

VOLUME 1
2013-2014



COMMONWEALTH OF MASSACHUSETTS

**EXECUTIVE OFFICE OF LABOR AND
WORKFORCE DEVELOPMENT**

WHICH INCLUDES
WIA ASSISTED PROGRAMS AT THE

**DEPARTMENT OF UNEMPLOYMENT
ASSISTANCE
AND THE
DEPARTMENT OF CAREER SERVICES**

TABLE OF CONTENTS

VOLUME ONE

INTRODUCTION	Executive Summary for Reorganized Secretariat
ELEMENT I	Designation of Equal Opportunity (EO) Officers
ELEMENT II	Notice and Communication with respect to Equal Opportunity
ELEMENT III	Review of Assurances, Training Plans, Contracts, Policies, and Procedures
ELEMENT IV	Universal Access
ELEMENT V	Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended, and 29 CFR Part 37
ELEMENT VI	Data and Information Collection and Maintenance
ELEMENT VII	Monitoring WIA Recipients and Potential Training Providers for Compliance
ELEMENT VIII	Complaint Processing Procedures
ELEMENT IX	Corrective Actions/Sanctions

INDEX OF SUPPORTING DOCUMENTATION

INTRODUCTION Executive Summary for Reorganized Secretariat

I. DESIGNATION OF EO OFFICERS

State Equal Opportunity Officer Job Description and Responsibilities –
Detailed description of duties and responsibilities of States EO Officer
Also pertains to element V and VIII

Human Resource Coordinator/EO Officer
Career Center Level – Job Description
Also pertains to element VIII

Chart of EO Officers –
Listing of Career Centers and their EO Officers
Also pertains to element VIII

EOLWD Organization Charts

II. EO NOTICE AND COMMUNICATION

Dissemination Policy –
EOLWD policy regarding internal/external distribution of EO notices and communications.
Requires universal posting and distribution of materials, including availability of auxiliary means of
notice. Includes employee/applicant verification of notice form, WIA communication Nos. 01-35, 01-
37, 04-69, 06-61, and 13-42.
Also pertains to elements IV and VIII

EO is the Law – Handouts in English and Spanish (Contains required EO language)
And EO Notices in Several Languages
Also pertains to elements IV and VIII

III. ASSURANCES – REVIEW OF CONTRACTS AND AGREEMENTS

Standard state contract and terms and conditions (Contains required EO language). Assurances from
DCS Fiscal Year 2013 Plan and 2014. WIA communication Nos. 01-52, 04-34, 08-20, 09-20, and 13-
36. Executive Orders 524 (Supplier Diversity) and 533 “Procurement.”

Also pertains to element VIII

IV. UNIVERSAL ACCESS

Executive Order 512, 521 and 527 on Persons with Disabilities and Administrative Bulletin 19 on
Universal Access. Language Access Plan and Administrative Bulletin 16 and Language Access. WIA
Communication Nos. 12-35 and 04-46.

List of Languages Available at One-Stop Career Centers showing availability of other languages at One-Stop Career Centers

Sample EOLWD Publications –
Contain required EO Tag Lines

Also pertains to element II and VIII

Provision of Core Services policy –
Requires universal access to core services at One-Stop Career Centers

Local Planning Introductions –
Requires Local Areas plan for and provide universal access to its services

Example of Communications Showing Universal Access:

- Application for Employment
- Sample job descriptions
- Sample multi-lingual training booklets and pamphlets [Spanish, Portuguese, Vietnamese, and Haitian Creole]
- Guide to various forms and languages in which they are available
- *Job Search Journal* [Chinese and Portuguese]

V. REHABILITATION ACT OF 1973

Affirmative Action for Vietnam Era Veterans Verification Form

Executive Order 526 – Non-Discrimination

Family Leave Act

Sexual Harassment Policy

Affirmative Market Program in Public Contracting – E.O. 390

Self-Identification of Disability – Form

Guidelines for Interviewing

Model Affirmative Action Plan

VI. DATA AND INFORMATION COLLECTION

MOSES Screen Shots –
Shows electronic collection of EO data for Title I program participants

WIA Records Retention Policy – No. 07-57
Provide guidance to ensure all records are kept in compliance with federal and state requirements

VII. MONITORING WIA RECIPIENTS AND POTENTIAL TRAINING PROVIDERS FOR COMPLIANCE

VIII. COMPLAINT PROCESSING

WIA Issuance 05-89 – Grievance Procedures for EO and Discrimination Complaints –
General Policy on Complaint Processing Procedures for Career Centers
Also pertains to elements I, II, III, IV, V

The above policy issuance includes the following:

- 1) Complaint Procedures –
Model procedures outlining minimum requirements to be adopted by One-Stop Career Centers
- 2) Contract Assurance Language –
Required contract assurance language to be used by all recipients and service providers;
Sample WIA Complaint Log
Also pertains to element III
- 3) Non-discrimination Policy
Verification of Notice Form –
Participant verification of receiving EO materials
Also pertains to element II
- 4) Instruction on How to File a Formal Complaint –
Guidelines for participants about filing a complaint
Also pertains to element II
- 5) MCAD Rules of Procedures –
Rules of procedure for state office designated to process discrimination complaints
- 6) Office of Affirmative Action Resolution Process Guidelines –
Model resolution process guidelines and forms

IX. CORRECTIVE ACTIONS/SANCTIONS

INTRODUCTION

THE COMMONWEALTH OF MASSACHUSETTS EQUAL OPPORTUNITY/NON-DISCRIMINATION METHODS OF ADMINISTRATION

The Executive Office of Labor and Workforce Development (EOLWD) is committed to creating good jobs in safe working environments across the commonwealth by working on behalf of job seekers, apprentices, union members, claimants, employers and those injured on the job. The reorganization of the Secretariat into a centralized organization, pursuant to Article 87 of the Amendments to the Massachusetts Constitution, is a reflection of our collective values and investment in critical areas that will help us strengthen the Commonwealth's economy in the near-term, position us for a strong recovery in the long-term and help the Commonwealth continue to change the way government does business. Article LXXXVII of the Amendments to the Constitution, M.G.L.A Chapter 3 of the Acts of 2011. (See Appended to this Section).

The new organizational structure of the Secretariat is comprised of five (5) EOLWD agencies (now uniformly called "departments" and each is led by a Director), which all report directly to the executive office Secretary. The Department of Labor and the Department of Workforce Development are remnants of a structure that existed when there was no Secretary of EOLWD. Now that there is a Secretary position, and the two Departments have been subsumed into a Secretariat, it is no longer necessary that these Departments exist as separate entities. Those five departments are: (1) the Department of Career Services (DCS); (2) the Department of Unemployment Assistance (DUA); (3) the Department of Industrial Accidents (DIA); (4) the Department of Labor Standards (formerly known as the Division of Occupational Safety and the Division of Apprentice Training, the department was renamed as the Department of Labor Standards to more accurately reflect the variety of services it provides); and (5) the Department of Labor Relations (DLR).

The Commonwealth of Massachusetts implements the Equal Opportunity/Non Discrimination provisions of the Workforce Investment Act of 1998 through the missions of DUA and DCS at the EOLWD. In Massachusetts, EOLWD has oversight responsibility for the Department of Career Services which administers Employment Services and WIA programs and the Department of Unemployment Assistance which administers the Unemployment Insurance program. DCS has the primary responsibility for oversight of the One-Stop Career Center (OSCC) system.

The Director of Diversity for the EOLWD will function as the EO Officer for oversight and handling of complaints for Unemployment Insurance (UI), Employment Services (ES) and WIA Title I funds. In addition, complaints will be processed utilizing an existing process through the Massachusetts Commission Against Discrimination (MCAD).

This narrative report contains a description of EOLWD as an organization and sets out the actions EOLWD and their partner agencies will take to implement the equal opportunity requirements for WIA Title I programs. The attached Index of Supporting Documentation provides a listing of the materials which are included in support of the actions described in this narrative report, and references other sections which each document supports. This narrative, the index, and the attachments are organized under the same headings and in the same order for ease of reference to constitute one complete report.

Element I of the report describes actions which have been taken to designate EO Officers at all levels of DUA and DCS, to define the EO Officer responsibilities, and to ensure that each EO Officer has

sufficient time and resources devoted to these activities. Copies of applicable job descriptions and a listing of EO Officers are included.

Element II provides a summary of actions in support of complying with the notice and communication provisions of the WIA regulations. Proper notice and communication ensures that participants, employees and members of the general public receive appropriate and timely notification of their rights to equal opportunity in connection with WIA Title I financially-assisted programs. A copy of the Dissemination Policy, handouts and posters are provided.

