



**WORKFORCE DEVELOPMENT BOARD**  
OF SOLANO COUNTY

## **POLICY ISSUANCE**

Date: January 18, 2019 Number: 2019-01

### **ACCOMMODATIONS AND ACCESSIBILITY**

#### **INTRODUCTION**

This policy provides guidance to the Workforce Development Board (WDB) of Solano County in providing Accommodations and Accessibility to individuals with disabilities who may need and request such provisions. The Workforce Innovation and Opportunity Act (WIOA) stresses physical and programmatic accessibility, including the use of accessible technology to increase access to high quality workforce services to individuals with disabilities. WIOA Title I prohibits discrimination on the basis of race, color, national origin, sex, age, disability, religion, political affiliation or belief, and participant status. Title I of WIOA assigns responsibilities at the local, State and Federal levels to ensure the creation and maintenance of an America's Job Center of California (AJCC) system that enhances the range and quality of workforce development services that are accessible to individuals seeking assistance.

#### **QUESTIONS**

Questions relating to this policy should be directed to Marion Aiken, Workforce Services Manager, at [maiken@solanowdb.org](mailto:maiken@solanowdb.org) or at (707) 863-3594.

#### **ATTACHMENTS**

- Attachment A: Definition of Key Terms

#### **POLICY**

WDB and partner staff will be responsible to review best practices, address issues as they arise, and implement necessary changes dealing with accommodations and accessibility to best serve all customers. No individual is to be excluded from participation in, denied benefits of, subjected to discrimination under, or denied employment in the administration of, or in connection with, any program or activity funded in whole or in part under WIOA due to race, color, religion, sex, national origin, age, disability, political affiliation or belief. This policy governs all aspects of the AJCC and WIOA Title I programs, including registration and orientation; initial screening, assessment, and testing; and service delivery.

#### **Prohibition of Discrimination on the Basis of Disability**

The WDB is obligated to provide physical and programmatic accessibility and reasonable accommodation/modification in regard to the WIOA program, as required by Section 504

of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act (ADA) of 1990, as amended, and Section 188 of WIOA.

### **WIOA ACCESSIBILITY**

When providing aid, benefits, or services under a WIOA Title I financially assisted program or activity, the WDB must not directly or through contractual, licensing, or other arrangements, on the ground of disability:

- (1) Deny a qualified individual with a disability the opportunity to participate in or benefit from an aid, benefits, services, or training;
- (2) Afford a qualified individual with a disability an opportunity to participate in or benefit from an aid, benefits, services, or training that is not equal to that afforded others;
- (3) Provide a qualified individual with a disability with an aid, benefit, service, or training that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
- (4) Provide different, segregated, or separate aid, benefits, services, or training to individuals with disabilities, or to any class of individuals with disabilities, unless such action is necessary to provide qualified individuals with disabilities with aid, benefits, services, or training that are as effective as those provided to others;
- (5) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards; or
- (6) Otherwise limit a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service, or training.

Staff must use the same processes for all customers, including individuals with disabilities. Staff will also make reasonable modifications in practices and procedures when necessary to avoid discrimination on the basis of disability unless making the modifications would fundamentally alter the nature of the service. Separate or different programs or services for individuals with disabilities are not prohibited under the ADA; however individuals with disabilities cannot be forced to participate in these programs instead of WIOA Title I financially assisted programs or activities.

Within WIOA Title I service delivery, staff must:

- Maintain confidentiality and not disclose disability-related or other medical information about an individual to an employer or partnering organization unless the job seeker has consented to disclosure on their behalf. Disability information must be kept separate from the working participant files to ensure confidentiality;
- Incorporate information on accommodations and rights of all individuals, including individuals with disabilities, in orientations of WIOA services;

- Refrain from stereotyping individuals with disabilities when evaluating their skills, abilities, interests and needs;
- Reject job orders from any employer that specifies it will not accept applications from individuals with disabilities or from applicants with a certain disability. Under the law, individuals with disabilities must be referred for the same range of positions as any other qualified candidate;
- Periodically review eligibility criteria for services or trainings to eliminate elements that may screen out individuals with disabilities (unless criteria is directly related to specific training or services and is essential), such as
  - Requirement that a driver's license is the only acceptable form of identification, as such a requirement would unnecessarily screen out individuals with disabilities that prevent them from obtaining driver's licenses, or
  - Literacy/numeracy level requirements to access services that may unnecessarily prevent individuals with intellectual, cognitive, or developmental disabilities from accessing services.

