Equal Opportunity Compliance
A Little 101, Monitoring, Policies and Procedures

Presented by: Misti Stirling, EO Coordinator
Phone: 512-936-0343 Email: melissa.stirling@twc.state.tx.us
What Guides Equal Opportunity Requirements?

EO is the Law!

- Title VI of the Civil Rights Act of 1964 (race, color, national origin)
- Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1998 (ADA) as amended (disability)
- The Age Discrimination Act of 1975 (any age)
- Title IX of the Education Amendments Act of 1972 (gender in educational programs and activities)
- Section 188 of the Workforce Innovation and Opportunity Act of 2014 (race, color, national origin (including limited English proficiency), citizenship, political affiliation or belief, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, gender identity), WIOA participant status, any age, and disability
  - Implemented by 29 CFR §38
- Retaliation is prohibited by all of the laws.
What’s the Difference Between ADA, EO, and EEO?

Glad You Asked!

- What is the Americans with Disabilities Act (ADA)?
  - A civil rights law for persons with disabilities
  - Built on principles of equal opportunity, full participation, independent living and economic self-sufficiency
  - 2010 ADA Standards for Accessible Design
    - ADA Checklist is on the TWC Intranet – [http://intra.twc.state.tx.us/intranet/pi/docs/tas-checklist-twc.docx](http://intra.twc.state.tx.us/intranet/pi/docs/tas-checklist-twc.docx)

- What do we mean when we say Equal Opportunity (EO)?
  - Application of civil rights laws for various protected bases
  - Broad scope of nondiscrimination

- Basically, EO is an umbrella.

- EEO (CRD and EEOC) ensures nondiscrimination between an applicant for employment or employee and an employer.
No matter your role or position, you have an obligation to:

- Be on the lookout for physical accessibility barriers as you walk through a center, parking lot, route to/from a center.
- “Put yourself in someone else’s shoes” when reviewing materials, thinking about service delivery, or planning a project.
- Open an enquiry into potentially outdated or biased practices or procedures.
- Listen for and report statements or actions that are prejudiced.
No matter your role or position, you have an obligation to:

- Ensure you are protecting PII and medical/disability related information by encrypting emails, shredding, keeping counselor notes free of specifics, etc.
- Ensure you know how to use available auxiliary aids and devices.
- Know what it means for a document to be accessible and create and distribute accessible electronic documents.
Pop Quiz #1!

• Which statute applies only to persons with disabilities?
  A. Title VI of the Civil Rights Act
  B. Section 188 of WIOA
  C. Americans with Disabilities Act

• The EO statutes we have covered do not apply to (select all that apply):
  A. Child care providers
  B. A bottled water company that delivers to a one-stop
  C. Private companies that receive referrals from you to provide services, aid, benefits, or training to our customers
  D. A participant who is racist

• If I am testing the Orientation to Discrimination Complaint forms, I am ensuring compliance of:
  A. Equal Opportunity
  B. ADA
  C. Both
WIOA Section 188 requires that all individuals be afforded access to and an equal opportunity to participate in and benefit from programs and services free from discrimination.

What do you think access and equal opportunity means in practice?
So then…

What should be monitored (generally speaking)?

*Note – even if you aren’t involved in EO monitoring, chances are you encounter many of these topics.
Selection of EO Officer

- “Senior-level” employee
- Access to the top officials to report directly on EO matters
- No conflict of interest
- Attend training to maintain competency (10 hours annually, as outlined in WD 01-15, Change 1)
- EO duties outlined in Job Description
Initial and Continuing Notice (EO is the Law Notice)

- The notice must be provided to registrants, applicants, participants, unions or professional organizations, applicants for employment, employees, members of the public.
  - This includes any individuals with impaired vision or hearing, any other disability and LEP individuals.
- There are minimums on where and how the notice is relayed.
- Communication of notice must be included in orientations and documented.
Pop Quiz #2!

• Where should the EO duties of an EO Officer be listed?
  A. In an e-mail is sufficient
  B. Within the individual’s job description
  C. It doesn’t have to be officially listed anywhere

• How should the EO is the Law Notice be relayed? (select all that apply)
  A. Through posting on the Board’s website
  B. In employee handbooks
  C. By posting in a highly visible place(s) in the WFS center

• In what language(s) at a minimum should the EO is the Law poster be displayed?
  A. English
  B. Spanish
  C. Both
Assurances

• What is an assurance?
  • A statement that puts the recipient on notice that it is prohibited from engaging in discrimination, and it informs the recipient of applicable civil rights laws.

• Where should it be found?
• **Specific Language**
  - XXX is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities.