Element III contains the required assurances of compliance of DUA and DCS with WIA regulations by component parts of EOLWD. The supporting attachments show the requirement that subrecipients and service providers comply with these requirements as well.

Element IV states that appropriate steps have been taken to ensure the provision of universal access to its WIA Title I financially-assisted programs and activities. The various attachments show that EOLWD is including the "tag lines" in its publications and has compiled information on various languages spoken by staff of the local OSCCs, is making its web sites accessible to the disabled, and is requiring that local operators provide universal access to customers of the OSCCs.

Element V describes the requirements for EOLWD sub-recipients and service providers to ensure access to services for the disabled. The supporting documents include the state policies on a wide range of related topics from Alternate Work Options to Guidelines for Interviewing to Non-Discrimination/Universal Access Policy for the Handicapped.

Element VI discusses the requirements to collect and maintain data on customers receiving services, staff and applicants for employment. This data will be kept as required. Records of complaints will be maintained, and retaliation against those filing complaints will be prohibited. The data on those receiving services is collected through the Massachusetts One-Stop Employment System (MOSES), a database system developed by the Commonwealth and required for use by all Local Workforce Investment Areas. A printout showing the screens containing the required data elements has been provided, along with the EOLWD Confidential Applicant Data Form and Procedure for collecting data on employment applicants. The final attachment for this section delineates the records retention requirements for all records pertinent to WIA Title I programs.

DCS monitors the One-Stop Career Centers, as described in Element VII. The enclosed documentation shows that a review of sub-recipients' compliance with EO requirements is included in the annual monitoring effort.

Element VIII describes the MCAD, which has an existing process, and is designated to deal with complaints beyond the local level. EOLWD has developed a grievance procedure that each local area is required to enforce and maintain for EO and discrimination complaints. This procedure included required contract assurance language, forms for processing complaints, and information for parties interested in filing such a complaint. Attached is a copy of the WIA Issuance which has been distributed to all sub-recipients and local areas, outlining the requirement of an appropriate policy and process for handling all complaints.

Finally, Element IX states that Non-Compliance Corrective Actions/Sanctions for Discrimination Violations will be referred to MCAD for review and enforcement under an existing Executive Order of the Commonwealth. Attachment 8 of Element VIII contains a copy of the rules of procedure for MCAD to process discrimination complaints.

ELEMENT I

Designation of Equal Opportunity Officers

(29 CFR 37.54 (d)(1)(ii))

DESIGNATION OF EQUAL OPPORTUNITY OFFICERS

The Commonwealth has designated Mr. Dennis Johnson, Diversity Director for the Office of Diversity and Equal Opportunity at the Executive Office of Labor and Workforce Development, as the WIA State-level Equal Opportunity Officer. Mr. Johnson's business address is 19 Staniford Street, 5th Floor, Boston, MA 02114. Mr. Johnson can be reached by phone at 617-626-5111, or by email at djohnson1@detma.org. Mr. Johnson can also be reached through our hearing impaired relay services by calling 1-800-439-0183, or 711.

Each Local Workforce Investment Area has designated EO officers in each of its One-Stop Career Centers. A list containing the names, titles, and contact information follows in the supporting documentation in this section. A sample job description for the local level EO Officer is contained below as Civil Rights Manager – Career Center Level.

A sample Dissemination Policy for providing EO notice to applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment, as well as interested members of the public, is included in Element II.

The attached job descriptions contain information relative to staffing levels, reporting structure, and responsibilities of EO staff at all levels. The Commonwealth has developed a policy to require all local areas to designate EO Officers and ensure that EO responsibilities are met (see element VIII). In addition, the Commonwealth monitors EO implementation annually (see element VII).

The Commonwealth is monitoring the local areas' training for EO staff, and planning to provide additional training statewide as needed.

COMMONWEALTH OF MASSACHUSETTS

EOLWD

Secretariat Director of Diversity and Equal Opportunity

1. POSITION SUMMARY:

The overall mission of the Secretariat Director of Diversity and Equal Opportunity is to oversee, direct, and manage the Executive Office of Labor and Workforce Development's Equal Opportunity activities. Included are diversity programs, affirmative action and equal opportunity. The Secretariat Director of Diversity and Equal Opportunity ensures that agency staffing patterns reflect appropriate percentages of minorities, women, Vietnam Era Veterans, and people with disabilities. Affirmative Action must be exercised to ensure Equal Opportunity and to provide equitable remedies as a consequence of present and past discriminatory practices. Applying to all personnel practices, AA/EO impacts the recruitment/hiring process including promotions, transfers and agency training, as well as disciplinary procedures throughout the agency. In addition, this responsibility for nondiscrimination and equal opportunity extends to ensuring compliance for Employment Services and Unemployment Insurance.

In order to expand and continue to improve EOLWD's diversity programs, the Secretariat Director of Diversity and Equal Opportunity will provide technical assistance and training to all segments of EOLWD employees. Through an effective training program, she/he will ensure that managers and their staff have a full understanding of the following laws and regulations:

1. Title VII of the 1964 Civil Rights Act, American with Disabilities Act
2. Executive Order 11246 (as amended by Executive Order 11375)
3. Equal Pay Act of 1963
4. Age Discrimination Act of 1967
5. Rehabilitation Act of 1973
6. Vietnam Era Veterans Act of 1974
7. Freedom of Information and Privacy Act of 1974
8. Pregnancy Discrimination Act of 1974
9. Uniform Guidelines on Employee Selection Procedures of 1978
10. The 1980 Sexual Harassment Guidelines (added to Civil Rights Act, Title VII)
11. National Labor Relations and Related Laws

The Secretariat Director of Diversity and Equal Opportunity is responsible for creating, monitoring and implementing EOLWD's affirmative action plans. She/he provides goal negotiation, management training in EO issues and monitors personnel procedures. This position assures conformity with all federal and state regulations. The Secretariat Director of Diversity and Equal Opportunity will work to assure that EOLWD are proactive and creative in the implementation of diversity programs. As a member of the Diversity Committee, it is vital that she/he promotes an atmosphere in which risk taking is encouraged thus serving to motivate and develop new ideas; and to improve and enhance existing programs. She/he must intervene at all levels of the work force so as to foster innovative ideas from all EOLWD staff.

This position reports directly to the Secretary of Labor and Workforce Development and is the designated Equal Opportunity Officer of EOLWD. In this assignment, the Secretariat Director of Diversity and Equal Opportunity is responsible for ensuring that the DWD Programs are administered

in a nondiscriminatory manner. In this capacity, the Secretariat Director of Diversity and Equal Opportunity must monitor, analyze, and evaluate programs providing services, such as Employment Services (ES), Unemployment Insurance (UI), and the Workforce Investment Act of 1998 (WIA), to minority groups, women, Vietnam Era Veterans and people with disabilities. The regulations issued by the of the United State Department of Labor (USDOL) Directorate of Civil Rights (DCR) on the Implementation of Nondiscrimination and Equal Opportunity Requirements of WIA, add significantly to the responsibilities of the Secretariat Director of Diversity and Equal Opportunity. This position serves as the focal point for all EO activity within the EOLWD’s jurisdiction and acts as the liaison to the DCR. In conjunction with this responsibility, the Secretariat Director of Diversity and Equal Opportunity is the sexual harassment officer and must investigate complaints/grievances on discrimination and harassment following the Commonwealth’s office of Diversity and Equal Opportunity’s resolution process.

2. ORGANIZATIONAL STRUCTURE:

YOUR SUPERIOR

Secretary of Labor and Workforce Development (EOLWD)

TITLES OF POSITIONS REPORTING TO YOU	TOTAL NO. IN UNIT	MAJOR FUNCTIONS
Deputy Secretariat Director of Diversity	1	Conducts investigations relevant to alleged Civil Rights violations, Sexual harassment. Provides ADA Accommodations, Veterans Affairs.
Diversity Officer	1	Conducts investigations relevant to alleged Civil Rights violations, Sexual harassment. Provides ADA Accommodation, Recruitment and Training
Equal Opportunity Officer Indirect reports, one in each Career Center	32	Compiles monthly and/or quarterly EO-related statistics for use in work force analysis and reports; conducts investigations relevant to allegations on violation of Civil Rights regulations; provides technical assistance training.

