**SUBRECIPIENT AND EQUAL OPPORTUNITY MONITORING**

**WIOA SECTION 188 REVIEW CHECKLIST**

***This checklist addresses initial programmatic accessibility, and is not intended to be all-inclusive. Local Boards should develop a workplan with timelines and benchmarks to address all aspects of accessibility and revisit this checklist on a regular basis (at a minimum, annually).***

Organization Reviewed:

Address:

Date Completed Desk Review:       Date of On-Site Review:

Reviewer:

| **Element ONE – Designation of Equal Opportunity Officer**  §38.28 - §38.33 per §38.54  **References:** 29 CFR 38.23 through 38.28; 38.54; WIOA Section 188 | **WP #** | **Yes** | **No** |
| --- | --- | --- | --- |
| 1.1 Has a senior level employee been designated as EO Officer? 38.28(b)  NAME:       TITLE:  Has the knowledge, skills, and abilities necessary to fulfill the responsibilities competently? §38.30  With staff and resources sufficient to carry out the requirements? |  |  |  |
| 1.2. Do the EO Officer’s responsibilities include: 38.31 |  |  |  |
| a. Serving as liaison with EOLWD/DCS and Civil Rights Center (CRC)? 38.31(a) |  |  |  |
| b. Monitoring and investigating the Board’s activities and the activities of its subrecipients to ensure compliance with nondiscrimination and EO obligations under WIOA Title I? §38.29(e), 38.31(b) |  |  |  |
| c. Reviewing the Board’s written policies to ensure they are nondiscriminatory? 38.31(c) |  |  |  |
| d. Developing and publishing procedures for processing discrimination complaints under §38.72 through §38.73, and ensuring that those procedures are followed? 38.31(d) |  |  |  |
| e. Reporting directly to the appropriate official (e.g. LWDB Executive Director) about EO matters? 38.29  Conducting outreach and education about equal opportunity and nondiscrimination requirements consistent with § 38.40 and how an individual may file a complaint consistent with § 38.69. 38.31(e) |  |  |  |
| f. Undergoing training (at the LWDB’s expense) to maintain competency if the Executive Director requires him or her or his/her staff to do so? §38.29(f)  Add: If applicable, overseeing the development and implementation of the recipient’s Nondiscrimination Plan under §38.54. 38.31(g) |  |  |  |
| 1.3. Has the name, title/position, address, and telephone number (voice & TDD/TTY) of the EO Officer been made public at the local level, and does the information appear on internal and external communications regarding nondiscrimination and EO programs? §38.29(c-d) |  |  |  |

**SUMMARY OF ELEMENT ONE**

**Comments:** In determining the Board's compliance with Element One, the following documents were reviewed:

**Item by Item Analysis:**

**Recommendations:**

**OVERALL CONCLUSION:** The organization appears to be  / does not appear to be  in compliance with Element One based on analysis of relevant documentation.

