NORTH CENTRAL
COUNTIES CONSORTIUM

NONDISCRIMINATION and EQUAL OPPORTUNITY PROCEDURES
(NCCC Nondiscrimination Plan)

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North Central Counties Consortium
Nondiscrimination and Equal Opportunity Procedure

I. Purpose

This procedure establishes the North Central Counties Consortium's (NCCC) nondiscrimination and equal opportunity procedures, and the NCCC Grievance and Complaint procedures for the Workforce Innovation and Opportunity Act (WIOA) Title I-financially assisted programs or activities.

II. Scope

This procedure applies to all NCCC One Stop Career Centers and all mandated One Stop partners, to the extent that they participate in the One Stop delivery system.

III. References

- WIOA Section 188
- EDD WSD17-01, Nondiscrimination and Equal Opportunity Procedures
- EDD WSD17-03, Limited English Proficiency
- EDD WSD17-05, Oversight and Monitoring of Nondiscrimination and EO Procedures
- EDD WSD18-05, WIOA Grievance and Complaint Resolution Procedures
- Americans with Disabilities Act of 1990, Title II, Subpart A
- 20 CFR Section 658.400
- 20 CFR Part 38
- Title Code of Federal Regulation (CFR) 20 Section 683.600

IV. Background

The nondiscrimination and equal opportunity provisions found in Section 188 of WIOA and 29 CFR Part 38 prohibit discrimination on the basis of race; color; religion; sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity); national origin (including Limited English Proficiency [LEP]); age; disability; political affiliation or belief; or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title I-financially assisted program or activity.

V. Definitions

A. *Auxiliary Aids or Services* – Includes (1) 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; (2) 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; (3) acquisition or modification of equipment or devices; and (4) other similar services and actions.

B. *Complaint* – For this directive only, means an allegation of a violation of the nondiscrimination and equal opportunity provisions

C. *Nondiscrimination Plan* – A state-level/local level document that reflects the Governor's commitment to nondiscrimination and equal opportunity provisions of WIOA. The Nondiscrimination Plan replaces the Methods of Administration (MOA) under the Workforce Investment Act (WIA) of 1998.

D. *Recipient* – Any entity to which financial assistance under the WIOA Title I is extended, either directly from the Department of Labor (DOL) or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIOA Title I funded program or activity. In addition, One-Stop partners, as defined in Section 121(b) of WIOA, are treated as "recipients" and are subject to the nondiscrimination and equal opportunity requirements of 29 CFR Part 38, to the extent that they participate in the One-Stop delivery system.

E. *Respondent* – The individual or entity that the complainant alleges is responsible for the discrimination.

VI. NCCC Nondiscrimination Plan

In order to provide a reasonable guarantee of compliance with the nondiscrimination and equal opportunity provision of Section 188 of the WIOA and 29 CFR Part 38 the Governor must establish and implement a Nondiscrimination Plan for state programs as outlined in 29 CFR Section 38.54. This plan was previously known as MOA. North Central Counties Nondiscrimination Plan includes the following:

A. Assurances – all contracts, cooperative agreements, job training plans and policies and procedures for NCCC and the NCCC WIOA Title I One Stop Operators and Service Providers must contain the nondiscrimination assurances in 29 CFR Section 38.25 and 38.26. The Nondiscrimination assurances must state that the grant applicant will "comply fully with the Nondiscrimination and equal opportunity provisions of WIOA".

B. EO Officer – NCCC will designate an EO Officer who is responsible for coordinating its obligations under the regulations. Responsibilities of this EO Officers include:

1. Serve as a liaison with EDD EEO Office
2. Investigate and monitor the Local Area's subrecipients WIOA Title I funded activities and program
3. Review the Local Area's organizations and written policies
4. Develop, publish, and enforce the Local Area's discrimination complaint procedures
5. Conducting outreach and education about equal opportunity and nondiscrimination requirements consistent with 29 CFR Section 38.40, and how an individual may file a complaint consistent with 29 CFR Section 38.69.
6. Participating in continuing training and education, and ensuring that assigned staff receives the necessary training and support to maintain competency.
7. Informing participants, employees, and program beneficiaries of their equal opportunity rights and responsibilities, and how the discrimination complaint process works.