3. MAJOR RESPONSIBILITY AREAS:

1. The Secretariat Director of Diversity and Equal Opportunity acts as EOLWD, DCS and DUA designated Equal Opportunity Officer (the agency’s chief liaison to the Directorate of Civil Rights in the U.S. Department of Labor) as required by 29 CFR Part 37, Implementation of the Nondiscrimination and Equal Opportunity Requirements under WIA. Also, the Secretariat Director serves as the focal point for all EO activity and requires that all administration of EOLWD, DCS and DUA programs (Employment Services, Unemployment Insurance) is conducted in a nondiscriminatory manner.

a. Duties

- Oversees and directs all EO activity throughout the Secretariat and within the Executive Office of Labor and Workforce Development's jurisdiction;
- Advises the EOLWD/DCS/DUA Directors on measures to implement nondiscrimination and Equal Opportunity for all DCS and DUA entities receiving federal financial assistance under the Workforce Investment Act of 1998;
- Provides updates with current trends and changes in civil rights activities and regulations and effectively communicates such information throughout DCS and DUA and related entities such as the 16 Workforce Investment Areas who receive federal financial assistance under WIA;
- Represents DCS and DUA at the National Association of State Workforce Agencies (NASWA) to build partnerships with other State Employment Security Agencies (SESAs) and Equal Opportunity (EO) Directors;
- Develops the Methods of Administration to advise the management staff who oversee Employment Services, Unemployment Insurance and WIA programs on the implementation of nondiscrimination and Equal Opportunity Provisions;
- Ensures that the Employment Services, Unemployment Assistance, and Workforce Investment Act of 1998 programs adhere to compliance measures for nondiscrimination.

b. Methods of Judging Accomplishments

- The Methods of administration and operating procedures are modified to reflect any changes in DCR's regulations that would impact DCS and DUA's initiatives and programs;
- Programs providing services to minority groups, women, Vietnam Era Veterans and people with disabilities are properly evaluated;
- An improved partnership is developed with other states in the area of equal opportunity;
- Access to wider and enhanced resources for equal opportunity related matters is developed;
- All contracts and agreements over \$50,000 and those receiving federal financial assistance under WIA are reviewed for Equal Opportunity provisions, nondiscrimination assurance, or affirmative action;
- All agreements and contracts value above \$50,000 include the required and appropriate affirmative action plan and work force analysis;
- All agreements and contracts receiving federal financial assistance under WIA include the nondiscrimination assurance as required by 29 CFR Part 37;
- Affirmative action goals are realized;
- Sign off is approved on all hires and promotions.

2. Develops, implements, and oversees the procedures for conducting continual compliance reviews of policies and procedures affecting the equitable delivery of services among substantial segments of

the eligible population. Note: This specifically addresses mandated compliance for all ES (Employment Services), UI (Unemployment Insurance), and WIA programs under 29 CFR Part 37.

a. Duties

- Develops methods of administration and service delivery mechanisms that are equitable to all beneficiaries of ES, UI, and WIA programs;
- Coordinates and monitors the state's responsibility for enacting nondiscrimination and equal opportunity measures as required by the Workforce Investment Act of 1998 (29 CFR Part 37);
- Initiates a system of policy communication and provides training to ensure that recipient staff are aware of their EO responsibilities and are able to carry them out;
- Reviews and evaluates local office, recipient and grantee operations for compliance to established policies and legislation relative to services for applicants, claimants, participants, and employers;
- Ensures reviews are conducted according to prescribed time frames; implements and arranges for corrective actions and/or sanctions.

b. Methods of Judging Accomplishments

- All services and programs under the agencies' jurisdiction are monitored for compliance with existing policies, procedures, laws, regulations and executive orders as related to equal opportunity and nondiscrimination;
- The Methods of administration and the implementation thereof reasonably guarantee that all recipients of federal financial assistance under WIA are in compliance with equal opportunity provisions and that a substantial segment of the population eligible for ES, UI, and WIA services/benefits are not discriminated against;
- Administrative operating methods are reviewed biannually and revised as necessary to ensure compliance with the nondiscrimination and equal opportunity provisions of WIA;
- DCS and DUA administer the delivery of programs and activities in the most integrated setting appropriate to qualified individuals with disabilities;
- Procedures are established for obtaining prompt corrective action and negotiating voluntary compliance; sanctions are applied when noncompliance is found.

3. Oversees, directs and monitors DCS and DUA's workforce by developing and implementing its Affirmative Action Plan reflecting the appropriate percentage (parity) of minorities, women, Vietnam Era Veterans, and people with disabilities. Note: This responsibility includes maintaining compliance for all ES, UI, and WIA programs.

a. Duties

- Ensures a workforce which reflects a parity of women, minorities, Vietnam Era Veterans, and people with disabilities;

- Prescribes corrective action plan when necessary;
- Develops and implements procedures conducting continual compliance reviews of policies and procedures to affect the equitable delivery of services in ES, UI, and WIA programs;
- Sets goals and implements plans that advance diversity and equal opportunity throughout the agency.

b. Methods of Judging Accomplishments

- Quarterly audits of hiring and promotion are conducted;
- The Affirmative Action plan is successful if the workforce as well as the population in UI, ES, and WIA funded programs reflects the appropriate percentage of minorities, women, Vietnam Era Veterans and people with disabilities;
- Compliance reviews are conducted within given time frames;
- Sanctions and corrective measures have been imposed if noncompliance is evident;
- Programs and services are in compliance with existing policies, procedures, laws, regulations and executive orders related to equal opportunity;
- Affirmative Action goals are met;
- Sign off is approved on all hires and promotions.

4. Develops, oversees, and provides training programs for DCS and DUA personnel, workforce investment areas and employers in order to promote a full understanding of the meaning and implications of Affirmative Action, Equal Opportunity laws and regulations, and valuing diversity in the work place.

a. Duties

- Ensures that all employees are trained and made aware of all laws and regulations pertinent to affirmative action and equal employment opportunity.
- Prevents harassment and discrimination of employees who are placed through affirmative action efforts, or retaliation in the case of those who utilize their rights.
- Informs hiring managers and supervisors as to what questions are held legally acceptable when interviewing applicants for employment, specifically questions that relate to discrimination and disability.
- Provides expert consultation and advice on affirmative action, equal employment opportunity and diversity related matters.

b. Methods of Judging Accomplishments

- All employees are informed and are more knowledgeable of their rights related to employment;

- Complaints resulting from inappropriate questions being asked during interviews are avoided and the filing of such complaints is limited;
- Managers are trained and educated as to appropriate response for situations arising from complaints of discrimination and harassment.

5. Oversees, monitors, and conducts investigations as a result of complaints filed by DCS and DUA employees, applicants, employers, and recipients of services (UI, ES, WIA), relevant to charges of discrimination, harassment, and equal opportunity to ensure equity and fair treatment of DCS and DUA employees, and recipients of their programs.

a. Duties

- Completes a fair investigation by following the complaint handling process set forth by the Commonwealth's Office of Diversity and Equal Opportunity (ODEO) and the ODEO's complaint resolution process;
- Investigative process does not harm parties' reputation; and
- Ensures that final determination is timely.

b. Methods of Judging Accomplishments

- Complaints are resolved internally; complainant is satisfied with the investigation and
- Confidentiality is maintained throughout the investigation.

6. Acts as the agencies' Sexual Harassment Officer and is responsible for implementing the sexual harassment policy by providing training; and by receiving, investigating and resolving allegations of sexual harassment as set forth by the Executive Order #240 (Massachusetts General Laws Chapter 151B, Section 4, Paragraph 1 and 16B) in accordance to Title VII of the Civil Rights Act of 1964.

a. Duties

- Informs all employees that sexual harassment is against the law and is prohibited behavior which will not be tolerated or condoned;
- Imposes disciplinary action against those who engage in sexual harassment;
- Establishes an open door policy for employees by publicizing availability and accessibility to the Sexual Harassment Officer; and
- Maintains confidential, accurate and current records of each sexual harassment report made to the department, including investigative materials as well as records of the resolution of each matter.

b. Methods of Judging Accomplishments

- A thorough investigation of each complaint is completed in the most expeditious and confidential manner;
- Each situation is handled with discretion, sensitivity and due concern for the dignities of all parties involved;
- Informational materials on sexual harassment, including a copy of the agency's sexual harassment policy, are made available to all employees; and
- Alleged prohibited behavior is reported timely.

