

Verdugo Workforce Development Board Nondiscrimination and Equal Opportunity Policy

The purpose of this policy is to establish the Verdugo Workforce Development Board's (VWDB) policy on nondiscrimination and equal opportunity for Workforce Innovation and Opportunity Act (WIOA) Grant Programs. Title 29 CFR Part 38 implements the nondiscrimination and equal opportunity provisions specified in Section 188 of WIOA. This policy has nine elements, in accordance with State Employment Development Department (EDD) Directive WSD15-24.

1. Designation of Equal Opportunity (EO) Officer

The Verdugo Workforce Development Board must always have a designated Equal Opportunity (EO) Officer. Whenever the designation of the Verdugo EO Officer changes, Verdugo Workforce Development Administration (VWDA) shall notify EDD's Equal Employment Opportunity Office. At that time, Verdugo Workforce Development Administration shall submit the new EO Officer's name and contact information, as well as their position description and an organizational chart showing the relationship of the Verdugo EO Officer to the Workforce Development Administrator, to:

Equal Employment Opportunity Office
Employment Development Department
800 Capitol Mall, MIC 49
P.O. Box 826880
Sacramento, CA 94280-0001

The current EO Officer for the Verdugo Workforce Development Board is:

Melissa Younesian
1255 South Central Avenue
Glendale, CA 91204
Phone: (818) 937-8025
Fax: (818) 409-0463
myounesian@glendaleca.gov

The EO Officer's responsibilities include:

- a. Serving as liaison with the Civil Rights Center (CRC).
- b. Monitoring and investigating the Verdugo Workforce Investment Board's activities, and the activities of the entities that receive WIOA Title I-financial assistance from the VWDB, to make sure that the VWDB and its subrecipients are not violating their nondiscrimination and equal opportunity obligations under WIOA Title-I which includes monitoring the collection of data required in this part to ensure compliance with the nondiscrimination and equal opportunity requirements of WIOA; and
- c. Reviewing the VWDB's and its subrecipients' written policies to make sure that those policies are nondiscriminatory;
- d. Developing and publishing the VWDB's procedures for processing discrimination complaints under Section 38.72 through 38.73, including tracking the discrimination complaints filed against the VWDB, developing procedures for investigating and resolving discriminations

- complaints, making sure that those procedures are followed, and making available to the public, in appropriate language and formats, the procedures for filing a complaint;
- e. Conducting outreach and education about equal opportunity and nondiscrimination requirements consistent with Section 38.40 and how an individual may file a complaint consistent with Section 38.69;
 - f. Undergoing training (at the VWDB's expense) to maintain competency of the EO officer and staff, as required by the Director;
 - g. If applicable, overseeing the development and implementation of the VWDB's Nondiscrimination Plan under Section 38.54.

The Verdugo Workforce Development Board shall assign sufficient staff and resources to its EO Officer to ensure with the nondiscrimination and equal opportunity provisions of WIOA and Title 29 CFR Section 38.

The Verdugo EO Officer's name, position title, business address, email address, and telephone number (voice and Telecommunications Device for the Deaf [TDD], which is also known as teletypewriter [TTY]), shall be publicized through a variety of means including posters, handouts, and listings in local directories. The Verdugo EO Officer's identity and contact information shall appear on all internal and external communications about the VWDA's nondiscrimination and equal opportunity programs.

The Verdugo EO Officer shall be sent to periodic training as needed, such as those trainings which are available through the State EO Officer and the Capacity Building Unit of the Workforce Services Division.

2. Communication of Equal Opportunity Policies and Procedures

- Initial and continuing notice of nondiscriminatory practices and the right to file a complaint shall be:
- a. Posted prominently, in reasonable numbers and places, in available and conspicuous physical locations and on the VWDB's website pages;
 - b. Disseminated in internal memoranda and other written or electronic communications with staff;
 - c. Included in employee and participant handbooks or manuals regardless of form, including electronic and paper form if both are available;
 - d. Provided to each participant and employee; the notice must be made part of each employee's and participant's file. It must be part of both paper and electronic files, if both are maintained.
 - e. Included in each participant's case file. In cases where a hard copy case file is maintained, a copy of the form "Client Acknowledgement Regarding Nondiscrimination and Equal Opportunity Policy" shall be signed by the participant and included in each participant's case file. If an electronic case file is maintained, staff must make a note indicating that this notification did occur, the date of the notification, and the name of the staff person who provided it.

The notice shall be provided in appropriate formats to registrants, applicants, eligible applicants/registrants, applicants for employment and employees and participants with visual impairments. Where notices have been given in an alternate format, a record of such notice shall be documented within the participant's case file.

The notice will be provided to participants in appropriate languages other than English as required in Section 38.9.

Distributed publications, broadcasts, electronic media, and other communications including the homepage of the VWDB's website which promote WIOA programs or activities, shall include the following taglines: "This WIOA Title I-financially assisted program or activity is an equal opportunity employer/program." "Auxiliary aids and services are available upon request to individuals with disabilities."

Where hard copy or electronic materials indicate that the recipients may be reached by telephone, the telephone number of any TDD/TTY or relay service used by the Verdugo WDA shall be indicated.

The VWDB shall take reasonable steps to ensure that individuals having Limited English Proficiency (LEP) receive the language assistance necessary to afford them meaningful access to programs, services and information provided by the VWDB. The topic of LEP is also addressed in the VWDB's LEP Policy, which is a separate document.

3. Assurances in Job Training Plans, Contracts, Policies and Procedures

All grant contracts developed by the Verdugo WDA between itself and other entities shall contain the nondiscrimination assurance. Currently, this assurance is listed in Section 8 of the document called Attachment A, "Assurances, Certifications and Agreements," which is attached to all Verdugo WDA contracts.

All Individual Training Account (ITA) Agreements shall contain the following language: "Vendor agrees not to discriminate against any WIOA applicant or trainee on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief. Vendor agrees to comply fully with the nondiscrimination and equal opportunity provisions of WIOA, and acknowledges the Department of Labor's right to seek judicial enforcement of this assurance."

4. Universal Access

The Verdugo Workforce Development Board assures equitable services among substantial segments of population by:

- a. Implementing an outreach and recruitment plan to solicit participation of all potentially WIOA Title I-eligible applicants in the entire locale;
- b. Creating an outreach and recruitment plan that will reach specific target populations through media, school and community service groups;
- c. Considering a pool of individuals for participation that include members of different sexes, various racial and ethnic/national origin groups, various religions, individuals with limited English proficiency, age groups, and individuals with disabilities;
- d. Establishing a hiring process that is accessible to qualified applicants with disabilities; and
- e. Utilizing facilities designed to provide reasonable access to individuals with disabilities in the following areas: training, job structure, work schedule, work procedure, and work equipment and auxiliary aids accommodations.

5. Obligation Not To Discriminate On The Basis of Disability

The VWDB is committed to with Section 504 of the Rehabilitation Act of 1973, as amended, and Title 29 CFR Part 38, and as a result, the VWDA ensures the accessibility to its training programs, activities and support services for all individuals, and will administer its training programs, activities and services in the most integrated setting appropriate to the needs of qualified individuals with disabilities. This includes employment tests or other selection criteria used by recipients that do not screen out individuals with disabilities, and training programs accessible to individuals with visual, hearing, or speech impairments. The VWDA shall provide means for individuals with disabilities to receive information about availability of facilities accessible to them. Additionally, the VWDA shall provide auxiliary aids, services and reasonable accommodations to qualified individuals with disabilities to enable them to perform duties of the job (e.g., special aids, modified work sites, or restructuring of jobs).