| **Element TWO – Notice and Communication of EO Policies and Procedures**  §38.34 - §38.39 per §38.54  **References:** 29 CFR 38.11; 38.29 through 38.36; 38.54; and WIOA Section 188 | **WP #** | **Yes** | **No** |
| --- | --- | --- | --- |
| 2.1. Is there a written nondiscrimination and EO policy that prohibits discrimination on the grounds of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status and gender identity), national origin, age, disability, political affiliation or belief, or against any beneficiary of programs financially assisted under Title I, WIOA on the basis of citizenship/status as a lawfully admitted immigrant authorized to work in the United States or his or her participation in any WIOA Title I financially assisted program or activity? 38.25 (a)(i)(A) |  |  |  |
| 2.2. Does the policy prohibit retaliation or reprisal against an individual that has (1) filed a complaint, (2) opposed a practice prohibited by the nondiscrimination and EO provisions of WIOA, (3) furnished information to or assisted or participated in any manner in an investigation, review, hearing, or any other activity related to the administration of the WIOA nondiscrimination and EO provisions; and (4) otherwise exercised any rights and privileges under the WIOA nondiscrimination and EO provisions? |  |  |  |
| 2.3. Does the “Equal Opportunity is the Law” notice (English and Spanish) contain the specific wording required by 29 CFR 38.30? §38.35 |  |  |  |
| 2.4. Is initial and continuing notice provided that discrimination is prohibited? §38.34(a) and §38.36 and provided to:   * Registrants, applicants, and eligible applicants/registrants? * Participants * Applicants for employments and employees * Unions or professional organizations that hold collective bargaining or professional agreements * Subrecipients that receive WIOA Title I financial assistance for Board * Members of the public, including those with impaired vision or hearing and those with limited English proficiency |  |  |  |
| a. Has the notice been posted in prominent numbers and locations? |  |  |  |
| b. Has the notice been disseminated in the form of internal memoranda and other written or electronic communication? |  |  |  |
| c. Has the notice been included in handbooks and manuals? |  |  |  |
| d. Has the notice been given to each participant and a copy of the notice placed in the participant’s file (29 CFR 38.31)? It must be a part of both paper and electronic files if both are maintained (§38.36(a)(4)) |  |  |  |
| e. Has the notice been provided to subrecipients? |  |  |  |
| f. Has the notice been made available in formats that effectively communicate its message to individuals with impairments including visual?  Where notice has been given in an alternate format, a record that such notice has been given must be made a part of the employee’s or participant’s file §38.36(b). |  |  |  |
| 2.5. Has the Board considered the scope of programs and activities and the size and concentration of the population that needs services or information in language other than English; then based on those considerations taken reasonable steps to provide services and information in appropriate languages? §38.34 and 38.36 |  |  |  |
| 2.6. Do recruitment materials for WIOA Title I funded programs state that the programs or activities are “equal opportunity employer/programs” and that “auxiliary aids and services are available upon request for persons with disabilities”? §38.38(a) |  |  |  |
| 2.7. Where a telephone number is listed, is there a TDD/TTY or relay service number listed? §38.38(a)  Communication of notice in orientations: During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title I – financially assisted program or activity, in person or over the internet or using other technology, a recipient must include a discussion of rights and responsibilities under the nondiscrimination and equal opportunity provisions of WIOA and this part, including the right to file a complaint of discrimination with the recipient or the Director. This information must be communicated in appropriate languages as required in §38.9 and in formats accessible for individuals with disabilities as required in this part (§38.39) and specified in §38.15. |  |  |  |

**SUMMARY OF ELEMENT TWO**

**Comments:** In determining the Board's compliance with Element Two, the following documents were reviewed:

**Item by Item Analysis:**

**Recommendations:**

**OVERALL CONCLUSION:** The organization appears to be  / does not appear to be  in compliance with Element Two based on analysis of relevant documentation.

| **Element THREE – Assurances** §38.25 - §38.27 per §38.54(c)  **References:** 29 CFR 38.20 through 38.21; 38.54; and WIOA Section 188 | **WP #** | **Yes** | **No** |
| --- | --- | --- | --- |
| 3.1. Does each application for federal financial assistance (includes contracts and bid responses) under Title I of WIOA as defined in 29 CFR 38.4 (i.e. an instrument that has as one of its purposes the provision of assistance or benefits under WIOA Title 1) include the assurance specified in 29 CFR 38.20? |  |  |  |
| 3.2. Do RFPs or similar issuances (that has as one of its purposes the provision of assistance or benefits under WIOA Title 1) explain that bidders are required to contain the assurance of 29 CFR 38.20 in their proposal? |  |  |  |

**SUMMARY OF ELEMENT THREE**

**Comments:** In determining the Board's compliance with Element Three the following documents were reviewed:

**Item by Item Analysis:**

**Recommendations:**

**OVERALL CONCLUSION:** The organization appears to be  / does not appear to be  in compliance with Element Three based on analysis of relevant documentation.