7. Implements and monitors the Self-Identification Program for disabled employees which involves an invitation to employees to self-identify on the basis of the disability for affirmative action.

a. Duties

- Increases the comfort level of diversity by promoting diversity and its acceptability so that a large percentage of those eligible for protected status will self-identify;
- Educates DCS and DUA's workforce to self-identify by eliminating fear of discrimination, and informing the general population about rights/benefits related to the protective status; and
- Certifies employees with disabilities to receive the Affirmative Action benefits of protected status.

b. Methods of Judging Accomplishments

- Diversity training is provided which includes educating the workforce in ways to demonstrate acceptance of those who are disabled and what are acceptable methods of offering assistance to any disabled person;
- Confidentiality is assured and reasonable accommodations are made for those who self-identify;
- Avenues for making reasonable accommodations are opened and publicized; and
- An increase in the number of employees who self-identify as having disabilities is evident.

8. Implements and monitors the Vietnam Era Veterans Program as set forth by the Executive Order 526 (which revokes and supersedes EO 235, 452, and 478) in order to employ and advance VEVs in all levels of employment, including the executive level.

a. Duties

- Provides that all VEVs have identified themselves as required and are in compliance with data established for certification by the Commonwealth's Office of Diversity and Equal Opportunity (ODEO); and
- Affords affirmative action benefits of protected status to VEVs who have been certified by the ODEO.

b. Methods of Judging Accomplishments

- Reports and statistics are presented which reflect VEVs in all levels of employment, training and career opportunities; and
- An increase in the number of VEVs who are recruited exists at all levels of employment.

9. Implements and monitors the Reasonable Accommodation Policy in accordance with the Executive Order 526 (which revokes and supersedes EO 246, 452, and 478) and the Americans with Disabilities Act of 1990, as amended, to facilitate work-related accommodations for employees with disabilities whenever such needs arise.

a. Duties

- Accommodations required to fulfill essential job functions are provided to employees if such needs are verified by an appropriate entity or physician and when the accommodations do not present undue hardship to the agency; and
- Ensures employability of persons with disabilities without imposing undue hardship to the agency.

b. Methods of Judging Accomplishments

- Persons with disabilities are able to utilize their skills; and
- Affirmative action goals are met.

4. PRINCIPLE PROBLEMS AND CHALLENGES

The continuing challenge is identifying and removing artificial barriers to employment and advancement while promoting a diverse work environment as we work to ensure compliance with Federal and State Civil Rights Laws and regulations and our own Affirmative Action and Diversity Plan goals. Recognizing that many of our commonwealth citizens are still seeking employment opportunities during these tough economic times, EOLWD continues to build successful partnerships with local colleges, universities, disability groups, veteran and community organizations to enhance our recruitment efforts. Our challenge is to attract, hire, retain and promote a diverse workforce within EOLWD. Utilizing best practices and promoting a positive approach to diversity and equal opportunity, while striving to foster a work environment that is inclusive, open and affirming.

The EOLWD is responsible for implementing and enforcing the Governor's Executive Order 526 concerning Affirmative Action, Equal Opportunity and Diversity within our departments; DCS, DUA, DLS, DLR, and DIA. This executive order incorporates the principles of relevant federal and state employment laws (M.G.L. 151B), prohibits unlawful discrimination against state employees and applicants for state employment due to Age, Ancestry, Color, Background Checks, Disability, Gender, Genetics, National Origin, Race, Religion, Retaliation, Sex and Sexual Orientation. It is the responsibility of this office to ensure all EOLWD departments are in compliance. (See attached Executive Order, Affirmative Action, and Diversity Plans).

EOLWD is also challenged in the area of training. The perennial question remains: how do we continue to 1) ensure that all state and federal policies relating to AA and EO are administered in an equitable and consistent manner, while 2) educating over-scheduled managers and staff on the changing areas of affirmative action, equal opportunity, and diversity when 3) high turn-over guarantees that new areas of challenge emerge in the diverse culture from multi-ethnicities and persons with disabilities, to multigenerational units that may give rise to new employment, or ADA reasonable accommodation issues. Working in an ever changing work environment creates a plethora of new complexities through cultural differences, beliefs, ethnic backgrounds, economic disparities, cultural mores/customs, prejudices/biases, and varying levels of education. Against this backdrop, EOLWD personnel must be leveraged to coordinate and conduct Secretariat-wide diversity training.

Notwithstanding these challenges, EOLWD remains fully committed to Affirmative Action, Equal Opportunity, ADA, and workforce inclusion as defined by our Diversity Plan. We believe none of the challenges the Executive Office of Labor and Workforce Development face are insurmountable.

5. DECISION MAKING AUTHORITY

a. Decisions Expected

- Develops and implements an AA and EO Policy and Procedure which affects approximately 4,000 employees (both State and Non-State);
- Develops the Secretariats' Affirmative Action Plan;
- Resolves individual employee grievances according to the complaint procedures as outlined in the Commonwealth's ODEO Resolution process;
- Determines the specific content of training session for managerial staff on employees' personnel policies and employee relations issues;
- Determines the format for all Diversity programs, and authorize whatever monies necessary to subsidize the planned events;
- Schedules Diversity programs and time frames; determines Diversity program participation levels, and direct involvement;
- Establishes time frames for submission of quarterly statistics on workforce analysis;
- Signs off on recommendations for hire to indicate that they have been reviewed for AA/EEO goals;
- Institutes monitoring reports for affirmative action measures;
- Decides on the extent or degree of investigation in the event that a complaint is filed alleging violation of AA/EO or related Civil Rights issues;
- Renders decisions involving judgment calls related to investigations and complaints, all of which involve a high level of accountability;

- Initiates action to remove barriers to employment; monitors that reasonable accommodations are effected; and
- Determines if employee accommodations are reasonable, or if hardship to the employer exists, assesses the extent of hardship.

b. Recommendations Expected:

- Recommends agency policies and procedures relating to AA, EO, and employee relations;
- Recommends solutions to agency wide employee relations problems in order to resolve them;
- Recommends corrective action when a particular office/department shows disparity in its affirmative action plan;
- Recommends corrective action as it related to technical work force analysis, or violation of any AA and EEO laws and regulations, or refers matters of discrimination to appropriate secretariat CR, Commonwealth's Office of Diversity or the MCAD for corrective action;
- Recommends to department managers and supervisors actions that comply with both federal and state AA/EEO laws, and other applicable laws;
- Proposes funding for reasonable accommodations and removal of barriers to employment;
- Opens avenues for nationwide interstate and intrastate channels of telecommunications for the speech and/or hearing impaired population;
- Fosters the provision of training related to Diversity and AA/EO needs; and
- Recommends AA/EO actions that meet all standards and regulations of UI, ES, and WIA entities that receive federal assistance through funded grants.

c. Policies, Procedures, and Guidelines Governing Job Performance:

- The Commonwealth Office of Diversity and Equal Opportunity Resolution Process policies, procedures and guidelines as mandated by the Massachusetts Commission Against Discrimination and the Equal Employment Opportunity Commission, Directorate of Civil Rights of the Department of Labor and other related forums; and
- The DCS and the DUA's Affirmative Action Plans.

6. SUPERVISION EXERCISED:

The Secretariat Director of Diversity and Equal Opportunity provides indirect supervision to the Equal Opportunity Officer at each Career Center through verbal and written communications.

She/he provides close supervision to all levels of employment in the work force in the planning preparation, coordination and presentation of events and activities that celebrate DCS and DUA's diverse work force.

This position also functions as an internal consultant/mediator to DCS, DUA, and DAT department heads and supervisors and regional staff in matters relating to complaint procedures, performance appraisals, employee counseling, career development, organization structure and personnel matters. The incumbent influences decisions in these areas through functional authority. The incumbent also publishes procedural guidelines for all employee assistance/relations programs and then monitors adherence by all agency administrators and employees.

7. DIRECTION, GUIDANCE, AND SUPPORT RECEIVED:

As Equal Opportunity Officer the incumbent is also accountable to the DCS, and DUA Directors. Due to the nature of this position, the following provide direction, guidance, and support:

- a) Human Resource Director – monitors quarterly and annual reports on DCS and DUA’s work force analysis and complaints.
- b) NASWA EO Director’s Committee – meets quarterly and annually with other EO directors nationwide who provide guidance and support to the incumbent.

8. WORKING RELATIONSHIPS

MOST FREQUENT CONTACTS	NATURE OR PURPOSE
Labor Relations	Requests for work force analysis.
Training Department	Coordinates and implements diversity related training programs statewide.
Regional Directors/Department Managers	Coordinates work force diversity program throughout the Opportunity Job Centers statewide; advises on work force analysis.
DCS and DUA Employees	Interacts through the events sponsored by the [Diversity Office]; complaints, grievances, etc.
Universal Access Committee	Member of statewide initiative to improve full participation of persons with disabilities to all government buildings, service and programs
NASWA EO Directors’ Committee	Consults with peers on EO-related issues.
Directorate of Civil Rights of the US Department of Labor	Responds on behalf of the agencies to complaints; attends its annual conference in order to keep abreast with current trends and changes in civil rights activities and regulations.
Director and Assistant Director of CRC	Meets with the Director in order to discuss current changes in DCR’s regulations as it affects DCS and DUA programs and initiatives.