• Must be included on a Board’s website and all written materials pertaining to programs or activities that are part of the one-stop delivery of services.

• Wherever telephone numbers are provided, information on relay services or TDD/TTY numbers must be provided.
EO Policies and Procedures

- Not only do you need to be practicing equal opportunity, you need to have the “how to” written down (scripts).
- What policies and procedures should a recipient have?
- TRAIN, TRAIN, TRAIN on these procedures.
What should you have in place?

- Equal Opportunity/Nondiscrimination/Universal Access
- Recruitment/Employment and/or Advertising Policy
- Communications/Social Media
- Babel Notice
- Effective Communications (LEP & Individuals with Disabilities)
- Job Qualification Reviews
- Retaliation (prohibition in filing a discrimination complaint)
- Reasonable Accommodation and Modification
- Discrimination Complaint Procedures
- EO Monitoring (on programmatic and physical accessibility)
- Alternative Dispute Resolution
- Corrective Actions and Sanctions Process
- Confidentiality of EO-related Information (PII) (medical and disability information, demographic data, and individuals involved in complaints)
Pop Quiz #3!

- Does the full language of the EO assurance have to be included on all contract related documents?
  A. Yes
  B. No

- What type of document should contain the EO tagline? (select all that apply)
  A. Flyers about WIOA programs
  B. An internal email between Board staff
  C. A brochure regarding VR services

- What is most important when it comes to policies and procedures?
  A. That they are written
  B. That they are followed
  C. Both are equally important
There are two central responsibilities:
- Must have the ability to communicate in relevant languages; and
- Must assess language needs.

Bottom line, each LEP person must have meaningful access and opportunity!

Frontline staff must know resources and how to access them (language line, interpreters, iSpeak cards, translated materials), so ask them when you get a chance!
The building must be accessible in accordance with the Texas Accessibility Standards.
- Refer to TDLR’s website for technical questions. You can visit [https://www.tdlr.texas.gov/ab/abtas.htm](https://www.tdlr.texas.gov/ab/abtas.htm) for the standards and other information.

Communication must be as effective as communication with others (auxiliary aids and services at no cost to the individual)

- Reasonable accommodations and modifications
- Integration and equality!
Discrimination Complaints

- Do you have documented discrimination complaint procedures that are known and available to staff?
- Do you have a discrimination complaint log with data maintained for not less than 3 years after disposition of the complaint?
- Do you have discrimination complaint information available in alternate formats for persons with disabilities and in other languages for LEP persons?
Pop Quiz #4!

- What are the two key responsibilities regarding serving LEP individuals?
  A. Assessing language needs
  B. Having the ability to effectively communicate in relevant languages
  C. Having all forms and documents readily available and translated into the top 10 languages used in the US

- What standards do we use to measure physical accessibility of a Workforce Center?
  A. ADA Standards for Accessible Design
  B. Texas Accessibility Standards
  C. Both

- How long should a discrimination complaint log be kept?
  A. No more than 5 years after resolution
  B. At the conclusion of the investigation
  C. At least 3 years after disposition of the complaint
Storage of Medical Information

- Is medical data related to persons participating or seeking to participate in programs or activities kept and maintained in a file that is separate from the program file on the individual?
  - Locked in a filing cabinet with limited access or encrypted if stored electronically?
  - If the data is electronic, medical and disability related information should be stored in a separate file/tab.
  - Medical related data should only be shared on a “need-to-know” basis!
• DOL requires collection of certain information.
• Data should be used to determine discrepancies between composition of an overall service area population, and the composition of folks being served.
• Data then should be used for affirmative outreach.
Any new ideas…

On what should be monitored or how to monitor it?
How Might an LWDA be Monitored by TWC?

• **REMEMBER** – You must self-monitor annually and TWC must monitor you annually per new regulations.

• You could receive a **full EO DRP** and be asked to send in supporting documentation by a given due date. EO plans to coordinate with SRM as much as possible so that you will receive both DRPs at the same time.

• You could have an **SRM-led review** during the course of their review. If you are being reviewed this way, the SRM DRP will request some EO items and a member of the SRM team will do a walk-through and EO interview(s) while they are on-site.

• You could be asked to **fill out an EO Survey Form**. No supporting documentation will be requested unless there is an individual need.

• You could participate in a **limited review**. This would be done for a variety of reasons including DOL requests, legislative session requests, complaints and investigations, center certification, etc.
ADDITIONAL QUESTIONS?

Contact me at 512-936-0343 or melissa.stirling@twc.state.tx.us
Grab a card!

TWC is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities.