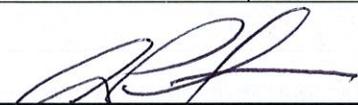




**Local Workforce Development Area:  
ARIZONA@WORK Pima County One-Stop**

<b>WORKFORCE INNOVATION AND OPPORTUNITY ACT</b>	<b>WIOA TITLE I-B ADULT, DISLOCATED WORKER, AND YOUTH PROGRAMS EO Monitoring, Corrective Action, and Sanctions Procedure</b>
<p><b>APPROVED BY:</b> <u></u></p> <p>Arnold Palacios, Director, Pima County Community Services, Employment and Training</p> <p><b>APPROVAL DATE:</b> <u>10-2-19</u></p>	

**I. BACKGROUND AND PURPOSE**

ARIZONA@WORK Pima County One-Stop, as a recipient of Title 1-B Workforce Innovation and Opportunity Act (WIOA) funds, is prohibited from discriminating on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief or, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in any WIOA Title 1-B financially assisted program or activity.

This procedure provides the process for obtaining prompt corrective actions when instances of noncompliance with WIOA Section 188 or 29 CFR 38 are found within the Pima County One-Stop system, and the process for applying sanctions to service providers, when necessary.

**II. REFERENCES**

This procedure ensures that ARIZONA@WORK Pima County One-Stop and its service providers are in compliance with the Equal Opportunity and nondiscrimination provisions of WIOA Section 188, 29 CFR Part 38, and other applicable laws and rules prohibiting discrimination including:

- A. Title VI of the Civil Rights Act of 1964, as amended (based on race, color, and national origin)
- B. Section 504 of the Rehabilitation Act of 1973, as amended (based on disability)
- C. The Age Discrimination Act of 1975, as amended (based on age)
- D. The Americans with Disabilities Act of 1990, as amended (based on disability)
- E. Title IX of the Education Amendments of 1972 (based on sex)

- F. Workforce Innovation and Opportunity Act (WIOA) of 2014 (P.L 113- 128);
- G. Federal Register 20 CFR 681 – Youth Activities Under Title 1 of the Workforce Innovation and Opportunity Act;
- H. Federal Register 29 CFR Part 38 –Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act; and
- I. Arizona Department of Economic Security WIOA Policy Manual – Chapter 2, Section 700 – Equal Opportunity and Nondiscrimination.

### **III. COMPLIANCE WITH STATE AND FEDERAL OVERSIGHT**

- A. ARIZONA@WORK Pima County One-Stop participates fully in state and federal oversight activities and abides by any corrective actions/sanctions received in relation to any violation of Section 188 of WIOA and/or 29 CFR Part 38, Subpart D. Corrective action is taken immediately upon notice of noncompliance and written assurance of corrective action taken is provided in accordance with state and federal requirements. Relevant policy/procedure updates and staff re-training are conducted, when appropriate, to ensure violations are not repeated.

### **IV. LOCAL SYSTEM MONITORING AND INVESTIGATIONS**

- A. The ARIZONA@WORK Pima County One-Stop EO Officer is responsible for monitoring all Job Centers, One-Stop operators, service providers, including eligible training providers, work-based training providers (OJT employers), WEX employers, sub-recipients, and affiliates that are part of the ARIZONA@WORK Pima County One-Stop system (herein referred to collectively as service providers) to ensure compliance with the State of Arizona’s Nondiscrimination Policy and the Nondiscrimination and Equal Opportunity Provisions of the WIOA contained in Section 188 and 29 CFR Part 38. At a minimum, the EO Officer will:

- 1. Monitor all ARIZONA@WORK Job Center and service provider activities, on an annual basis, to ensure compliance with WIOA Section 188 and 29 CFR Part 38, and investigate any complaints of discrimination or identified concerns.
- 2. Conduct onsite reviews of all ARIZONA@WORK Job Centers and service provider sites.
- 3. Evaluate all ARIZONA@WORK Job Centers and service provider sites to assess their accessibility and capability to provide reasonable accommodations.

- B. If the EO Officer determines there may be violations of WIOA Section 188 and 29 CFR 38, the investigation must include:

- 1. A statistical or other quantifiable analysis of records and data kept under 29 CFR 38.41, including analysis by race/ ethnicity, sex, LEP, preferred language, age and disability status.

2. An investigation of any significant differences identified in (1) of this section in the participation of programs, activities, or employment provided by the ARIZONA@WORK Job Centers and service providers to determine whether these differences appear to be caused by discrimination. The investigation may be conducted through a review of the Pima County's records or any other appropriate means.
3. An assessment to determine whether the ARIZONA@WORK Job Center or service provider has fulfilled its administrative obligations under WIOA Section 188 or 29 CFR 38 (e.g. recordkeeping, notice and communication) and any duties included in the State of Arizona's Nondiscrimination Policy.