State and Federal Agencies	Responds on behalf of DCS, and DUA complaints.
Union Representatives	Discusses employee relations matters.
Employers	Provides information relevant to their affirmative action plans.
Public	Responds to complaints and inquiries as it relates to AA and EO issues.

9. WORKING CONDITIONS

As the person charged with implementing and overseeing the agency's affirmative action plan and diversity programs, in order to provide outreach to all segments of EOLWD, DCS and DUA work force, extensive travel is required. Logistically, priorities require frequent shifting due to emergency employee relations matters (i.e. mediation, dispute resolution). It is not unusual to have meetings, interviews, investigations and reasonable accommodation requests all on the same day that also requires travel.

The incumbent must deal with general inquiries regarding complaints/grievances on a daily basis. Frequently, given the nature of the complaint, respondents may direct their anger at being named in a complaint toward the incumbent. A great demand on de-escalation, mediation and problem resolution skills are required. Conducting investigations must be done thoroughly and can be time consuming, depending on the number of witnesses who can attest or disprove charges made against another employee or a manager. Cases involving negative actions (terminations, demotions, suspensions, transfers) being taken against an employee can be particularly tense and stressful.

Frequent contact with the public is required to answer general inquiries, job applicant questions, concerns about services rendered and employer requests for referral as an EO compliant entity.

Numerous reports must be filed on weekly, monthly, quarterly, annual and multi-year basis.

The position requires community outreach to diverse populations and as a result additional time constraints are placed on the position.

10. FUNCTIONAL MANAGEMENT RESPONSIBILITY

- Initiates audits of hiring and promotion patterns, training programs in order to remove barriers to affirmative action goals and objectives; and
- Provides technical expertise and training in AA and EEO policies to ensure that hiring standards are fixed, reasonable, objective and job related.

11. SERVICE DELIVERY

Employees of EOLWD, DCS, DUA and their clients/customers.

12. QUALIFICATIONS

A. Knowledge, Skill, and Abilities

Knowledge of Title VII of the Civil Rights Act of 1964, Executive Order 11246, Equal Pay Act of 1963, Age Discrimination Act of 1967, National Labor Relations Act, Rehabilitation Act of 1973, Vietnam Era Veterans Act of 1974, Freedom of Information and Privacy Act of 1974, Pregnancy Discrimination Act of 1978, Uniform Guidelines on Employee Selection Procedures, 1980 Sexual Harassment Guidelines, Americans with Disabilities Act of 1990, as amended;

Knowledge of the Workforce Investment Act of 1998 (WIA);

Knowledge of the Commonwealth's ODEO Resolution Process;

Knowledge of Collective Bargaining Agreements;

Knowledge of all other state and federal regulations as they relate to civil rights and equal opportunity;

Ability to conduct a fair and thorough investigation;

Ability to find facts based on information presented by conflicting testimony;

Ability to write concisely.

B. Experience Necessary

Applicants must have at least (A) four years of full-time, or equivalent part-time, professional, administrative, supervisory, or managerial experience in business administration, business management, or public administration, and (B) of which three years must have been in a supervisory or managerial capacity.

ELEMENT II

Equal Opportunity Notice and Communication

(29 CFR §37.54(d)(1)(iii))

EQUAL OPPORTUNITY NOTICE AND COMMUNICATION

The Commonwealth and its subrecipients will provide initial and continuing notice that it does not discriminate on any prohibited grounds to:

1. Registrants, applicants, and eligible applicants, registrants;
2. Participants;
3. Applicants for employment and employees;
4. Unions or professional organizations that hold collective bargaining or professional agreements with the recipient;
5. Subrecipients that receive WIA Title I funds from the recipient; and
6. Members of the public, including those with impaired vision or hearing.

Notice provided by Massachusetts Title I programs will contain the specific wording required by 20 CFR 37.30, *Equal Opportunity is the Law*.

Massachusetts Title I programs will not discriminate in any of the following areas:

- Deciding who will be admitted, or have access, to any WIA Title I-financially assisted program or activity;
- Providing opportunities in, or treating any person with regard to, such a program or activity; or
- Making employment decisions in the administration of, or in connection with, such a program or activity.

At a minimum, the required notice will be:

1. Posted prominently, in reasonable numbers and places;
2. Disseminated in internal memoranda and other written or electronic communications;
3. Included in handbooks or manuals; and
4. Made available to each participant and made part of each participants file.

Massachusetts Title I programs will provide this notice in appropriate formats to individuals with visual impairments, based on the individuals' needs, and document this notice.

Massachusetts and its grant recipients will be responsible for meeting the notice requirements described above to service providers. This will be accomplished through the Individual Training Account process for individual clients, and by Massachusetts' Title I programs for their group contracts. Local areas' compliance with this requirement is monitored by the Commonwealth annually (see element VII). The Commonwealth is in the process of determining whether it is feasible to document notice to participants in the Massachusetts One-Stop Employment System (MOSES) database which is used by all local area. Currently, a sample form for documenting this on paper is contained Element VIII.

- a. Massachusetts' Title I Programs will indicate that the WIA Title I-financially assisted program or activity in question is an "equal opportunity employer/program," and that "auxiliary aids and services are available upon request to individuals with disabilities," in recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public at large, to describe programs financially assisted under Title I of WIA or the requirements for participation by recipients and participants. Where such materials indicate that the grant recipient may be reached by telephone, the materials

will state the telephone number of the TDD/TTY or relay service used by the grant recipient.

- b. Massachusetts' Title I Programs will ensure that publications or broadcast program information in the news media will state that the WIA Title I-financially assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIA Title I-financially assisted program is prohibited by Federal law), and indicate that auxiliary aids and services are available upon request to individuals with disabilities.
- c. Massachusetts' Title I Programs will not communicate any information that suggests, by text or illustration, that they treat beneficiaries, registrants, applicants, participants, employees or applicants for employment differently on any prohibited ground specified in 20 CFR 37.35, except as such treatment is otherwise permitted under Federal law or regulation.

Where a significant number or proportion of the population eligible to be served, or likely to be directly affected, by a WIA Title I-financially assisted program or activity, needs services or information in a language other than English in order to be effectively informed about, or able to participate in, the program or activity, Massachusetts' Title I Programs will take the following actions:

1. Consider the scope of the program or activity, and the size and concentration of the population that needs services or information in a language other than English; and
2. Based on those considerations, take reasonable steps to provide services and information in appropriate languages, including the initial and continuing notice and all information that is communicated as described above.

In circumstances other than those described here, Massachusetts' Title I Programs will nonetheless make reasonable efforts to meet the particularized language needs of limited-English-speaking individuals who seek services or information from these programs.

Massachusetts' Title I Programs will include a discussion of rights under the nondiscrimination and equal opportunity provisions of WIA and 20 CFR Part 37, including the right to file a complaint of discrimination with the Commonwealth, or the Director, in each presentation to orient new participants, new employees, and/or the general public to its WIA Title I-financially assisted program or activity.

Massachusetts' Title I Programs are monitored by the Commonwealth to determine that recruitment brochures and other materials routinely made available to the public include the statements "equal opportunity employer/program" and "auxiliary aids and services are available upon request to individuals with disabilities." The Commonwealth also monitors for TDD/TTY phone numbers, review of information published, or broadcast in the news media, and provision of such materials in languages other than English (see elements IV and VII). All recipients must ensure a discussion of the rights of individuals under EO requirements of WIA Title I (see element VIII).

The Commonwealth has developed a procedure for issuing WIA Communications to all local areas and interested parties. All policies, procedures, and notices of training will be communicated through this venue. For example, see WIA Issuance contained in Element VIII.

ELEMENT III

Assurances

(29 CFR §37.54(d)(1)(i) and (d)(2)(i), (iii), and (iv))

REVIEW OF CONTRACTS AND AGREEMENTS

ASSURANCES

The Commonwealth and its subrecipients will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

1. Section 188 of the Workforce Investment Act of 1998 (WIA), which prohibits discrimination against all individuals in the United States on the basis of Age, Ancestry, Color, Background Checks, Disability, Gender, Genetics, National Origin, Race, Religion, Retaliation, Sex and Sexual Orientation, 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;
2. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color, and national origin;
3. Title VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of Age, Ancestry, Color, Background Checks, Disability, Gender, Genetics, National Origin, Race, Religion, Retaliation, Sex and Sexual Orientation;
4. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
5. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age;
6. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs; and
7. 29 CFR Part 37, Regulations implementing the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998.