C. Notice and Communication – NCCC Program Operators must provide initial and continuing notice that it does not discriminate on any prohibited bases. Notices and posters related to Equal Opportunity is the Law and how to file a complaint must be used.

1. EO is the Law must be posted prominently, in reasonable numbers and places, in available and conspicuous physical locations and on the recipients' website.
2. Disseminated in internal memoranda and other written or electronic communications with staff.
3. Include in employee and participant handbooks or manuals, regardless of form, including electronic and paper form if both are available
4. Provide to each participant and employee the EO notice and must be a part of each employee's and participant's file. It must be a part of both paper and electronic files, <u>if both are maintained.</u>
5. Notice must be provided in appropriate formats to registrants, applicants, eligible applicants, and applicants for employment and employees and participant with visual impairment. Where notice has been given in an alternative format, a record that such notice has been given must be made part of the file.
6. Notice must be provided in appropriate languages other than English (see Attachment D, LEP Plan)
7. Recipients must include in all recruitment and other materials communication (including publish or broadcast programs information in the news media) that it is an "equal opportunity employer/program" and that "auxiliary aids and services are available upon request to individuals with disabilities".

8. Where materials indicate that the recipient may be reached by telephone, the materials must also provide a TTY number or equally effective communication system. The California Relay Service can be reached by dialing 711 or 1-800-735-2922.
9. Recipients must not communicate any information that suggests that recipient treats people differently on any prohibited bases, except as such treatment is otherwise permitted under federal law or regulations.

D. Data and Information Collection and Maintenance – Each recipient must collect and maintain nondiscrimination data. 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 WIOA Section 188 and 20 CFR Part 38. Each recipient must record the race/ethnicity, sex, age, and where know, disability status or every applicant, registrant, participant, terminee, applicant for employment, and employees (onto the CalJOBS). This information must be used only for the purposes of any of the following:

1. Recordkeeping/reporting
2. Determining eligibility for WIOA Title I activities
3. Determining the extent to which the recipient is operating its WIOA Title I program in a nondiscriminatory manner
4. Other use authorized by the law

Any MEDICAL or disability-related information obtained about an individual, including information that could lead to the disclosure of a disability, must be collected on separate forms and must be maintained in one or more separate files, apart from any other information about the individual, and treated as confidential. These files, whether electronic or hard copy, must be locked or otherwise secured (e.g. through password protection).

E. Affirmative Outreach – NCCC Program Operators and Service Providers are required to take appropriate steps to ensure that they are providing equal access to their WIOA Title I financially assisted programs and activities. These steps should involve reasonable efforts to include members of the various groups protected by 29 CFR Part 38 including but not limited to persons of different sexes, various racial and ethnic/national origin groups, various religions, LEP individuals, individuals with disabilities, and individuals in different age groups. Such efforts may include, but are not limited to, the following:

1. Advertising the recipient's programs and/or activities in media such as newspapers or radio programs that specifically target various populations.

2. Sending notices about openings in the recipient's programs and/or activities to schools or community service groups that serve various populations.
3. Consulting with appropriate community service groups about ways in which the recipient may improve its outreach and service to various populations.

F. Discrimination Prohibited Based on Disability – AJCC Operators and Service Providers must follow the below guidance.

In providing any aid, benefit, service, or training under a WIOA Title I-financially assisted program or activity, whether directly or through contractual, licensing, or other arrangements, on the basis of disability, a recipient must not do any of the following:

1. Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, service, or training, including meaningful opportunities to seek employment and work in competitive integrated settings.
2. Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefits, services, or training that is not equal to that afforded others.
3. Provide a qualified individual with a disability with any 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, benefit, service, 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 any aid, benefit, service, or training that is as effective as those provided to others, and consistent with the requirements of the *Rehab Act* as amended by the WIOA, including those provisions that prioritize opportunities in competitive integrated employment.
5. Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards.
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.

Accessibility Requirements

No qualified individual with a disability may be excluded from participation in, or be denied the benefits of a recipient's service, program, or activity or be subjected to discrimination by any recipient because a recipient's facilities are inaccessible or unusable by individuals with disabilities. Recipients that are subject to Title II of ADA of

1990 must also ensure that new facilities or alterations of facilities that began construction after January 26, 1992, comply with the applicable federal accessible design standards, such as the *ADA Standards for Accessible Design* (1991 or 2010) or the *Uniform Federal Accessibility Standards*. In addition, recipients that receive federal financial assistance must meet their accessibility obligations under Section 504 of the *Rehab Act* and the implementing regulations at 29 CFR Part 32. Some recipients may be subject to additional accessibility requirements under other statutory authority, including Title III of the ADA that is not enforced by the CRC. As indicated in Section 38.3(d)(10), compliance with this part does not affect a recipient's obligation to comply with the applicable ADA Standards for Accessible Design.

All WIOA Title I-financially assisted programs and activities must be programmatically accessible. This includes providing reasonable accommodations for individuals with disabilities, making reasonable modifications to policies, practices, and procedures, administering programs in the most integrated setting appropriate, communicating with persons with disabilities as effectively as with others, and providing appropriate auxiliary aids or services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

Reasonable Accommodation and Reasonable Modifications for Individuals with Disabilities

With regard to any aid, benefit, service, training, and employment, a recipient 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. For more information on what would constitute undue hardship as it relates to a reasonable accommodation of individuals with disabilities, please see the definition of “undue burden or undue hardship” found in 29 CFR Section 38.4.

With regard to any aid, benefit, service, training, and employment, a recipient must also 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 service, program, or activity, which would constitute a fundamental alteration. For more information, see the definition of “fundamental alteration” found in 29 CFR Section 38.4.

In those circumstances where a recipient believes that the proposed accommodation would cause undue hardship, or the proposed modification would fundamentally alter

the program, the recipient has the burden of proving that compliance with this section would result in such hardship and alteration. The recipient must make the decision that the accommodation would cause such hardship or result in such alteration only after considering all factors listed in the definitions of "undue hardship" and "fundamental alteration." The decision must be accompanied by a written statement of the recipient's reasons for reaching that conclusion. The recipient must provide a copy of the statement of reasons to the individual(s) who requested the accommodation or modification.

If a requested accommodation would result in undue hardship or a modification would result in a fundamental alteration, the recipient must take any other action that would not result in such hardship or such alteration but would nevertheless ensure that individuals with disabilities receive the aid, benefits, services, training or employment provided by the recipient.

In addition, a recipient must take appropriate steps to ensure that communications with individuals with disabilities, such as beneficiaries, registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employees, members of the public, and their companions are as effective as communications with others.

A Reasonable Accommodation Policy and Procedure Guide (Attachment E) should be used when processing reasonable accommodation requests. This document should contain two sections: (1) provide general guidance and definitions for use when processing reasonable accommodation requests, and (2) provide step-by-step instructions on how to process these requests.

Service Animals

Under the Americans with Disabilities Act (ADA), businesses and organizations that serve the public must allow people with disabilities to bring their service animals into all areas of the facility where customers are normally allowed to go. This federal law applies to all businesses open to the public, including restaurants, hotels, taxis and shuttles, grocery and department stores, hospitals and medical offices, theaters, health clubs, parks, and zoos.

The ADA defines a service animal as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person’s disability. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post

Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability.

The ADA does not require service animals to wear a vest, ID tag, or specific harness.

In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions:

1. **Is the dog a service animal required because of a disability?**
2. **What work or task has the dog been trained to perform?**

Staff are not allowed to request any documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, require that the dog demonstrate its task, or inquire about the nature of the person's disability.

Emotional support, therapy, comfort, or companion animals are not considered service animals. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

A service-animal-in-training is not considered a service animal under the ADA. The dog must already be trained before it can be taken into public places.

Service animals must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or with the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal. For example, a person who uses a wheelchair may use a long, retractable leash to allow the service animal to pick up or retrieve items for them. They may not allow the dog to wander away from them and must maintain control of the dog, even if it is retrieving an item at a distance away from them. Or, a returning veteran who has PTSD and has great difficulty entering unfamiliar spaces may have a dog that is trained to enter a space, check to see that no threats are there, and come back and signal that it is safe to enter. The dog must be off leash to do its job, but may be leashed at other times. Under control also means that a service animal should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean the dog is out of control.

If the service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, staff may request that the animal be removed from the premises.

Individuals that believe they may have been illegally denied access or services because they use service animals may file a complaint with the U.S. Department of Justice. Individuals also have the right to file a private lawsuit in Federal court charging the entity with discrimination under the ADA.

Mobile Aids and Devices

A recipient must permit individuals with mobility disabilities to use wheelchairs and manually-powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities, in any areas open to pedestrian use.

A recipient must make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless the recipient can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the recipient has adopted.

G. Complaint / Resolution Process – NCCC's process for resolving allegations within the Local Area for noncompliance with applicable nondiscrimination and equal opportunity provisions is outlined in Attachment A. All NCCC recipients are responsible to assure that the process is followed when complaints are lodged.

AJCC staff must first provide individuals wishing to file a complaint with NCCC EO Officer's contact information. The EO Officer will provide the necessary complaint form to the individual if necessary.

No recipient or subrecipients may discharge, intimidate, retaliate, threaten, coerce, or discriminate against any individual because the individual has filed a complaint alleging any of the following:

- A violation of WIOA.
- Opposed a practice prohibited by the nondiscrimination and equal opportunity provision of 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 provision of WIOA or 29 CFR Part 38.

H. Additional Components of the Plan – NCCC Staff will conduct monitoring of all NCCC WIOA Title I programs to assure compliance with all rules regulations and policies set out by DOL, EDD and NCCC.

VII. Attachments

A. NCCC Grievance and Complaint Processing Procedure
B. Discrimination Complaint Form
C. Equal Employment Opportunity is the Law, NCCC Civil Rights and Grievance Summary
D. NCCC Limited English Proficiency Plan
E. Reasonable Accommodation Procedure Guide

North Central Counties Consortium (NCCC)
Grievance and Complaint Processing Procedures

I. Who Can File a Complaint?

If you think you have been subjected to discrimination under a WIOA Title I financially assisted program or activity, you may file a complaint within 180 days of the alleged violation with either: NCCC's Equal Opportunity (EO) Officer, 1110 Civic Center Blvd., Suite 402A, Yuba City, CA 95993 or the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Ave. NW, Room N-4123, Washington, DC 20210. www.dol.gov/crc.

All persons filing a complaint shall be free from restraint, coercion, reprisal or discrimination. Any individual who experiences restraint, coercion, reprisal, or discrimination as a result of filing a grievance or complaint may file an appeal or request a separate review by the Employment Development Department (EDD). Persons complaining have the right to withdraw their complaints (in writing) at any time before the hearing. A complaint can be amended to correct technical deficiencies but not to add issues.

II. Where to File the Grievance or Complaint?

All complaints filed with NCCC must be in writing and use the attached Discrimination Complaint Form. The grievance or complaint must be filed with:

Rhea Burns, NCCC EO Officer
rburns@ncen.org
1110 Civic Center Blvd., Suite 402A
Yuba City, CA 95993
(530) 822-7145
7-1-1 CA Relay Service (CRS) for TTY Users

or directly with the CRC at DOL, 200 Constitution Avenue N.W., Room N 4123, Washington, D.C. 20210.

III. Complaints Filed with NCCC

The complaint may be filed either with the Local Area's EO Officer (or the person designated for this purpose), or directly with the CRC at DOL, 200 Constitution Avenue N.W., Room N 4123, Washington, D.C. 20210.