The Verdugo Workforce Development Board will also provide:

- a. Designated parking for the disabled that is accessible to the building entrance, free of any barriers (e.g., steps, steep slopes, low spots in ground or pavement, buckled concrete, gravel);
- b. Signage at a primary entrance to each of its inaccessible facilities directing users to a location at which they can obtain information about accessible facilities;
- c. The international symbol for accessibility at each primary entrance of an accessible facility;
- d. Building entrance doors that can be opened with one hand;
- e. Accessible information/public counter areas
- f. Facility elevators that are accessible from the entrance meeting the above criteria;
- g. Elevator control panel and entrance buttons with raised numbers and Braille Symbols at an accessible height;
- h. At least one accessible public telephone;
- i. Accessible meeting rooms with Braille symbols at an accessible height;
- j. Restroom facilities that have at least one toilet stall with an accessible doorway. The stall shall have grab bars and the toilet stool should be accessible for the individual with disability after the door is closed; and
- k. Alternative methods to ensure that training, job structure, work schedule, work procedure, and work equipment are available to individuals with disabilities when the facilities are not physically accessible to individuals with disabilities.

The Verdugo Workforce Development Board shall:

1. 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 the recipient undue hardship on business operations; and
2. Make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the WIOA Title I-financially assisted service, program, or activity.

6. Data and Information Collection and Maintenance

In accordance with the Section 188 of WIOA, VWDB shall do the following:

- a. The Director will not require submission of data that can be obtained from existing reporting requirements or sources, including those of other agencies, if the source is known and available to the Director.
- b. (1) Collect such data and maintain such records, in accordance with procedures prescribed by the Director, as the Director finds necessary. The system and format in which the records and data are kept must be designed to allow the Governor and CRC to conduct statistical or other quantifiable data analyses to verify the recipient's compliance with section 188 of WIOA and this part.
 (2) Such records must include, but are not limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Each recipient must record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, participant, terminee, applicant for employment, and employee. Beginning on January 3, 2019, each recipient must also record the limited English proficiency and preferred language of each applicant, registrant, participant, and terminee. Such information must 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 WIOA Title I-financially assisted programs or activities; determining the extent to which the recipient is operating its WIOA Title I-financially assisted program or activity in a nondiscriminatory manner; or other use authorized by law.
 (3) Any medical or disability-related information obtained about a particular individual, including information that could lead to the disclosure of a disability, must be collected on separate forms. All such information, whether in hard copy, electronic, or both, must be maintained in one or more separate files, apart from any other information about the individual, and treated as confidential. Whether these files are electronic or hard copy, they must be locked or otherwise secured (for example, through password protection).
 - (i) *Knowledge of disability status or medical condition and access to information in related files.* Persons in the following categories may be informed about an individual's disability or medical condition and have access to the information in related files under the following listed circumstances:
 - (A) Program staff who are responsible for documenting eligibility, where disability is an eligibility criterion for a program or activity.
 - (B) First aid and safety personnel who need access to underlying documentation related to a participant's medical condition in an emergency.
 - (C) Government officials engaged in enforcing this part, any other laws administered by the Department, or any other Federal laws.
 - (ii) *Knowledge of disability status or medical condition only.* Supervisors, managers, and other necessary personnel may be informed regarding restrictions on the activities of individuals with disabilities and regarding reasonable accommodations for such individuals.
- c. The VWDB must maintain, and submit to CRC upon request, a log of complaints filed with the recipient that allege discrimination on the basis(es) of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIOA Title I-financially assisted program or activity. The log must include:
 - The name and address of the complainant;
 - the basis of the complaint;
 - a description of the complaint;
 - the date the complaint was filed;
 - the disposition and date of disposition of the complaint; and
 - other pertinent information.