| **Element FOUR – Universal Access**  **References:** 29 CFR 38.42 (§38.40); 38.54; and WIOA Section 188 | **WP #** | **Yes** | **No** |
| --- | --- | --- | --- |
| 4.1. Has the Board taken appropriate steps to ensure they are providing universal access to their WIOA Title I funded programs? |  |  |  |
| 4.2. Do these steps involve reasonable efforts to include members of both sexes, various racial and ethnic/national origin groups, various religions, individuals with limited English proficiency, individuals with disabilities, and individuals in differing age groups? |  |  |  |
| 4.3. Do advertising programs specifically target various populations? |  |  |  |
| 4.4. Are notices about openings in the recipient’s programs or activities sent to schools or community service groups that serve various populations? |  |  |  |
| 4.5. Does the recipient consult with appropriate community service groups about ways in which to improve its outreach and service to various populations? |  |  |  |

**SUMMARY OF ELEMENT FOUR**

**Comments:** In determining the Board's compliance with Element Four the following documents were reviewed:

**Item by Item Analysis:**

**Recommendations:**

**OVERALL CONCLUSION:** The organization appears to be  / does not appear to be  in compliance with Element Four based on analysis of relevant documentation.

| **Element FIVE – Compliance with Section 504 of the Rehabilitation Act of 1973, as amended, and 29 CFR Part 38**  **References:** 29 CFR 32; 29 CFR 38.4 through 38.10; 38.54; WIOA Section 188; and Section 504 of The Rehabilitation Act of 1973, as amended | **WP #** | **Yes** | **No** |
| --- | --- | --- | --- |
| 5.1. Does the Board have a written policy that addresses reasonable accommodation for individuals with disabilities? |  |  |  |
| 5.2. Does the Board assure that it does not directly or through contractual or other arrangements: §32.4(b) |  |  |  |
| a. Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefits, services or training? |  |  |  |
| b. Afford a qualified individual with a disability the opportunity to participate in services or training that is not equal to or as effective as that provided to others? |  |  |  |
| c. Provide different, segregated, or separate services or training to individuals with disabilities unless such action is necessary to provide qualified individuals with disabilities with services or training that are as effective as those provided to others? |  |  |  |
| d. Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards? |  |  |  |
| 5.3. Does the Board ensure that it does not directly or through contractual or other arrangements perpetuate discrimination against qualified individuals with disabilities by providing significant assistance to an agency, organization or person that discriminates on the basis of disability? §32.4(b) |  |  |  |
| 5.4. Does the Board administer WIOA financially assisted programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities? |  |  |  |
| 5.5. Are licensing and certification programs administered in a manner that is not discriminatory on the basis of disability? |  |  |  |
| 5.6. Does the Board prohibit the placing of a surcharge on an individual or group of individuals with disabilities to cover the cost of measures such as auxiliary aids or program accessibility? |  |  |  |
| 5.7. Does the Board provide reasonable accommodation to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees or applicants for employment, unless providing the accommodation would cause undue hardship? |  |  |  |
| 5.8. Has the Board taken appropriate steps to ensure that communications with beneficiaries, applicants, registrants, eligible applicants/registrants, participants, employees or applicants for employment and members of the public who are individuals with disabilities are as effective as communications with others? |  |  |  |
| 5.9. Have accessibility surveys been conducted for each center? |  |  |  |
| 5.10. Are the surveys on file and readily available? |  |  |  |
| 5.11. Have plans been initiated to correct deficiencies noted on the surveys? |  |  |  |
| 5.12 Does the Board insure that, in determining the site or location of a facility, selections are not made that have a discriminatory effect? |  |  |  |
| 5.13. Does the Board insure that eligibility criteria that screen out or tend to screen out an individual with a disability or class of individuals with disabilities are not imposed unless such criteria can be shown to be necessary for the provision of the aid, benefit, service, training, program or activity being offered? |  |  |  |
| 5.14. Does the Board insure that an individual with a disability is not required to accept an accommodation, aid, benefit, service, training, or opportunity that the individual chooses not to accept? |  |  |  |
| 5.15. Does the Board insure that reasonable accommodations are provided regarding registration for and the provision of aid, benefits, services or training - including core and intensive training and support services to qualified individuals with disabilities? |  |  |  |