A. A complaint filed, pursuant to 29 CFR Section 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.

B. Complaints must be filed in writing by completing the Discrimination Complaint Form – Local Area (Attachment 2). Complaints must include the following information:

1. The complainant's name, address, or other means of contacting him or her.
2. Identity of the respondent.
3. A description of the complainant's allegation(s) in sufficient detail to allow the CRC or Local Area EO Officer, as applicable, to determine whether (1) the CRC or the Local Area has jurisdiction over the complaint, (2) the complaint was filed timely, and (3) the complaint has apparent merit (i.e., whether the allegation(s), if true, would violate any of the nondiscrimination and equal opportunity provisions of the WIOA).
4. The signature of the complainant or his or her authorized representative.

C. The Local Area EO Officer shall issue a written acknowledgement of receipt by the Local Area 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.

Finally, it should be noted that both complainant and respondent have the right to be represented by an attorney or other individual of his or her choice.

D. Conciliation

At any point in the investigation of the complaint, the complainant, respondent, or the Local Area EO Officer may request that the parties attempt conciliation. The Local Area EO Officer shall facilitate such conciliation efforts.

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 understanding is almost always committed to writing (usually with the assistance of legal counsel) and signed by the parties, at which time it becomes a legal binding contract and falls under contract law.

The Local Area 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 Local Area 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.

If the 90 days expire and the complainant does not receive a Notice of Final Action from the Local Area, or the Local Area 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 Local Area.

The CRC may extend the 30-day time limit if the complainant is not notified, as provided in 29 CFR Section 38.77, or for other good cause shown.

The Local Area shall notify the complainant in writing immediately upon determining that it does not have jurisdiction over a complaint that alleges a violation of the nondiscrimination and equal opportunity provisions of the WIOA. The Notice of Lack of Jurisdiction must also include the basis for such 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.

During the resolution process, the Local Area EO Officer shall assure that all parties involved are given due process. These due process elements include the following:

- A notice to all parties of the specific charges
- A notice to all parties of the responses to the allegations
- The right of both parties to representation
- The right of each party to present evidence, and to question others who present evidence
- A decision made strictly on the evidence on the record

E. Investigation or Alternative Dispute Resolution (ADR):

The complainant must be offered ADR immediately upon receipt of the complaint. The choice of whether to use ADR rests with the complainant.

The preferred form of ADR is mediation. Mediation is a voluntary process during which a neutral third party assists both parties (complainant and respondent), communicates their concerns, and comes to an agreement about how to resolve a dispute. The mediator does not make decisions, rule as to who is right or wrong, nor take sides or advocate for one side or the other. The role of the mediator is to help with communication so the parties can reach an understanding about how to best resolve their differences.

As the law allows, mediation proceedings and the information shared are confidential and no information divulged during this mediation may be used in court or any legal or administrative proceedings.

If the parties do not reach an agreement under ADR, the complainant may file directly with the CRC as described in 29 CFR Sections 38.69 through 38.72.

A party to any agreement reached under ADR may file a complaint with the CRC in the event the agreement is breached. In such circumstances, the following rules will apply:

- The non-breaching party may file a complaint with the CRC within 30 days of the date on which the non-breaching party learns of the alleged breach.
- The CRC must evaluate the circumstances to determine whether the agreement has been breached. If the CRC determines that the agreement has been breached, the complainant may file a complaint with the CRC based upon his or her original allegation(s), and the CRC will waive the time deadline for filing such a complaint.

If the complainant elects not to participate in the ADR process, the Local Area EO Officer shall investigate the circumstances underlying the alleged complaint.

We encourage you to present your complaint to the person in charge of the agency in which you believe has discriminated in order to obtain a resolution of the problem. If you are not satisfied with the informal resolution you may present your complaint in writing to NCCC's EO Officer or to the CRC as noted above.

DISCRIMINATION/WIOA PROGRAM COMPLAINT FORM
LOCAL WORKFORCE DEVELOPMENT AREA

This form should be used by anyone in the workforce development community system who wishes to file a discrimination or WIOA Program complaint against any person(s)/entity. To file a discrimination and/or WIOA Program complaint, complete this form, sign on page 4 and return to the One-Stop Career Center (currently branded as America's Job Center of California[SM]) Equal Opportunity Officer or Employment Development Department Field Office complaint representative.