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

Mail or email a copy of the log each calendar year to:

Equal Opportunity Office, Employment Development Department, 800 Capitol Mall, MIC 49,
P.O. Box 826880, Sacramento, CA 94280-0001

- d. Where designation of individuals by race or ethnicity is required, the guidelines of the Office of Management and Budget must be used.
- e. A service provider's responsibility for collecting and maintaining the information required under this section may be assumed by the Governor or LWDA grant recipient, as provided in the State's Nondiscrimination Plan.
- f. Promptly notify the CRC of any administrative enforcement actions or lawsuits filed against the VWDB alleging discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIOA Title I-financially assisted program and activity. The notification must include:
 1. The names of the parties to the action or lawsuit;
 2. The forum in which each case was filed; and
 3. The relevant case numbers.
- g. Provide a brief description of the findings in any civil rights compliance review where the applicant or recipient was found in noncompliance and keeps a log containing certain information regarding complaints filed with it according to procedures set by the CRC;
- h. Retain records, including records of complaints, for a period of not less than three years from the close of the applicable program year or date of resolution of complaint; and
- i. Adopt procedures for responding to complaints of discrimination.

7. Monitoring

Every year, the VWDB shall complete the Self-Assessment and submit it to the State regarding nondiscrimination and equal opportunity and physical and program accessibility.

Verdugo WDA shall monitor all subcontractors for with the assurances listed in their contracts, as per Section 3 of this policy.

8. Complaint Processing Procedure

Any person who believes that he or she or any specific class of individuals has been or is being subjected to discrimination prohibited by the nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA) may file a written complaint in two ways:

1. By communicating with the Verdugo Workforce Development Board's (VWDB) Equal Opportunity (EO) Officer, or the Verdugo Jobs Center (VJC) Manager. It is the policy of the Verdugo Workforce Development Board to resolve complaints at the lowest administrative level as quickly as possible. In this situation, the complaint may be resolved through informal discussion; or
2. By using the *Discrimination Complaint Form – Workforce Development Community*, or a representative may file the complaint on his or her behalf. The *Discrimination Complaint Form – Workforce Development Community* may be requested from the Verdugo Workforce Development Board's EO Officer or the VJC Manager.

- a. The written complaint may be filed either with the Verdugo Workforce Development Board's Equal Opportunity (EO) Officer:

Melissa Younesian
1255 S. Central Ave.
Glendale, CA 91204

- b. Or it may be filed directly with the Director at:

Civil Rights Center (CRC)
U.S. Department of Labor
200 Constitution Avenue N.W., Room N-4123
Washington, D.C. 20210.

A complaint filed pursuant to Title 29 CFR 38.69 must be filed within 180 days of the alleged discrimination. The CRC, if shown good cause, may extend the filing time. In order to receive an extension, the complainant must be notified that a waiver letter is to be filed with the CRC. The waiver letter should include the reason the 180-day time period elapsed. This time period for filing is for the administrative convenience of the CRC and does not create a defense for the respondent.

Complaints must be filed in writing, either electronically or in hard copy by completing the *Discrimination Complaint Form – Workforce Development Community*, which may be requested from the Verdugo Workforce Development Board's EO Officer.

Both complainant and respondent have the right to be represented by an attorney or other individual of their choice. The methods available to resolve the complaint must include alternative dispute resolution as described below.

1. Alternative Dispute Resolution (ADR):

- a. The complainant must be offered ADR upon receipt of the complaint. The choice whether to use ADR rests with the complainant; the VWDB's ADR procedures must provide that:
 - i. The complainant may attempt ADR at any time after the complainant has filed a written complaint with the VWDB, but before the Notice of final Action has been issued.
 - ii. The choice whether to use ADR or the customary process rests with the complainant.
 - iii. A party to any agreement reached under ADR may notify the Director in the event the agreement is breached. In such circumstances, the following rules will apply:
 1. The non-breaching party may notify the Director within 30 days of the date on which the non-breaching party learns of the alleged breach; and
 2. The Director must evaluate the circumstances to determine whether the agreement has been breached. If the Director determines that the agreement has been breached, the complaint will be reinstated and processed in accordance with the VWDB's procedures.
- b. If the parties do not reach an agreement under ADR, the complainant may file a complaint with the Director of the CRC as described in Section 38.69 through 38.71.