#### Employment Related Placements

Local WDBs must not directly, or through any contractor, use testing procedures that have an adverse impact on disabled employment applicants or subject qualified individuals with disabilities to discrimination on the ground of such disability.

Local WDBs, or any contractor including on-the-job training contractors, shall not discriminate against an individual with a disability if the person is otherwise qualified for the job. Compliance with the Uniform Guidelines of Employee Selection Procedures, 31 CFR§ 60-3, is required.

#### Facility Accessibility

In order to be ready and welcoming when persons with disabilities seek services, advance preparatory actions must be taken. Specific information on ADA accessibility guidelines for buildings and facilities is provided at <http://www.accessboard.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/adastandards>.

AJCCs must be ADA compliant and equipped with auxiliary aids and accommodations. This should include a list of currently available assistive technology devices and services within the centers available for individuals.

Signage of ADA compliance must be posted in the AJCCs. Individuals must be aware of compliance through use of signs or other means of visibility. "Equal Opportunity is the Law" must be prominently displayed within the AJCC and made available in other formats as requested. Notice of the availability and right to receive reasonable accommodations must also be posted to ensure individuals are aware of the ability to receive reasonable accommodations.

Some areas to particularly note include accessible counters, automatic and power-assisted doors, accessible restrooms, accessible workstations, obstacle-free entrances, space in waiting rooms for wheelchairs, 32-inch clear openings on doors, and 36-inch clear paths of travel. These are only a sampling of considerations. Accessibility is an on-going process. However, all of the ADA technical requirements must be applied during the design, construction, and alteration of buildings and facilities.

## **REASONABLE ACCOMMODATIONS**

To afford individuals with disabilities an equal opportunity to participate in and enjoy the benefits of the WIOA Title I program or activity, staff must furnish appropriate reasonable accommodations where necessary. “Reasonable accommodations” in this policy includes accommodations, modifications, effective communication, and auxiliary aids and services. In determining what type of accommodation is appropriate and necessary, staff must give primary consideration to the requests of the individual with a disability. Primary consideration means honoring the choice unless the agency can demonstrate that another equally effective means of communication is available, or that using the means chosen would result in a fundamental alteration in the service, program, activity, or undue financial and administrative burdens.

A list of auxiliary aids and services can be found in 29 CFR § 38.4, and includes:

- Qualified interpreters, note-takers, transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDDs/TTYs), videotext displays, or other effective means of making aurally-delivered materials available to individuals with hearing impairments;
- Qualified readers, taped texts, audio recordings, brailled materials, large print materials, or other effective means of making visually-delivered materials available to individuals with visual impairments;
- Acquisition or modification of equipment or devices; and
- Other similar services and actions.

The WDB must not place a surcharge on a particular individual with a disability, or any group of individuals with disabilities, to cover the costs of measures associated with providing auxiliary aids, services, or assistive technology that are required to provide that individual or group with the nondiscriminatory treatment required by WIOA Title I.

This obligation does not require the WDB to provide personal devices, such as wheelchairs; prescribed devices, such as prescription eyeglasses or hearing aids; or readers for personal use or study.

If an individual with disabilities elects not to participate in an available separate or different program or service, and instead chooses to participate in available WIOA Title I financially-assisted programs and activities, the obligations regarding auxiliary aids, services, and assistive technology still apply.

Procedural documents must outline the process for reasonable accommodation requests. The document must contain general guidance and definitions for use when processing reasonable accommodations, as well as step-by-step instructions on how to process those requests.

### *Requesting Reasonable Accommodations*

With regard to aid, benefits, services, training, and employment, the local WDB must provide reasonable accommodations 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.

A request for accommodations may be made by the individual, a family member, a friend, or a representative on their behalf. However, staff should directly verify with the customer an agreement with the request.

When an individual with a disability makes a request for a reasonable accommodation, staff is required to respond to that request. All staff members providing direct services should be able to provide or arrange basic accommodations on their own initiative in the most timely and customer-friendly way possible.

Requesting documentation for a disability in order to provide accommodations can be an impediment to timely and quality service delivery and should generally be avoided. Documentation of a disability should not be requested when the accommodation falls within the range of adjustments that staff would normally provide for any individual, or if the disability is apparent. Documentation is required for CASAS testing accommodations; see the Assessment Policy for additional information.

A written record must be made of any requests for reasonable accommodations that would require significant resources or preparation. Records must include the name of the individual, the nature of the reasonable accommodation, and the reason for the accommodation.

