

TEXAS WORKFORCE COMMISSION
Workforce Development Letter

ID/No:	WD 16-14, Change 2
Date:	March 1, 2021
Keyword:	Equal Opportunity; WIOA; SNAP E&T
Effective:	Immediately

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers



From: Courtney Arbour, Director, Workforce Development Division

Subject: **Equal Opportunity Notice—*Update***

PURPOSE:

This updated WD Letter provides Local Workforce Development Boards (Boards) with information and guidance on complying with the nondiscrimination and equal opportunity (EO) provisions set forth at 29 Code of Federal Regulations (CFR) §§38.34–38.39 and 7 CFR §15.5(d).

BACKGROUND:

Regulations at 29 CFR §38.34 set forth the requirements for recipients of Workforce Innovation and Opportunity Act (WIOA) funds to disseminate EO policy as follows:

- 29 CFR §38.34 requires recipients of WIOA funds to:
 - provide initial and continuing notice that they do not discriminate on any prohibited basis; and
 - provide the notice to:
 - registrants, applicants, and eligible registrants and applicants;
 - WIOA participants;
 - applicants for employment and employees;
 - unions or professional organizations that hold collective bargaining or professional agreements with the recipient;
 - subrecipients that receive WIOA Title I financial assistance from the recipient; and

- members of the public, including those with impaired vision or hearing and those with limited English proficiency (LEP).
- 29 CFR §38.15(a) requires recipients of WIOA funds to take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others.
- 29 CFR §38.9(b) requires recipients of WIOA funds to ensure meaningful access to each LEP individual served or encountered so that LEP individuals are effectively informed about, and/or able to participate in, the program or activity.

Regulations at 7 CFR §15 effectuate, for US Department of Agriculture (USDA) programs, the provisions of title VI of the Civil Rights Act of 1964, as follows:

- 7 CFR §15.5(d) requires recipients of USDA funds (which include SNAP E&T funds) to make available to participants, beneficiaries, and other interested individuals information regarding protections against discrimination.
- Departmental Regulation (DR) 4300-003 establishes USDA requirements for notifying the public of its EO policy.

FLEXIBILITY RATINGS:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”

PROCEDURES:

NLF: Boards must ensure that Workforce Solutions Office staff prominently displays—in English and Spanish and in reasonable numbers and places—the EO notices included as Attachments 1 and 2 to this WD Letter—which, as required by federal regulations, contain the exact wording found at 29 CFR §38.35.

NLF: Boards also must ensure that Workforce Solutions Office staff completes the EO notice by identifying the state- and local-level EO officers who are responsible for accepting and processing discrimination complaints, including the EO officer’s name, position, title, business address, and telephone number (voice and TTY/TDD).

NLF: Boards must ensure that an EO notice containing the exact wording found at 29 CFR §38.35 is:

- included in handbooks or manuals; and

- made available to each WIOA participant and made part of each WIOA participant's individual record.

NLF: Boards must ensure that Workforce Solutions Office staff:

- provides the EO notice in appropriate formats to individuals with visual impairments; and
- documents in WIOA participants' individual records when the EO notice is given in an alternative format to WIOA participants with visual impairments.

NLF: Boards also must ensure that orientations that inform new participants, new employees, or the general public of WIOA Title I—financially assisted programs or activities include a discussion of rights under the nondiscrimination and EO provisions, including the right to file a discrimination complaint.

LF: Boards may use the Orientation to Discrimination Complaint Procedures Form as its EO notice in orientations to satisfy EO requirements. The form is available in English and Spanish, respectively, at:

- <https://intra.twc.texas.gov/intranet/pi/docs/orientation-discrimination-english-twc.doc>¹; and
- <https://intra.twc.texas.gov/intranet/pi/docs/orientation-discrimination-espanol-twc.doc>.

NLF: Boards must adhere to the guidance set forth in WD Letter 17-10 regarding EO taglines in publications, broadcasts, and other communications, as required by 29 CFR §38.38.

NLF: Boards must ensure that wherever SNAP E&T program delivery is being conducted, staff prominently displays in reasonable numbers and places—in English, Spanish, and other languages appropriate to the populations served—the EO notice required by federal regulations. The USDA “And Justice for All” poster found at <https://www.fns.usda.gov/cr/and-justice-all-posters-guidance-and-translations> will be the primary method used to inform customers of their EO rights except when appropriate substitutes for outdoor areas are necessary. TWC will provide these posters to Boards. Boards that need additional posters in English and Spanish or posters in languages other than English or Spanish should contact TWC at wfpolicy.clarifications@twc.texas.gov.

INQUIRIES:

Send inquiries regarding this WD Letter to wfpolicy.clarifications@twc.texas.gov.

¹ The Intranet is not available to the general public.

ATTACHMENTS:

- Attachment 1: Notice—Equal Opportunity Is the Law (English version)
- Attachment 2: Notice—Equal Opportunity Is the Law (Spanish version)
- Attachment 3: USDA “And Justice for All” Poster
- Attachment 4: Revisions to WD Letter 16-14, Change 1, Shown in Track Changes

RESCISSIONS:

- WD Letter 16-14, Change 1

REFERENCES:

- 29 CFR §38.9(b), §38.15(a), and §§38.34–38.39
- WD Letter 17-10, issued May 11, 2010, and titled “Outreach and Promotional Materials, Advertising, Sponsorships, Employee Apparel, and Award Ceremonies Charged to Grant Awards and Subawards Funded through the Texas Workforce Commission”
- 7 CFR §15.5(d)
- Departmental Regulation 4300-003