The Commonwealth incorporates the requirement to comply with the above Equal Opportunity/Non-Discrimination Laws into its agreements with subrecipients operating programs under Title I of the Workforce Investment Act of 1998. A copy of the Title I Master Agreement is contained in the documentation below. In addition, service providers seeking eligibility to provide training to WIA Title I participants are required to comply with the EO requirements of Title I. See ITA Application (including terms and conditions) attached below.

Each local area and training provider is required to be in compliance with the Americans with Disabilities Act of 1990, and able to provide programmatic and architectural accessibility for individuals with disabilities. All local areas are required to provide universal access and incorporate their strategies for meeting this requirement in their Local Plans. Please see attachments in Element IV, as well as the sample Master Agreement and ITA Application contained in this Element.

Annual monitoring of compliance with these requirements is conducted by the Commonwealth. Please see Element VII.

Covenants

For any real property purchased under or transferred into Title I, the Commonwealth and its Title I Programs will include a covenant assuring nondiscrimination and equal opportunity for the period described in the Duration of Obligation in the instrument affecting or recording the following:

1. The transfer of real property, structures, or improvements on real property or structures provided under WIA Title I;
2. Any subsequent transfer of such real property they acquire, or acquire an interest therein under a program of WIA Title I financial assistance.

When the property is obtained from the Federal Government, the covenant may also include a condition coupled with a right of reverter to the Department in the event of a breach of the covenant.

Duration of Obligation

The Commonwealth and its Title I Programs are obligated for the period during which WIA Title I financial assistance is extended.

Where the WIA Title I financial assistance is intended to provide, or is in the form of, either personal property, real property, structures on real property, or interest in any such property or structures, the Commonwealth and its Title I Programs are obligated, or (in the case of a subsequent transfer) the transferee, for the longer of:

1. The period during which the property is used either:
 - a. For a purpose for which WIA Title I financial assistance is extended; or
 - b. For another purpose involving the provision of similar services or benefits; or
2. The period during which either:
 - a. The Commonwealth and its Title I Programs retain ownership or possession of the property; or
 - b. The transferee retains ownership or possession of the property without compensating the Departmental grant making agency for the fair market value of that ownership or possession.

ELEMENT IV

Universal Access

(29 CFR §37.54 (d)(1)(vi))

UNIVERSAL ACCESS

The Commonwealth is taking appropriate steps to ensure that it is providing universal access to its WIA Title I-financially assisted programs and activities. These steps involve reasonable efforts to include both genders, various racial and ethnic groups, individuals with disabilities, Vietnam Era veterans and individuals in differing age groups. Such efforts may include, but are not limited to:

- A. Advertising WIA Title I programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations;
- B. Providing reasonable accommodations to employees and those seeking services;
- C. Sending notices about openings in WIA Title I programs and/or activities to schools or community service groups that serve various populations; and
- D. Consulting with appropriate community service groups about ways in which Title I program operators may improve their outreach and service to various populations.

The Commonwealth has issued several policies, bulletins and executive orders which emphasize the requirement to provide universal access. These include the Provision of Core Services Policy, the Local Planning Instruction, and the MOU Instructions/Policy; the Language Access Plan for Limited English Proficiency, Bulletins #19 and 16. These policies are contained later in this Element and Element V. In addition, the Commonwealth's Model Affirmative Action Plan is included in Element V, as well as other policies regarding compliance with the Rehabilitation Act of 1973.

The Commonwealth also monitors annually and evaluates the success of recipient efforts to broaden the composition of those considered for participation and employment in their programs and activities. See Element VII.

A. Reasonable Accommodations

Consistent with the requirements of Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12131-12134 as amended and Executive Order 526 (see Section V) EOLWD has a programmatic framework for provision of reasonable accommodations to those seeking services and for proactive action to remove physical and programmatic barriers that limit equal participation in state programs, activities and services. Title II of the ADA, among other things, explicitly requires each public entity to: (1) conduct a Self Evaluation by examining administrative policies, operational procedures, and communication systems for possible unintentional exclusion identifies architectural barriers that require removal to achieve program access, and (2) prepare a Transition plan that refines the strategy for barrier removal, establishes a schedule for the actual removal and interim procedures to ensure access, and identifies a person responsible for ensuring completion of the work. Executive Order 526 establishes a policy of non-discrimination and equal opportunity in the delivery of state programs, services and activities. See guidelines appended to this section.

The Commonwealth also administers a capital fund to supplement agency efforts to pay for the accommodation needs of the Executive Branch's employees. Called the Reasonable Accommodation Capital Reserve Account (RACRA), RACRA makes funds available to agencies faced with single requests of over \$2,500 for a single individual, or cumulative expenses totaling more the 0.5% of the agency's annual budget. This reserve is envisioned as a supplement, not a replacement to Agency funds The Fund contains \$500,000. One hundred thousand dollars

(\$100,000) is available, in each of FY-2010 through FY-2014, to supplement state agency efforts to effectively accommodate the disabilities of Executive Department employees. The acceptable uses for the fund include assistive technology, accessibility needs of an employee and hardware and software. See guidelines appended to this section.

B. Limited English Proficiency Services

Prior to the implementation of Bulletin #16, the Office of Multilingual Services has ensured meaningful access to all aspects of the Agency programs, services and activities for all Limited English Proficiency (LEP) customers by providing language expertise, support, and guidance. Subsequent to the issuance of Bulletin #16 and consistent with the reorganization of EOLWD, the Office of Multilingual Services has ensured that the values of the Commonwealth's non-discrimination policy, equal access and opportunity are safeguarded, promoted and reflected throughout the entire Secretariat's programs, services, and activities. The Language Access Plan for the Department of Unemployment Assistance (DUA) and the Department of Career Services (DCS) is appended to this section and updated as of December 2011. Please find translated standard publications in our Multilingual website <http://www.mass.gov/lwd/eolwd/multilingual-information/multilingual/>. The state's websites for WIA Title I programs are maintained by the Department of Career Services.

Multilingual Services coordinates translations and interpreter services for multiple languages, including American Sign Language (ASL). Standard publications and important documents are translated into the nine statutory languages: Spanish, Portuguese, Haitian Creole, Chinese, Vietnamese, Russian, Khmer, Laotian, and Italian. The Multilingual Unit also facilitates communication between DUA Adjudicators, Claimstakers and Limited English Proficiency (LEP) customers by providing interpretation services as needed. Our Unit comprises staff who speak: English, Spanish, Portuguese, Vietnamese, Cantonese, Mandarin, Cape Verdean, French, and Arabic (Egyptian).

Local Plans submitted by each area address issues with respect to universal access. This includes questions related to outreach and provision of services to non-English speaking populations. See attached list of languages available at One-Stop Career Centers.

ELEMENT V

Compliance with Federal Disability

Non-Discrimination Laws

(29 CFR §37.54(d)(2)(v))

COMPLIANCE WITH SECTION 188 OF THE WORKFORCE INVESTMENT ACT

The Commonwealth of Massachusetts requires that all service providers and recipients of WIA Title I financial assistance comply with the requirements of 29 CFR Part 37. All contracts and other agreements contain required assurances against discrimination. No programs or services may discriminate against an individual on the basis of a disability, or otherwise limit a qualified individual from participating in, or benefit from aid, benefits, services, or training. All Title I financially assisted programs are required to administer their activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. Each recipient and service provider must have facilities that fully comply with the Americans with Disabilities Act. In addition, all recipients and service providers must be able to provide reasonable physical and programmatic accommodations to individuals with disabilities. Massachusetts has implemented Executive Order 526, which requires all state and local entities to take affirmative action to insure equal access to persons with disabilities in all areas of employment and to make reasonable accommodations where necessary.