Staff may deny a request for a reasonable accommodation only based on the following criteria:

- Staff have determined the customer does not have a disability;
- Staff have determined that the absence of the requested reasonable accommodation would not limit the customer's ability to meaningful participation in services; or
- Staff have determined that there is no accommodation that would be effective in improving the customer's ability to have meaningful participation in services.

Denying an accommodation requires review and approval by the EEO Officer. A written statement of the reasons an accommodation is denied must be provided to the individual requesting the accommodation, and must inform the individual of his or her right to file a complaint with the Department of Labor Civil Rights Center and Department of Justice,

Office of Civil Rights. A copy of the written statement must be provided to the California Equal Opportunity Officer. If an accommodation is denied due to undue hardship, staff must still take other actions, to the maximum extent possible, to improve the customer's ability to participate in services.

## **DISCLAIMER**

This policy is based on WDB's interpretation of the statute, along with the Workforce Innovation and Opportunity Act, Final Rule released by the U.S. Department of Labor, and federal and state policies relating to WIOA implementation. This policy will be reviewed and updated based on any additional federal or state guidance.

## **REFERENCES**

### **Law**

- Workforce Innovation and Opportunity Act (WIOA) of 2014
- [Americans with Disabilities Act of 1990](#)
- Americans with Disabilities Amendments Act of 2008 (ADAA)
- [Rehabilitation Act of 1973](#), as amended, Section 504

### **Federal Guidance**

- Section 188 (Part 29 CFR 38)
- [Promising Practices in Achieving Universal Access and Equal Opportunity: A Section 188 Disability Reference Guide](#)
- Lead Center's [Promoting Employment and Economic Advancement: A Toolkit for CILs and AJCs](#)

### **State Guidance**

- Workforce Services Directive (WSD) 17-01 – [Non-Discrimination and Equal Opportunity Procedures](#)

### **Approved by**

Workforce Development Board of Solano County

## DEFINITION OF KEY TERMS

**Auxiliary Aid for Effective Communication** – as defined in Section 188 of WIOA – means a technology, individual, skill, formats, strategy, other means, or combination of means employed to provide effective communication.

**Disability** – as defined by the American with Disabilities Act of 1990 Sect. 12192(1-3) – with respect to an individual, the term disability means:

- (A) A physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B) A record of such an impairment; or
- (C) Being regarded as having such an impairment where the individual established that he or she has been subjected to an action prohibited under the Americans with Disabilities Act of 1990 because of an actual or perceived physical or mental impairment whether the impairment limits or is perceived to limit a major life activity. Major life activities include but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. The term disability shall not apply to impairments that are transitory and minor. A transitory impairment is impairment with an actual or expected duration of 6 months or less.

**Individual with a Disability** – as defined in the Americans with Disabilities Act Sect. 12012 (1) and in WIOA Sect. 3(25) – is one with

- (A) a physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B) a record of such an impairment; or
- (C) being regarded as having such an impairment (as described in the Americans with Disabilities Act § 12102 (3))

**Facility** – as defined in the Americans and Disabilities Act – includes “all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

**Reasonable Accommodation** – as defined in Section 188 of WIOA – is:

- Modifications or adjustments to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, or training that the qualified applicant/registrant desires;
- Modifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job, or receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities; OR

## ATTACHMENT A: DEFINITION OF KEY TERMS

- Modifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, or training as are enjoyed by other similarly situated individuals without disabilities.

**Undue Hardship** – as defined in Section 188 of WIOA – means, with regard to individuals with disabilities, significant difficulty or expense incurred by a provider, when considered in light of the factors set out in the regulations implementing Section 188 of WIOA.



**WORKFORCE DEVELOPMENT BOARD**  
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EMPLOYEE ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING FOR:  
ACCOMMODATIONS AND ACCESSIBILITY POLICY

(Issued January 18, 2019)

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The Workforce Development Board (WDB) of Solano County's Accommodations and Accessibility Policy contains important information pertaining to my employment and duties at the WDB.

A copy of this policy has been given to me to retain for future reference, and I have been provided with the location on the Shared Drive for the policy where I can obtain an electronic copy.

Since the information and policies described in the policy are necessarily subject to change, I acknowledge that revisions to the policy may occur. All such changes will be communicated through official notices. I understand that revised information may supersede, modify, or eliminate existing policies.

I have received the Accommodations and Accessibility Policy and I understand that it is my responsibility to read and comply with the information contained in this policy and any revisions made to it.

I understand that I should consult my supervisor if I have any questions about the information contained in the policy. I understand that failure to comply with the information contained in the policy could lead to disciplinary action or termination.

Employee's Name (printed): \_\_\_\_\_

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_