**SUMMARY OF ELEMENT FIVE**

**Comments:** In determining the Board's compliance with Element Five the following documents were reviewed:

**Item by Item Analysis:**

**Recommendations:**

**OVERALL CONCLUSION:** The organization appears to be  / does not appear to be  in compliance with Element Five based on analysis of relevant documentation.

| **Element SIX – Data and Information Collection and Maintenance**  §38.41 - §38.45 per §38.54  **References:** 29 CFR 38.37;38.39;38.41; 38.54; WIOA§188 & 20 CFR 652 §663.105(c) | **WP #** | **Yes** | No |
| --- | --- | --- | --- |
| 6.1. Is there a system to collect and maintain records and data necessary to determine compliance with nondiscrimination and EO provisions? |  |  |  |
| 6.2. Is data collected by race/ethnicity, sex, age, and disability status?  Effective Jan 3, 2019 – record the limited English proficiency and preferred language |  |  |  |
| 6.3. Is data collected for applicants, registrants, eligible applicants/registrants, participants, terminees, applicants for employment and employees to facilitate assessment of nondiscrimination and EO at each decision point in the Board’s programs? |  |  |  |
| 6.4. Is data stored in a manner that ensures confidentiality and is it used only for record keeping and reporting, determining eligibility and determining program compliance with nondiscrimination requirements? |  |  |  |
| 6.5. Is information that could lead to identification of a particular individual as having filed a complaint kept confidential? |  |  |  |

**SUMMARY OF ELEMENT SIX**

**Comments:** In determining the Board's compliance with Element Six the following documents were reviewed:

**Item by Item Analysis:**

**Recommendations:**

**OVERALL CONCLUSION:** The organization appears to be  / does not appear to be  in compliance with Element Six based on analysis of relevant documentation.

| **Element SEVEN– Equal Opportunity Monitoring**  §38.51 - §38.53 per §38.54  **References:** 29 CFR 38.51; 38.52; 38.54; and WIOA Section 188 | **WP #** | **Yes** | No |
| --- | --- | --- | --- |
| 7.1. Has a system been established for periodically monitoring the compliance of recipients with WIOA Section 188 and 29 CFR 38? |  |  |  |
| 7.2. Does the monitoring review include an assessment to determine whether recipients or service providers have fulfilled their administrative obligations with regard to the record keeping requirement of WIOA Section 188 and 29 CFR 38 (e.g. record keeping, notice and communication, universal access, and complaint processing)? |  |  |  |
| 7.3. Does the monitoring review include a review of recipient policy issuances to ensure they are non-discriminatory? |  |  |  |
| 7.4. Does the monitoring review include a system for reviewing recipients’ job training plans, contracts, assurances, and other similar agreements to ensure they are both non-discriminatory and contain required language? |  |  |  |
| 7.5. Does the monitoring review include procedures for ensuring that recipients comply with the requirement of Section 504, Rehabilitation Act of 1973 and 29 CFR 38? |  |  |  |
| 7.6. Does the monitoring review include a system of policy communication and training to ensure that EO Officers and staff are aware of and can carry out their responsibilities? |  |  |  |
| 7.7. Does the monitoring review include procedures for obtaining prompt corrective action? |  |  |  |

**SUMMARY OF ELEMENT SEVEN**

**Comments:** In determining the Board's compliance with Element Seven the following documents were reviewed:

**Item by Item Analysis:**

**Recommendations:**

**OVERALL CONCLUSION:** The organization appears to be  / does not appear to be  in compliance with Element Seven based on analysis of relevant documentation.

