



# Mississippi Valley Workforce Development Board

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## Non-Discrimination Policy

**Approved Date:** 11/21/2022

**Effective Date:** 11/21/2022

### **PURPOSE**

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The Mississippi Valley Workforce Development Board (MVWDB) ensures that policies are in place that prohibit discrimination against:

- MVWDB stakeholders and Mississippi Valley Workforce Area (MVWA) core partner agencies
- Applicants & employers
- Current or potential service/program participants based on protected classes, including race, creed, color, religion, sex, marital status, national origin, age, physical or mental disability, sexual orientation or gender identity, and program participation status.

Programs and services offered within and through the American Job Center (AJC) or IowaWORKS Centers in the Mississippi Valley Workforce Area (MVWA) are covered by this policy.

One Stop Certification also requires compliance with WIOA Section 188 non-discrimination legislation. It is the intent of the MVWDB through the development and dissemination of this policy that subsequent processes, plans, and procedures are developed that are aligned with this policy and fully integrated into all core and required partner operations.

### **MVWDB NON-DISCRIMINATION POLICY TERMS**

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MVWDB stakeholders include board staff, board members, committee members, CEOs, board contractors, and sub-recipients. AJCs and IowaWORKS Centers will be referred to as MVWA IowaWORKS Center or Center (s).

### **BACKGROUND**

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To comply with Section 188 of the Workforce Innovation and Opportunity Act, the MVWDB has established this policy to ensure compliance with:

- Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.)
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)
- Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.)
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.)

This policy also addresses federal and state laws prohibiting discrimination including:

- Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act 29 CFR 37
- The Civil Rights act of 1964, its amendments, and the Equal Employment Opportunity Commission (EEOC)
- Pregnancy Discrimination Act of 1978 prohibits discrimination based on pregnancy, childbirth, or related medical conditions.
- Americans with Disabilities Act (ADA) broadly protects the rights of individuals with disabilities in employment and access to state and local government services, places of public accommodation, transportation, and other important areas of American life.
- Genetic Information Non-Discrimination Act (GNA) makes it illegal to discriminate against employees or applicants because of genetic information, effective on November 21, 2009. The law forbids discrimination when it comes to any aspect of employment, including hiring, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.
- Iowa Civil Rights Act of 1965 and Iowa Code 19B.12.

## **DISCRIMINATORY PRACTICES**

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Unlawful discrimination can take on many forms – some are easier to detect than others. It happens when people in protected classes, as defined in the “Background” section of this policy, are treated in inequitable ways. These actions can negatively impact an individual’s ability to access or participate in MVWA opportunities, programs, and services offered within or through the MVWA IowaWORKS Center(s).

## **DEFINITIONS AND EXAMPLES OF PROHIBITED DISCRIMINATION**

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**Race/Color Discrimination** – this means treating someone unfavorably because they are of a certain race, or because of a person’s connection with a race-based organization or group, or an organization or group that is generally associated with people of a certain color. This type of discrimination can also occur between people who are of the same race or color. An example includes:

- Treating someone less favorably because of their race/color may include making frequent, disparaging jokes and/or demeaning statements about coworkers based on their race or color.

**Sex Discrimination** – the law forbids sex discrimination when it comes to providing access and the ability to participate in any aspect of employment including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other terms or conditions of employment. Examples of treating someone less equitably because of his or her sex includes:

- Choosing not to assist qualified applicants for employment because of assumptions about gender, or the preference of a business to hire men or women.

- Overlooking, overvaluing, or undervaluing someone’s efforts, dismissing someone’s ideas or concerns because of their sex.
- Assuming a job seeker wants to take on a certain work role because of their sex.

**Pregnancy Discrimination** – pregnancy itself is not considered a disability; however medical conditions that arise during or due to pregnancy can be classified as such. If this were to occur, accommodations or changes in work schedule, types of work assigned, etc. should first be requested. Without a specific request for accommodation, any changes to a person’s performance expectation or job duties because of a pregnancy can be considered unlawful discrimination. Other examples of pregnancy discrimination may include:

- Not providing opportunities to work on more challenging projects because of their pregnancy.
- Overlooking a qualified candidate for job placement or inclusion in a program because assumptions are made about availability to work based on their current pregnancy.

**National Origin Discrimination** – this means treating people unfavorably because they are from a particular country or part of the world, their ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not) is against the law. Treating someone less favorably because of their national origin may include:

- Deciding to transfer all participants with an accent to other programs or service providers to avoid working with them.
- Reviewing the names of applicants for employment and eliminating those applicants with names that are not traditional “American” names.

**Disability Discrimination** – a disability is defined as “a physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of having a such impairment or being regarded as having such impairment.” (ADA) an example includes:

- Treating someone less favorably because of their disability may include not providing reasonable accommodations for someone to access or participate in programs, events, or activities offered through or within the Center.

**Genetic Information Discrimination** – increasingly, individuals are providing their DNA to companies that evaluate and provide information about ancestry, traits – such as eye or hair color- and certain health conditions. The law forbids discrimination based on this type of genetic information when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions layoff, training, fringe benefits, and any other terms or condition of employment. An example includes:

- Treating someone less favorably because of their genetic information might include overlooking a qualified candidate for a promotion because of genetic information they shared in a different conversation or forum suggesting they are genetically predisposed to developing one of three types of degenerative health diseases.

## HARASSMENT

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Harassment includes any verbal or physical conduct designed to threaten, intimidate, or coerce an applicant, employee, or current or potential program/service participant. Verbal taunting (including racial and ethnic slurs) that impairs an employee's ability to perform their job or a participant's ability to access and/or participate in programs and services is included in the definition of harassment.

**Sexual Harassment** – is a form of unlawful employment discrimination under Title VII of the Civil Rights Act of 1964 and is prohibited.

The Equal Employment Opportunity Commission (EEOC) defines sexual harassment as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of such conduct is used as the basis for” employment or program/service access and participation decisions or “such conduct has the purpose or effect of creating an intimidating, hostile or offensive environment.”

- Sexual harassment occurs when unsolicited and unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature is, made explicitly or implicitly a term or condition of employment or placement in a program/service, used for a basis for employment or program/service access/participation decision, unreasonably interferes with work or program performance or creates an intimidating, hostile, or otherwise offensive environment.
- There are two types of sexual harassment:
  - **“Quid Pro Quo” harassment** – this describes when there is an explicit or implicit exchange of sexual favors for access to employment, program, and/or service opportunities.
  - **“Hostile work environment”** - this describes when the harassment creates an offensive and unpleasant environment to work and or participate in programs/services. A hostile work environment can be created by anyone in the work environment, whether it be a supervisor, other employees, or customers. Hostile environment harassment consists of the verbiage of a sexual nature, unwelcome sexual materials, or even unwelcome physical contact as a regular part of the work environment. Texts, e-mails, cartoons, or posters of a sexual nature; vulgar or lewd comments or jokes; or unwanted touching or fondling all fall into this category.
- Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:
  - **Verbal** sexual harassment includes innuendos, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks, and threats; requests for any type of sexual favor (this includes repeated, unwelcome requests for dates); and

verbal abuse or “kidding” that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.

- **Nonverbal** sexual harassment includes the distribution, display, and discussion of any written or graphic material, including calendars, posters, and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters and notes; facsimiles, e-mail, photos, text messages, tweets, and internet postings; or other forms of communication that is sexual in nature and offensive.
- **Physical** sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, and forced sexual intercourse or assault.
- Courteous, mutually respectful, pleasant, noncoercive interactives that are appropriate in the workplace, acceptable to and welcomed by both parties are not considered to be harassment.

#### **RETALIATION DISCRIMINATION IS PROHIBITED**

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No hardship, loss, benefits, or penalty may be imposed on an MVWDB stakeholder in response to:

- Filing or responding to a bona fide complaint of discrimination or harassment.
- Appearing as a witness to the investigation of a complaint.
- Serving as an investigator of a complaint.