1. Complainant Information

☐ Miss ☐ Ms. ☐ Mrs. ☐ Mr. ☐ Other

Home Phone: ( ) -
Work Phone: ( ) -
Cell: ( ) -

Name: _____
Street Address: _____
City: _____ Email: _____
State: Zip Code:

2. Complainant Contact Information

When is it a convenient time during business hours (8 a.m. to 5 p.m.) to contact you by phone about this complaint?

Day	Monday	Tuesday	Wednesday	Thursday	Friday
Time					
Phone					

3. Type of Complaint

☐ EEO/Discrimination Complaint (Proceed to Question 4)
☐ WIOA Program Complaint (Proceed to Question 6)

4. Contact information for the person(s) you are filing a complaint against:

Provide the name of the entity where person(s) work(s):

Name of person(s) who discriminated against you:

Address of person(s)/entity:

City:	State:	ZIP Code:

Phone: ( ) -

Date of first occurrence: Date of most recent occurrence:

5. Basis for the Discrimination

Check the type of discrimination you experienced, such as age, race, color, national origin, disability, etc. If you believe more than one basis was involved, you may check more than one box.

- ☐ **Age**- *provide date of birth:*
- ☐ **Color**
- ☐ **National Origin** (Including limited English proficiency)
- ☐ **Retaliation**
- ☐ **Gender** - *Specify* ☐ F ☐ M
- ☐ **Race** - *indicate race:*
- ☐ **Political Affiliation or Belief**
- ☐ **Citizenship**
- ☐ **Disability**
- ☐ **Religion**
- ☐ **Harassment**
- ☐ **Sex (including pregnancy, childbirth, or related medical conditions, gender identity, and transgender status**
- ☐ **Status as a program participant under the *Workforce Innovation Opportunity Act***
- ☐ **Other** *(Specify)*:

6. Tell Us About the Incident(s)

- For EEO/Discrimination Grievances, explain briefly what happened and how you were discriminated against.
  - Provide the date(s) when the incident(s) occurred.
  - Indicate who discriminated against you. Include names and titles if possible.
- For WIOA Program Complaints, please explain what happened and what your complaint is.
  - Provide the date(s) when the incident(s) occurred.
  - If other people were treated differently than you, tell us how they were treated differently.
- Attach any documents that you think might help us better understand your complaint.

7. Please List Below Any Person(s) (Witnesses) That We May Contact for Additional Information to Support or Clarify the Complaint.

Name	Address	Phone

8. Have You Previously Filed a Complaint Against this Person(s)/Entity? ☐ **Yes** ☐ **No**
If **YES**, answer the questions below, if **NO** move to section 8.

a. Was your complaint in writing? ☐ **Yes** ☐ **No**

b. On what date did you file the complaint?

c. Name of office where you filed your complaint:

Address: _____

City: _____ State: _____ ZIP Code: _____

Phone number: ( ) -

Contact person *(if known)*: _____

d. Have you been provided a final decision or report? ☐ **Yes** ☐ **No**

If you marked "YES", please attach a copy of the complaint.

9. What Corrective Action or Remedy Do You Seek? Please Explain.

10. Choosing a Personal Representative	
▪ You may choose to have someone else represent you in dealing with this complaint. It may be a relative, friend, union representative, an attorney, or someone else. ▪ If you choose to appoint someone to represent you, all of our communication to you will be routed through your representative.	
Do you want to authorize a personal representative to handle this complaint?	☐ **Yes** ☐ **No**
If YES, complete the section below. **If NO**, go to Section 10.	
AUTHORIZATION OF PERSONAL REPRESENTATIVE	
I wish to authorize the individual identified below to act on my behalf as my personal representative, in matters such as mediation, settlement conferences, or investigations regarding this complaint.	
Name:	
☐ I am an attorney representing the complainant. ☐ I am not an attorney representing the complainant.	
Mailing Address:	
City: State: Zip Code:	
Phone : ( ) - Fax: ( ) -	
Email:	

11. Alternate Dispute Resolution (ADR) Also Known as Mediation

Notice—You must indicate if you wish to mediate your case. The Local Area Workforce Development Area cannot begin to process your complaint until you have made a selection. Please check **YES** or **NO** in the spaces below.