2. Complaints filed with the Verdugo Workforce Development Board:
 - a. The EO Officer shall issue a written acknowledgement of receipt by the Verdugo Workforce Development Board of a complaint alleging discrimination by a WIOA Title I recipient and shall include a notice of the complainant's right to representation in the complaint process.

The EEO Office requires the EO Officer to forward one copy of the alleged complaint to the following address:

Equal Employment Opportunity Office
Employment Development Department
800 Capitol Mall, MIC 49
P. O. Box 826880
Sacramento, CA 94280-0001

- b. If the complainant elects not to participate in the ADR process, the EO Officer shall investigate the circumstances underlying the complaint.
- c. At any point in the investigation of the complaint, the complainant, respondent, or the EO Officer may request that the parties attempt conciliation. The EO Officer shall facilitate such conciliation efforts.

What is Conciliation? Conciliation is a process whereby the parties to a dispute agree to utilize the services of a conciliator, who then meets with the parties separately in an attempt to resolve their differences. Conciliation differs from mediation in that the main goal is to conciliate, most of the time by seeking concessions.

If the conciliator is successful in negotiating an understanding between the parties, said conciliation agreement must:

1. Be in writing;
 2. Address the legal and contractual obligations of the VWDB;
 3. Address each cited violation;
 4. Specify the corrective or remedial action to be taken within a stated period of time to come into compliance;
 5. Provide for periodic reporting on the status of the corrective and remedial action;
 6. State that the violation (s) will not recur;
 7. State that nothing in the agreement will prohibit CRC from sending the agreement to the complainant, making it available to the public, or posting it on the CRC or VWDB's website;
 8. State that, in any proceeding involving an alleged violation of the conciliation agreement, CRC may seek enforcement of the agreement itself and shall not be required to present proof of the underlying violations resolved by the agreement; and
 9. Provide for enforcement for a breach of the agreement.
- d. The VWDB shall be allowed 90 days to issue a Notice of Final Action from the date on which the complaint was filed. If, during the 90-day period, the VWDB issues a

decision that is not acceptable to the complainant, the complainant or his or her representative may file a complaint with the CRC within 30 days after the date on which the complainant receives the Notice.

- e. If the 90 days expire and the complainant does not receive a Notice of Final Action from the VWDB, or the VWDB failed to issue a Notice of Final Action, the complainant or his/her representative may file a complaint with the CRC within 30 days of the expiration of the 90-day period. In other words, the complaint must be filed with the CRC within 120 days of the date on which the complaint was filed with the VWDB.
- f. The CRC may extend the 30-day time limit if the complainant is not notified, as provided in Title 29 CFR Section 38.77, or for other good cause shown.
- g. The VWDB shall notify the complainant in writing within five business days of making such a determination that it does not have jurisdiction over a complaint that alleges a violation of the nondiscrimination and equal opportunity provisions of WIOA. The Notice of Lack of Jurisdiction must include a statement of the reasons for the determination, as well as a statement of the complainant's right to file a written complaint with the CRC within 30 days of receipt of the Notice.
- h. During the resolution process, the VWDB's EO Officer shall assure that all parties involved are given due process. These due process elements include:
 - i. A notice to all parties of the specific charges;
 - ii. A notice to all parties of the responses to the allegations;
 - iii. The right of both parties to representation;
 - iv. The right of each party to present evidence, and to question others who present evidence; and
 - v. A decision made strictly on the evidence on the record.

3. Actions by the CRC:

- a. The CRC determines acceptance of a complaint filed pursuant to Title 29 CFR Section 34.83. When the CRC accepts a complaint for investigation, it shall:
 - i. Notify the VWDB and the complainant of the acceptance of the complaint for investigation; and
 - ii. Identify the issues over which the CRC has accepted jurisdiction; and
 - iii. Explain the reasons why any issues were rejected.
- b. The VWDB, the complainant, or a representative may contact the CRC for information regarding the complaint filed.
- c. When a complaint contains insufficient information, the CRC will seek the needed information from the complainant. If the complainant is unavailable after reasonable efforts have been made to reach him or her, or the information is not provided within the time specified, the complaint file may be closed without prejudice upon written notice sent to the complainant's last known address.
- d. The CRC, per WIOA Section 183(c), may issue a subpoena to the complainant to appear and give testimony and/or produce documentary evidence, before a designated representative, relating to the complaint being investigated. Issuing a subpoena can be done any place in the United States, at any designated time and place.