All recipients must:

- Meet their obligation not to discriminate on the basis of disability.
- Provide reasonable accommodation for individuals with disabilities.
- Provide reasonable modification of policies, practices, and procedures.
- Provide architectural accessibility for individuals with disabilities.
- Provide programmatic accessibility for persons with disabilities.
- Provide for and adhere to a schedule to evaluate job qualifications to ensure that the qualifications do not discriminate on the basis of disability.
- Limit pre-employment/employment medical inquiries to those permitted by and in accordance with WIA Section 188, Section 504, the Americans with Disabilities Act of 1990, and their implementing regulations.
- Ensure the confidentiality of medical information provided by registrants, applicants, eligible applicants/registrants, participants, employees, and applicants for employment.
- Administer their WIA Title I-financially assisted programs and activities so that each individual with a disability participates in the most integrated setting appropriate to that individual.
- Are able to communicate with persons with disabilities as effectively as with others..

The state has issued numerous policies and executive orders to implement compliance with Section 504, the ADA, and other Massachusetts laws. Attached are ten (10) of these documents in support of these requirements.

ELEMENT VI

Data and Information Collection

And Maintenance

(29 CFR §37.54(d)(1)(iv) and (vi))

DATA INFORMATION COLLECTION AND MAINTENANCE

The Commonwealth of Massachusetts and its WIA Title I sub-recipients will collect such data and maintain such records, in accordance with procedures prescribed by the Director, as the Director finds necessary to determine whether Massachusetts has complied, or is complying, with the nondiscrimination and equal opportunity provisions of WIA found at 29 CFR Part 37. The system and format in which the records and data are kept is designed to allow the Commonwealth and CRC to conduct statistical or other quantifiable data analyses to verify Massachusetts' compliance with Section 188 of WIA and 29 CFR Part 37.

Such records must include, but are not limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Massachusetts and its WIA Title I sub-recipients record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, eligible applicant/registrator, participant, terminee, employee, and applicant for employment. This information will be stored in a manner that ensures confidentiality, and must be used only for the purposes of recordkeeping and reporting; determining eligibility, where appropriate, for WIA Title I-financially assisted programs or activities; determining the extent to which Massachusetts and its WIA Title I sub-recipients is operating its WIA Title I-financially assisted program or activity in a nondiscriminatory manner; or other use authorized by law.

Massachusetts and its WIA Title I sub-recipients will maintain, and submit to CRC upon request, a log of complaints filed with it that allege discrimination on the ground(s) of Age, Ancestry, Color, Background Checks, Disability, Gender, Genetics, National Origin, Race, Religion, Retaliation, Sex and Sexual Orientation, political affiliation or belief, citizenship, and/or participation in a WIA Title I-financially assisted program or activity. The log will include:

- Name and address of the complainant;
- A description of the complaint;
- Date the complaint was filed;
- Disposition of the complaint;
- And other pertinent information.

Information that could lead to identification of a particular individual as having filed a complaint will be kept confidential.

Where designation of individuals by race or ethnicity is required, the guidelines of the Office of Management and Budget will be used.

All registrant/participant data is maintained by the One-Stop Career Center staff in the Massachusetts One-Stop Employment System (MOSES) database. A printout of the screens on the MOSES database which contain the required data elements are attached below. A sample Confidential Applicant Data and Procedure Form and instructions are also contained.

Complaints at the local level are filed through the Career Centers, including those related to service providers. The Commonwealth's policy on complaint processing, Communication No. 05-89, is contained in Element VIII.

Massachusetts and its WIA Title I sub-recipients will promptly notify the Director when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the ground of Age, Ancestry, Color, Background Checks, Disability, Gender, Genetics, National Origin, Race, Religion, Retaliation, Sex and Sexual Orientation, and for beneficiaries only, citizenship or participation in a WIA Title-I financially assisted program or activity. The notification will include:

1. The names of the parties to the action or lawsuit;
2. The forum in which each case was filed;
3. The relevant case numbers.

As a grant applicant (as part of its application) and recipient (as part of a compliance review conducted under 20 CFR 37.73 or monitoring activity carried out under 20 CFR 37.65), Massachusetts and its WIA Title I sub-recipients will provide the following information:

1. The name of any other Federal agency that conducted a civil rights compliance review or complaint investigation, and that found the recipient to be in noncompliance, during the two years before the grant application was filed or CRC began its examination; and
2. Information about any administrative enforcement actions or lawsuits that alleged discrimination on any protected basis, and that were filed against the recipient during the two years before the application or renewal application, compliance review, or monitoring activity. This information will include:
 - i. The names of the parties;
 - ii. The forum in which each case was filed; and
 - iii. The relevant case numbers.

Massachusetts and its WIA Title I sub-recipients will, where required by the Director, provide, in a timely manner:

- a. Any information and data necessary to investigate complaints and conduct compliance reviews on grounds prohibited under the nondiscrimination and equal opportunity provisions of WIA and this part;
- b. The particularized information and/or submit the periodic reports that the Director considers necessary to determine compliance with the nondiscrimination and equal opportunity provisions of WIA or 20 CFR Part 37;
- c. The particularized information necessary to determine whether or not the recipient, if financially assisted, would be able to comply with the nondiscrimination and equal opportunity provisions of WIA or this part.

All complaint procedures, sample letters and forms are contained in the Commonwealth's policy on complaint processing, Unified Workforce Investment System Complaint Process (Revised). See Element VIII.

Massachusetts and its WIA Title I sub-recipients will maintain the following records for a period of not less than three years from the close of the applicable program year:

1. The records of applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment; and
2. Such other records as are required under 20 CFR Part 37 or by the Director.

Records regarding complaints and actions taken on the complaints will be maintained by Massachusetts and its WIA Title I sub-recipients for a period of not less than three years from the date of resolution of the complaint.

The Commonwealth's Records Retention Policy for WIA Title I is contained below.

Access to sources of information

Massachusetts and its WIA Title I sub-recipients will permit access by the Director during normal business hours to its premises and to its employees and participants, to the extent that such individuals are on the premises during the course of the investigations, for the purpose of conducting complaint investigations, compliance reviews, monitoring activities associated with Massachusetts' development and implementation of a Methods of Administration, and inspecting and copying such books, records, accounts, and other materials as may be pertinent to ascertain compliance with and ensure enforcement of the nondiscrimination and equal opportunity provisions of WIA or 20 CFR Part 37.

Asserted considerations of privacy or confidentiality will not be a basis for withholding information from CRC and will not bar CRC from evaluating or seeking to enforce compliance with the nondiscrimination and equal opportunity provisions of WIA and 20 CFR Part 37.

Whenever any information that the Director asks Massachusetts and its WIA title I sub-recipients to provide is in the exclusive possession of another agency, institution, or person, and that agency, institution, or person fails or refuses to furnish the information upon request, Massachusetts or its WIA Title I sub-recipients will certify to CRC that it has made efforts to obtain the information and the agency, institution, or person has failed or refused to provide it. This certification will list the name and address of the agency, institution, or person that has possession of the information and the specific efforts the recipient made to obtain it.

Maintaining the confidentiality of the information collected

Massachusetts and its WIA Title I sub-recipients will keep confidential, to the extent possible, consistent with a fair determination of the issues, the identity of any individual who furnished information relating to, or assisting in, an investigation or a compliance review, including the identity of any individual who files a complaint. Massachusetts and its WIA Title I sub-recipients will protect from retaliation any individual whose identity it is necessary to disclose, as required by 20 CFR 37.11.

Massachusetts and its WIA Title I sub-recipients will not discharge, intimidate, retaliate, threaten, coerce, or discriminate against any individual because the individual has:

1. Filed a complaint alleging a violation of Section 188 of WIA or 20 CFR Part 37;
2. Opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of WIA or this part;
3. Furnished information to, or assisted or participated in, an investigation, review, hearing, or any other activity related to any of the following:
 - a. Administration of the nondiscrimination and equal opportunity provisions of WIA or 20 CFR Part 37;
 - b. Exercise of authority under those provisions; or
 - c. Exercise of privilege secured by those provisions

4. Otherwise exercised any rights and privileges under the nondiscrimination and equal opportunity provisions of WIA or 20 CFR Part 37.

ELEMENT VII

Monitor Recipients for Compliance

(29 CFR §37.54(d)(2)(ii))

MONITOR RECIPIENTS FOR COMPLIANCE

The Department of Career Services monitors all recipients annually to ensure that they comply with the requirements of 29 CFR Part 37. Program monitoring tools contain basic questions regarding compliance with EO requirements. See attached copies of monitoring tools.