- Mediation is an alternative to having your complaint investigated.
- Neither party loses anything by mediating.
- The parties to the complaint review the facts, discuss opinions about the facts, and strive for an agreement that is satisfactory for both.
    - Agreement to mediate is not an admission of guilt by the person(s)/entity that you claim discriminated against you.
    - Mediation is conducted by a trained, qualified and impartial mediator.
    - You (or your Personal Representative) have control to negotiate a satisfactory agreement.
    - **Terms of the agreement are signed by the complainant and the person(s)/entity that you claim discriminated against you.**
    - **Agreements are legally binding on both parties.**
    - If an agreement is not reached, a formal investigation will start.
    - Failure to keep an agreement will result in a formal investigation.
    - A formal investigation will be opened if retaliation is reported.

- **Do you wish to mediate your complaint?**
  (Please check only one box)

☐ **YES**, I want to mediate. ☐ **NO**, please investigate.

If you select "YES" you will be contacted within five business days with more information.

12. Complainant Signature

Your signature on this form will initiate the processing of this complaint. By signing this form, you are declaring under penalty of perjury that the information included is true and correct to the best of your knowledge or belief.

Signature: **Date:**

Direct all questions and complaints filed with NCCC to:
Rhea Burns, NCCC EO Officer
rburns@ncen.org
1110 Civic Center Blvd., Suite 402A
Yuba City, CA 95993
(530) 822-7145 7-1-1 CRS for TTY Users

North Central Counties Consortium (NCCC)
Civil Rights and Grievance Summary

EQUAL EMPLOYMENT OPPORTUNITY IS THE LAW

It is against the law for NCCC and its America's Job Center of California (AJCC)/ One Stop Centers, recipients of federal financial assistance, to discriminate on the following basis: Against any individual in the United States, 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, marital status, sexual orientation, political affiliation or belief; and

Against any beneficiary of programs financially assisted under Title I of the Workforce Innovation and Opportunity Act of 2014 (WIOA) on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIOA Title I financially assisted program or activity.

The NCCC and its AJCC/One Stop Centers must not discriminate in any of the following areas:

- Deciding who will be admitted or have access to any WIOA Title I financially assisted program or activity;
- Providing opportunities in, or treating any person with regard to, such a program or activity; or
- Making employment decisions in the administration of, or in connection with, such a program or activity.

WHAT TO DO IF YOU HAVE EXPERIENCED DISCRIMINATION

If you think you have been subjected to discrimination under a WIOA Title I financially assisted program or activity, you may file a complaint within 180 days of the alleged violation with either: NCCC's Equal Opportunity (EO) Officer (listed below) or the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Ave. NW, Room N-4123, Washington, DC 20210. www.dol.gov/crc.

If you file your complaint with NCCC, you must wait until NCCC issues a decision or until 90 days have passed, whichever is sooner, before filing with CRC. If NCCC has not provided you with a written decision within 90 days of the filing of the complaint you need not wait for decision to be issued, but may file a complaint with the CRC within 30 days of the expiration of the 90 day period. If you are dissatisfied with NCCC's resolution of your complaint, you may file a complaint with CRC. Such a complaint must be filed within 30 days of the date you received notice of NCCC's proposed resolution.

We encourage you to present your complaint to the person in charge of the agency in which you believe has discriminated in order to obtain a resolution of the problem. If you are not satisfied with the informal resolution you may present your complaint in writing to NCCC's EO Officer or to the CRC as noted above. NCCC's address is:

Rhea Burns, NCCC EO Officer
rburns@ncen.org
1110 Civic Center Blvd., Suite 402A
Yuba City, CA 95993
(530) 822-7145
7-1-1 CA Relay Service (CRS) for TTY Users

GRIEVANCE/COMPLAINT SUMMARY

If you want to file a complaint regarding an action, policy or treatment that impacts your participation in a WIOA AJCC/One Stop program, please contact your WIOA AJCC/One Stop Case Manager. A copy of the NCCC Grievance and Complaint Processing Procedures can be requested from your Case Manager or from the Equal Opportunity Officer listed below.