**V. TECHNICAL AND DISCRIMINATION VIOLATIONS**

- A. Corrective and remedial action is sought when any deficiency is identified as a result of a service provider monitoring review or an EO complaint. Deficiencies may include both technical violations and/ or discrimination violations.
- B. Technical violations include EO deficiencies that do not include discrimination. Pima County will provide written assurance of corrective action to the State EO Officer for all identified technical violations. Technical violations may include, but are not limited to, failure to:
  1. Post the required "EO is the Law" notice;
  2. Include an "EO is the Law" notice in all WIOA Title 1 employees' personnel files and in all WIOA Title 1 participants' program file and/or electronic file; and
  3. Include a statement signed by the participant that acknowledges the Complaint and Grievance Procedures in the participant's program file or electronic file.
- C. Discrimination violations include, but are not limited to;
  1. Discrepancies of disparate treatment (disparate treatment means intentionally treating members of a protected groups differently based on their protected status);
  2. Disparate impact (disparate impact means the use of policies or practices that may or may not appear neutral, but which have a disproportionate impact on members of protected groups, and/or are not job related and consistent with business necessity); and
  3. Failure to provide reasonable accommodations.

- D. Discrimination violations may require a conciliation agreement or assurance statement, provisions of which must include: making whole relief to include where appropriate; retroactive relief (e.g. back pay, front pay, retroactive benefits, training, any service discriminatorily denied, etc.) or prospective relief, (e.g. change of policy, training, development of new policy, or training on policy communication).

## **VI. CORRECTIVE ACTION PROCEDURES**

- A. After the EO Monitoring review, the EO Officer must complete the EO Monitoring Review Report and include all discrepancies found during the EO Monitoring Review and the required corrective actions the service provider must take to come into compliance. The EO Officer must provide the report to the service provider.
- B. For each corrective action identified in the EO Monitoring Review Report, the service provider must:
  - 1. Submit their corrective action plan within 20 business days of receipt of the EO Monitoring Review Report;
  - 2. Implement corrections to discrepancies in the EO Monitoring Review Report that must be designed to completely correct the violation and bring the service provider into compliance;
  - 3. Submit a written assurance that all of the discrepancies have been corrected and will not recur. The assurance must list the deficiency and the corrective action as specified in the written notification, describe the actions taken and the dates of those actions, state that the service provider is taking steps and will continue to take steps to ensure that the deficiency does not recur, and certify that the assurance is signed by the highest-level official of the service provider; and
  - 4. If the discrepancies involve discrimination, a conciliation agreement is required. Remedial actions are designed to make an individual or individuals who have suffered injury or loss because of discrimination whole. A person or persons who are wronged must be restored to the status they would have expected if the discrimination had not occurred. This must provide, where appropriate, for retroactive relief (including but not limited to, back pay) and prospective relief (including, but not limited to, training, policy development, and communication) to ensure the discrimination does not recur.
- C. When a service provider is placed on a corrective or remedial action plan, the EO Officer will conduct a desk review and/or onsite visit, as appropriate, within 90 days to ensure that the commitments to correct deficiencies described in the plan are satisfied and violations will not recur.
- D. The EO Officer will examine any instances of noncompliance during a follow-up onsite visit or as part of the next scheduled monitoring review of the service provider. Service providers which have a corrective or remedial action plan are

required to provide follow-up reports for completing all corrective or remedial actions, which must be prepared and forwarded to the EO Officer, as directed.

- E. When the EO Officer has determined the commitments in the corrective or remedial action plan are satisfied, s/he will close the monitoring review

## **VII. SANCTION PROCEDURES**

- A. Sanctions penalize or censure a service provider when the service provider has failed to resolve violations and comply with the EO and nondiscrimination requirements of WIOA Section 188 of 29 CFR Part 38.
- B. The EO Officer must issue a final determination in writing and take such actions as allowable by law to initiate the sanction process. The final determination must be signed jointly by the EO Officer and the Pima County Community Services, Employment and Training Department Director or designee, and include:
  - 1. A statement of the efforts made to achieve voluntary compliance and a statement that those efforts have been unsuccessful;
  - 2. A statement of those matters upon which the service provider and the EO Officer continue to disagree;
  - 3. A list of any modifications to the finding of fact or conclusions the were set forth in the initial determination;
  - 4. A statement of the service provider liability and, if appropriate, the extent of that liability;
  - 5. A description of the corrective or remedial actions that the service provider must take to come into compliance; and
  - 6. A notice that if the service provider fails to come into compliance within 10 calendar days of the date on which it received the final determination is received, one or more the following consequences may result:
    - i. Payment for sub-granted or contracted services may be withheld in whole or in part;
    - ii. Further bids or applications for County funds may be denied, including but not limited to WIOA Title-1 passed through funds;
    - iii. Pima County or ADES may refer the case to the Pima County Attorney's Office, Arizona State Attorney General, or the U.S. Department of Justice with a request to file suit against the service

provider; or

- iv. Pima County or ADES may take any other action against the service provider allowable by law.

C. A service provider has the right to appeal a final determination to the Pima County Administrator. The appeal must be in writing and made within 30 calendar days after the complaint receives the final determination or 90 calendar days from the date of the filed complaint. Such an appeal, however, will not prevent the initiation of sanctions unless the County Administrator extends the deadline. Appeals of final determination must be sent to:

County Administrator  
Pima County Governmental Center  
130 W. Congress Street, 10<sup>th</sup> Floor  
Tucson, AZ 85701