Retaliation or attempted retaliation in response to lodging a complaint or invoking the complaint process is a violation of this policy. Any person who is found to have violated this aspect of the policy will be subject to disciplinary action up to and including termination of employment.

Retaliation is defined as a form of unlawful discrimination that occurs when an employer, employment agency service provider, or labor organization takes adverse action against an employee, applicant, or other “covered individual” because they engaged in a protected activity, like filing a charge of misconduct, complaint, or grievance.

Covered individuals under the laws administered by the Equal Employment Opportunity Commission (EEOC) are people who have:

- Opposed unlawful practices, participated in proceedings, or requested accommodations related to employment discrimination based on race, color, sex, religion, national origin, age, or disability.
- Individuals who have a close association with someone who has engaged in filing a complaint or cooperating in an investigation.

## **COMPLAINT PROCEDURE**

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Complaints must be filed within 180 days from the start of the event or condition that is alleged to be a violation of WIOA.

### **Information Resolution**

1. You must attempt to work things out informally before a grievance can be filed.
2. Discuss your concern first with the WIOA staff with whom you are currently working.
3. If the matter is not resolved, you may request a meeting with the Equal Opportunity Officer which will occur within 72 hours or the next business day if there is an intervening weekend.
4. A form is available for you to complete when requesting this meeting but is not required.
5. Completing the form will assure that your request is handled properly and promptly.
6. This informal resolution process must be completed within 10 days from the date the complaint was filed.
7. If all parties are satisfied, the complaint is considered resolved.

### **Local, State, and Federal Formal Resolution**

If you think you have been subjected to discrimination under WIOA Title 1- financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either: the local Equal Opportunity Officer (or the person whom the recipient has designated for this purpose).

Mississippi Valley Workforce Area

Local Equal Opportunity Officer

550 S Gear Avenue, Suite 35

West Burlington, IA 52655

Phone: (844) 967-5365 option 2

Iowa State WIOA EO Officer

1000 East Grand Ave

Des Moines, IA 50319

Phone: (515) 281-8149

Director, Civil Rights Center (CRC)

U.S. Department of Labor

200 Constitution Avenue, NW Room N4123

Washington, DC 20210

1. If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action or until 90 days have passed (whichever comes sooner), before filing with the Civil Rights Center (see above address).

2. If the recipient does not give you a written notice of Final Action within 90 days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with the CRC.
3. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).
4. If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC.
5. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

### **INFORMATION FOR COMPLAINT**

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The complainant may also submit a written and signed complaint narrative, at any level, containing the information required under 29 CFR 38.73, which describes what a complaint must contain as follows:

1. The complainant's name and address (or another means of contacting the complainant).
2. The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination).
3. A description of the complainant's allegations. This description must include enough detail to allow the local WIOA EO Officer or the Director of the DOL CRC as applicable, to decide whether:
  - a. CRC or the recipient, as applicable, has jurisdiction over the complaint
  - b. The complaint was filed in time; and
  - c. The complaint as apparent merit: in other words, whether the complainant's allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIOA or 29 CFR Part 38; and
  - d. The complainant's signature or the signature of the complainant's authorized representative.

The complaint may be filed with the local Equal Opportunity Officer to be forwarded to the State WIOA EO Officer for processing; at Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209, Telephone 515-281-8149. Hearing Impaired dial 711. Or complaints may be filed with the U.S Department of Labor, Director, Civil Rights Center, 200 Constitution Ave. NW, Room N-4123, Washington, DC 20210.

Discrimination complaints must be submitted within 180 days of the alleged violation. An extension of the 180-day filing period may be allowed by the CRC when the complainant demonstrates good cause. Filing a complaint at the state level shall be deemed to have occurred on the date the written notice is received by Iowa Workforce Development (IWD).

The local or State WIOA EO Officer shall accept and investigate only those discrimination complaints within the jurisdiction alleging a violation of Section 188 of the WIOA or 29 CFR 38 by a respondent.

*Equal Opportunity Programs/Employer*

*Auxiliary aids and services are available upon request for individuals with disabilities.*