| **Element EIGHT – Complaint Processing Procedures**  §38.72 and §38.73 per §38.54  **References:** 29 CFR 38.70 through 38.81; 38.54; and WIOA Section 188 | **WP #** | **Yes** | No |
| --- | --- | --- | --- |
| 8.1. Has a procedure for resolving allegations of discrimination within the Board area as well as against service providers been published and implemented?  §38.42 – Notification to the Director when any administrative enforcement actions or lawsuits are filed alleging discrimination including:   * The names of the parties to the action or lawsuit * The forum in which each case was filed * The relevant case numbers |  |  |  |
| 8.2. Do the discrimination complaint processing procedures specify the following: (1) who may file; (2) where to file; (3) time frames; (4) what the complaint should include; (5) forms available; (6) appropriate sanctions? |  |  |  |
| 8.3. Do the discrimination complaint procedures provide for an initial written notice to the complainant that acknowledges receipt of the complaint; provides notice that the complainant has the right to be represented; and offers an Alternate Dispute Resolution (ADR) method of resolving the complaint? |  |  |  |
| 8.4. Do the discrimination complaint procedures provide for a written statement to the complainant concerning the recipient’s accepting or rejecting for investigation each issue raised by the complainant and the reasons for each rejection? |  |  |  |
| 8.5. Do the discrimination complaint procedures provide for a fact finding or investigation period? |  |  |  |
| 8.6. Do the discrimination complaint procedures provide for a period during which the recipient attempts to resolve the complaint though other methods such as conciliation? |  |  |  |
| 8.7. Do the discrimination complaint procedures provide for issuance of a written Notice of Final Action which: |  |  |  |
| a. Contains either a statement of the recipient’s decision on each issue and the reasons underlying the decision; or a description of the way the parties resolved the issue? |  |  |  |
| b. Includes notice that the complainant has the right to file a complaint within 30 days to CRC if he or she is dissatisfied with the final action, or if there is no final resolution of the complaint w/in 90 days of date the complaint was filed? |  |  |  |
| 8.8. Are records, including records of complaints, retained for a period of at least three years from the close of the applicable year or resolution of the complaint? |  |  |  |
| 8.9. Does the Board maintain a log of complaints that allege discrimination on the grounds of race, color, religion, sex, national origin, age disability, political affiliation or belief, citizenship, and/or participation in WIOA Title I financially assisted program or activity? §38.41(c)  Where designation of individuals by race or ethnicity is required, the guidelines of the Office of Management and Budget must be used (§38.41(d)) |  |  |  |
| 8.10. Does the Log include: (1) the name and address of the complainant; (2) the ground of the complaint; (3) a description of the complaint; (4) the date the complaint was filed; (5) the disposition and date of disposition of the complaint; and (6) other pertinent information?  Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential (§38.41(c)) |  |  |  |
| 8.11. Does the Board maintain sufficient staff per center for processing discrimination complaints? |  |  |  |

**SUMMARY OF ELEMENT EIGHT**

**Comments:** In determining the Board's compliance with Element Eight the following documents were reviewed:

**Item by Item Analysis:**

**Recommendations:**

**OVERALL CONCLUSION:** The organization appears to be  / does not appear to be  in compliance with Element Eight based on analysis of relevant documentation.

| **Element NINE – Corrective Actions and Sanctions**  **References:** 29 CFR 38.54(d)(2)(vii); and WIOA Section 188 | **WP #** | **Yes** | No |
| --- | --- | --- | --- |
| 9.1. Has the Board established procedures for administering sanctions when noncompliance is found? |  |  |  |

**SUMMARY OF ELEMENT NINE**

**Comments:** In determining the board's compliance with Element Nine the following documents were reviewed:

**Item by Item Analysis:**

**Recommendations:**

**OVERALL CONCLUSION:** The organization appears to be  / does not appear to be  in compliance with Element Nine based on analysis of relevant documentation.