- e. Where the CRC lacks jurisdiction over a complaint, the CRC shall:
 - i. Notify the complainant in writing and explain why the complaint falls outside the coverage of the nondiscrimination and equal opportunity provisions of WIOA or Title 29 CFR Part 38; and
 - ii. Where possible, transfer the complaint to an appropriate Federal, State or local authority.
- f. The CRC will refer complaints governed by the *Age Discrimination Act of 1975* to mediation as specified in Title 45 CFR Section 90.43(c)(3).
- g. If the complainant alleges more than one kind of complaint, "joint complaint," e.g., individual employment discrimination, age discrimination, equal pay discrimination, etc., the CRC shall refer such joint complaint to the Equal Employment Opportunity Commission for investigation and conciliation under the procedures described in Title 29 CFR, Parts 1640 or 1691, as appropriate. The CRC will advise the complainant and the VWDB of the referral.
- h. Under the One-Stop delivery system where the complainant alleges discrimination by an entity that operates a program or activity financially assisted by a federal grant making agency other than the Department of Labor (DOL), but participates as a partner in a One-Stop delivery system, the following procedures apply:
 - i. Where the complainant alleges discrimination on a basis that is prohibited both by Section 188 of WIOA and by a civil rights law enforced by the federal grant making agency, the CRC and the grant making agency have dual jurisdiction over the complaint. The CRC will refer the complaint to the grant making agency for processing. The grant making agency's regulations will govern the processing of the complaint.
 - ii. If the complainant alleges discrimination on the basis that is prohibited by Section 188 of WIOA, but not by any civil rights laws enforced by the federal grant making agency, the CRC has sole jurisdiction over the complaint and will retain and process the complaint pursuant to Title 29 CFR Part 38. The CRC will advise the complainant and the VWDB of the referral.
- i. The CRC may offer the option of alternative dispute resolution (ADR) of the complaint filed with CRC. In such circumstances, the following rules apply:
 - i. ADR is voluntary; consent must be given by the complainant and respondent before the ADR process will proceed.
 - ii. The ADR will be conducted under the guidance of the Director.
 - iii. ADR may take place at any time after a complaint has been filed under Section 38.69, as deemed appropriate by the Director.
 - iv. CRC will not suspend its investigation and complaint process during ADR.
- j. After making such a cause finding, the CRC shall issue an Initial Determination. The Initial Determination shall notify the complainant and the VWDB, in writing, of:
 - i. The specific findings of the investigation;
 - ii. The proposed corrective or remedial action that the Department proposes to the respondent, under Section 38.90;
 - iii. The time by which the respondent must complete the corrective or remedial action;
 - iv. Whether it will be necessary for the VWDB to enter into a written agreement under Section 38.91 through 38.93; and
 - v. The opportunity to participate in voluntary compliance negotiations.

- k. Where a no cause determination is made, the CRC must issue a Final Determination to the complainant and the VWDB. The Final Determination represents the DOL's final agency action on the complaint.

4. Intimidation and Retaliation are Prohibited

- a. The Verdugo Workforce Development Board may not discharge, intimidate, retaliate, threaten, coerce, or discriminate against any individual because that individual has filed a complaint alleging a violation of Section 188 of WIOA ; opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of the WIOA; furnished information to, or assisted or participated in any manner in an investigation, review, hearing, or any other activity related to administration of, exercise of authority under, or exercise of privilege secured by the nondiscrimination and equal opportunity of WIOA or Title 29 CFR Part 38.

9. Corrective Actions

Monetary corrective action may not be paid from federal funds.