complaint Information and Privacy Act Consent Forms**, which may be obtained either from the NH Works' EO Officer or from the Civil Rights Center.



# Complaint Processing Procedures - Continued

## Right to Representation

- Both the complainant and the respondent have the right to be represented by an attorney or other individual of their choice.



# Complaint Processing Procedures - Continued

## Required Elements of a Recipient's Complaint Processing Procedures

- As evident in the NH Works Grievance Policy and related forms, all grievance complaints will be issued a Notice of Final Action within 90 days of the date for which the date is filed. The elements will include, initial, written notice to the complainant that contains the following information:
  - An acknowledgment that the recipient has received the complaint; and
  - The complainant has the right to be represented in the complaint process;
  - Individuals with disabilities may request auxiliary aids and services at no cost.
  - Complainant has the right to language assistance services, and that this notice will be translated into the non-English languages
- A written statement of the issue(s) that
  - (i) A list of the issues raised in the complaint; and
  - (ii) For each such issue, a statement whether the recipient will accept the issue for investigation or reject the issue, and the reasons for each rejection.



# Complaint Processing Procedures - continued

- Period for Fact-finding or Investigation
- Attempts to resolve the complaint will occur. The methods available to resolve the complaint may include alternative dispute resolution (ADR).



# Complaint Processing Procedures - continued

- The complainant will be notified in writing within 90 days of the date on which the complaint was filed, the following:
- For each issue raised in the complaint, a statement of either:
  - (A) The recipient's decision on the issue and an explanation of the reasons underlying the decision; or
  - (B) A description of the way the parties resolved the issue; and
  - (C) Notice that the complainant has a right to file a complaint with Civil Rights Center (CRC) within 30 days of the date on which the Notice of Final Action is received if the complainant is dissatisfied with the recipient's final action on the complaint.



# Complaint Processing Procedures - continued

## Alternative Dispute Resolution (ADR)

- NH Works ADR policy indicates the complainant may attempt ADR at any time after the complainant has filed a written complaint with the recipient, but before a Notice of Final Action has been issued. The choice whether to use ADR or the customary process rests with the complainant. A party to any agreement reached under ADR may notify the Civil Rights Director in the event the agreement is breached.



# Complaint Processing Procedures - continued

## Non-Jurisdiction

- If it is determined that the NH Works partner does not have jurisdiction over a complaint, the EO officer will notify the complainant, in writing within five business days of making such determination. This Notice of Lack of Jurisdiction will include:
  - (a) A statement of the reasons for that determination; and
  - (b) Notice that the complainant has a right to file a complaint with the Civil Rights Center (CRC) within 30 days of the date on which the complainant receives the Notice.





# Complaint Processing Procedures - continued

## Complainant Dissatisfaction after Receiving a Notice of Final Action

- If the NH Works Partner issues its Notice of Final Action before the 90-day period ends, but the complainant is dissatisfied with the decision on the complaint, the complainant or the complainant's representative may file a complaint with the Civil Rights Center Director within 30 days after the date on which the complainant receives the Notice.



# Complaint Processing Procedures - continued

## Failure to Issue a Notice of Final Action within 90 days after the Complaint was Filed

- If, by the end of 90 days from the date on which the complainant filed the complaint, the NH Works partner has failed to issue a Notice of Final Action, the complainant or the complainant's representative may file a complaint with the Civil Rights Director within 30 days of the expiration of the 90-day period.



# Governor's Oversight and Monitoring Responsibilities for State Programs

- Ensuring **compliance with the nondiscrimination and equal opportunity provisions** of WIOA and negotiating, where appropriate to secure voluntary compliance when noncompliance is found;
- **Annually monitoring the compliance of recipients** with WIOA section 188, including a determination as to whether each NH Works Partner is conducting its WIOA assisted program or activity in a nondiscriminatory way. This will include annual monitoring review to include a statistical or other quantifiable analysis of records and data kept by the Partner. The analyses will include race/ethnicity, sex, limited English proficiency, preferred language, age, and disability status. If there are significant differences in the programs, activities, or employment provided, an analysis to determine whether these differences appear to be caused by discrimination will occur. This investigation must be conducted through review of the recipient's records and any other appropriate means; and
- **An assessment to determine whether the NH Works Partner has fulfilled its administrative obligations** under Section 188 of WIOA (for example, recordkeeping, notice and communication) and any duties assigned to it under the Nondiscrimination Plan.



# Sanctions

- It is the policy of the NH Works Consortium that any action to suspend, terminate, deny or discontinue WIOA financial assistance must be limited to the particular political entity, or part thereof, or other recipient (or grant applicant) as to which the finding has been made, and must be limited in its effect to the particular program, or part thereof, in which the **noncompliance has been found.**
- No order suspending, terminating, denying or discontinuing WIOA financial assistance will **become effective until after all appeal rights have been exhausted or waived and the respective agency Commissioner (or designee) has issued a Final Determination or Notification of Breach of Conciliation Agreement.**



# Questions?

Please contact your agency's EO Officer.



# Certificate of Completion

- Please click on the link below and print out the EO Certificate of Completion. Print your name and sign and date the certificate. Email a copy to the contact below. If the link does not work please use the following certificate on the next slide.
- [EO Certificate of Completion](#)
- [Meelynn.wong@livefree.nh.gov](mailto:Meelynn.wong@livefree.nh.gov)





# CERTIFICATE OF COMPLETION

THIS ACKNOWLEDGES THAT

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PRINT NAME

HAS BEEN RECOGNIZED FOR COMPLETION OF THE  
EQUAL OPPORTUNITY TRAINING

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SIGN AND DATE