The Commonwealth utilizes its joint monitoring of recipients procedure to evaluate the extent to which recipients are complying with the administrative obligations of 29 CFR Part 37, including, but not limited to:

- Assurances
- Equal Opportunity Officers
- Notice and Communication
- Data and information collection and maintenance
- Universal access
- Complaint processing procedures
- Performing the responsibilities assigned such recipients by the State through the MOA
- Conducting equal opportunity monitoring/evaluation review of applicants for and recipients of WIA Title I financial assistance (including monitoring assurances and programmatic and architectural accessibility)
- Imposing sanctions and corrective actions for violations noted by a recipient during its monitoring reviews
- Ensuring policy development, communication, and training are carried out
- Ensuring that their programs and activities are operating in a nondiscriminatory manner and ensuring equal opportunity.

The Equal Opportunity Officer's Job Description defines the role of the EO Officer in overseeing these areas, as well. Please see Element I. The EO Officer, Quality Control, and Contracts staff monitor for EO requirements and activities periodically. Desk reviews as well as site reviews are being coordinated conducted to ensure compliance with equal opportunity and nondiscrimination policies, and that appropriate training, communication, and signage are in place and maintained. The EO Officer randomly plans site evaluations for smaller, outlying centers. The plan is to ensure communication and proper training has occurred in the more remote areas of the state. It is also important that the EO Officer acquaint himself with as many staff as possible to open and maintain a good line of communication regarding EO questions and issues.

ELEMENT VIII

Complaint Processing Procedures

(29 CFR §37.54(d)(1)(v))

COMPLAINT PROCESSING PROCEDURES

The Commonwealth of Massachusetts has designated the Diversity Director as the Equal Opportunity and Civil Rights Officer of the Massachusetts Department of Career Services, the Department of Unemployment Assistance, and their joint administrative services unit under the Executive office of Labor and Workforce Development and the WIA Title I Equal Opportunity Officer. Together with the Massachusetts Commission Against Discrimination, the Director of Civil Rights has primary responsibility to review policy and process to ensure appropriate response at the state level.

The Commonwealth of Massachusetts has issued Grievance Procedures for EO and Discrimination Complaints Policy No. 11-27 through its WIA Communications Series. This policy requires that each recipient:

Develop and publish complaint procedures, which, at a minimum:

1. Provide for the issuance of a written Notice of Final Action within 90 days of the date on which the complaint is filed.
2. Contain the following elements:
 - Initial, written notice acknowledging complaint receipt.
 - Notice of the complainant's rights to be represented in the complaint process.
 - A written list of the issues raised in the complaint, and, for each issue, a statement whether the recipient will accept the issue for investigation or reject the issue, and the reasons for each rejection.
 - A period for fact-finding or investigation of the circumstances underlying the complaint.
 - A period for resolution, including methods of ADR.

A written Notice of Final Action, provided to the complainant within 90 days of the date on which the complaint was filed that contains all the required elements.

DCS CUSTOMER COMPLAINTS WHEN A CONFLICT ARISES AND DUA PERSONNEL

If a claimant alleges discrimination, harassment, or denial of a reasonable accommodation through the provision, or lack of provision, of services and the DCS local EO Officer is not able to hear the matter due to a conflict, or the service complaint originates from DUA, the matters are to be directly reported to the Director of Diversity and Equal Opportunity (EOLWD EO Officer listed in Element I). The Director's office shall conduct a full and thorough investigation to include any interviews of staff and witnesses, and any documentary information to determine if a violation of the EOLWD's non-discrimination policy has occurred.

The local EO Officer or EOLWD EO Officer findings may be appealed with any appropriate state or federal authority, including appeal of the finding to the MCAD. The appeal request shall be in writing within ten (10) working days of the determination. Pursuant to Executive

Order 526, complainants have the right to appeal the partial denial of a reasonable accommodation to the:

MCAD

Massachusetts Commission Against Discrimination (“MCAD”)-complaint must be filed within 300 days of alleged discrimination

One Ashburton Place

Sixth Floor, Room 601

Boston, MA 02108

Phone: 617-994-6000

TTY: 617-994-6196

OR

Equal Employment Opportunity Commission (“EEOC”)-complaint must be filed within 300 days of alleged discrimination.

EEOC

U.S. Department of Labor, Civil Rights Center

200 Constitution Avenue NW

Room N4123

Washington, DC 20210

Phone: (202) 693-6500

TTY: (202) 693-6516

Benefit Appeals of Former Agency Employees:

Unemployment claimant matters involving former employee and witnesses in the Executive Office of Labor and Workforce Development should be sent by the Hearings Department to the Division of Administrative Law Appeals (DALA) to conduct a *de novo* hearing with a resultant new decision and new appeal rights to the Board of Review. This process will avoid any appearance of a potential conflict, and preserve the claimant’s right to a fair, independent, and impartial decision.

ELEMENT IX

Corrective Actions/Sanctions

See 29 CFR §37.54(d)(2)(vii)

CORRECTIVE ACTIONS/SANCTIONS

The standard for corrective and remedial actions to be applied when violations of WIA section 188 or 29 CFR part 37 are found.

Compliance reviews, including site visits will be conducted with follow up visits to ensure the terms of any corrective actions are met. The EO Officer, DCS local EO officers, Board member, or other qualified, knowledgeable EOLWD representative may conduct these reviews. Findings will be documented in writing, provided to the violator, and a copy retained in the EO file.

Currently, findings of non-compliance may be addressed in person, in the form of a memorandum, or other written reports or directives, depending on the violation and the perpetrator of the violation. Written agreements or assurances must be submitted to document corrective action taken, or the status of the action for the violation or finding. DCS/EOLWD will promulgate rules for applying sanctions and/or corrective actions to violators of WIA section 188 and/or 29 CFR part 37.

DCS/EOLWD employees found in violation or non-compliance will be referred to the Massachusetts Commission Against Discrimination (MCAD) for review and enforcement as established in the Commonwealth of Massachusetts Executive Order 526.

Recipients found to be in violation of 29 CFR part 37 or WIA section 188 may be required to provide documentation in the form of written or verbal reports as to the means by which they are continuing to correct the violations. This determination will be made on a case by case, jointly agreed upon, basis. The reports will be provided to the EO Officer, and may be submitted to the Secretary of EOLWD, if deemed necessary.



Commonwealth of Massachusetts
Executive Office of Labor and Workforce Development
Methods of Administration
For the Non-Discrimination and Equal Opportunity Provisions
Of the Workforce Investment Act
Title I Financially Assisted Programs

Approved by:

A handwritten signature in blue ink, appearing to read "Deval L. Patrick", written over a horizontal line.

The Honorable Deval L. Patrick
Governor of the Commonwealth of Massachusetts



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

DEVAL L. PATRICK
GOVERNOR

October 8, 2013

Ms. Namoi Barry-Perez
Director
U.S. Department of Labor, Civil Rights Center, Room N-4123
200 Constitution Avenue, N.W.
Washington, D.C. 20110

Dear Ms. Barry-Perez:

The Commonwealth of Massachusetts' Executive Office of Labor and Workforce Development is the designated state agency recipient of Workforce Investment Act (WIA) Title I funding. Therefore, it is responsible to comply with Section 188 of WIA and the regulations at 29 CFR Part 37.

Pursuant to 29 CFR Part 37, the Governor may designate an individual responsible for the development and implementation of the Methods of Administration under the Equal Opportunity provisions of WIA. Joanne Goldstein, Secretary of the Commonwealth's Executive Office of Labor & Workforce Development, is my designee.

In accordance with 29 CFR §§ 37.23-.25, the state agency's Equal Opportunity Officer serves as the liaison for the Civil Rights Center. Dennis Johnson is the Executive Office of Labor and Workforce Development's Chief Diversity and Equal Opportunity Officer.

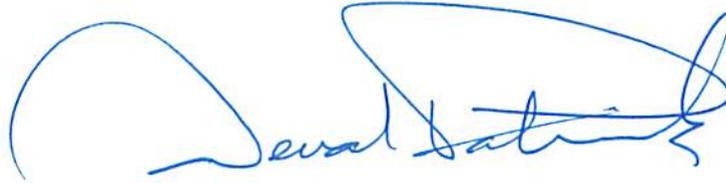
Ms. Namoi Barry-Perez

October 8, 2013

Page 2

Should you have any questions or concerns regarding the Commonwealth of Massachusetts' Methods of Administration, or its equal opportunity and non-discrimination policies, processes, and procedures, please contact either Chief Diversity and Equal Opportunity Officer Dennis Johnson at 617-626-5111 (djohnson1@detma.org) or Deputy Secretariat Director of Diversity Rex Gerlach-Brown at 617-626-5138 (rgerlach-brown@detma.org).

Respectfully,

A handwritten signature in blue ink, appearing to read "Rex Gerlach-Brown", is written below the text "Respectfully,". The signature is stylized and cursive.