Attempts will be made at the AJCC/One Stop Center to resolve the complaint informally. If the complaint is not resolved informally, you have the right to file a formal complaint and be heard by a Hearing Officer.

The following rules apply to all complaints:

1. Hearings on any grievance shall be conducted within 30 days of filing a grievance and decisions shall be made not later than 60 days after filing.

    a. Notice of Hearing

    The Local Area must notify the complainant and respondent in writing of the hearing at least 10 days prior to the date of the hearing. The 10-day notice period may be shortened with written consent from both parties. The notice shall be in writing and contain the following information:

    - The date of the notice, name of complainant, and the name of the party against whom the grievance is filed.
    - The date, time, and location of the hearing.
    - A statement of the alleged violation(s). The statement must accurately reflect the content of the grievance or complaint as submitted by the complainant. However, clarifying notes may be added to assure that the grievance or complaint is addressed accurately.
    - The name, address, and telephone number of the contact person issuing the notice.

    b. Conduct of Hearing

    An impartial hearing officer shall conduct the hearing. All members of the Local Workforce Development Board and the local Chief Elected Official(s) are considered interested parties and cannot conduct an impartial hearing. The state suggests the Local Area seek impartial hearing officers from among the staff of legal offices or personnel departments of local municipalities or counties that will not be directly affected by, or will not implement the final resolution of, a specific grievance or complaint.

    The hearing must be conducted in an informal manner and not be bound by strict rules of evidence. All hearings must follow any applicable procedures established by the Local Area. Both parties have the right to be represented at their own cost, present written and oral testimony, call and question witnesses, and request and examine records and documents relevant to the issues. The hearing must be recorded electronically or by a court reporter.

    c. Decision of Hearing

    The hearing officer shall provide a written decision to the Local Area. The Local Area shall mail the written decision to both parties by first class mail no later than 60 days after the filing date of the grievance or complaint. The decision shall contain the following information:

    - The names of the parties involved.

- A statement of the alleged violation(s) and related issues.
- A statement of the facts.
- The hearing officer's decision and reasoning.
- A statement of the corrective action or remedies for violations, if any, to be implemented.
- A notice of the right of either party to request an appeal of the decision by the State Review Panel within 10 days of receipt of the decision.

d. Local Level Appeal

If a complainant does not receive a decision within 60 days of the filing date of the grievance or complaint, or receives an adverse decision, the complainant has the right to file an appeal with the state.

2. All complaints must be made in writing within one year of the alleged occurrence. Persons filing a complaint have the right to request staff assistance in preparing their complaint.
3. All persons filing a complaint shall be free from restraint, coercion, reprisal or discrimination. Persons complaining have the right to withdraw their complaints (in writing) at any time before the hearing. A complaint can be amended to correct technical deficiencies but not to add issues.
4. Complainants can be represented at their expense by a person(s) of their choice at all levels of the process.
5. Complainants must exhaust NCCC's hearing procedures before appealing to the State except where the State determines that the NCCC procedures do not comply with the State procedures.
6. Complainants must exhaust the State's hearing procedures before appealing to the U.S. Secretary.

WIOA participants who do not receive a written decision within 60 days of filing their complaint or who receive an unsatisfactory decision from NCCC may file a complaint or an appeal directly with the State of California:

Chief, Compliance Review Office, MIC 22-M
Employment Development Department (EDD)
PO Box 826880
Sacramento, CA 94280-0001

If the State of California Review Panel or EDD Hearing Officer has issued an adverse decision regarding a grievance or complaint, or has not issued a decision within 60 days of receipt of a local level appeal, request for EDD review, or grievance or complaint, the complainant may file an appeal with the Secretary. This appeal process applies to grievances and complaints that originated at the local or state level.

Appeals of an adverse decision must be filed within 60 days of receipt of the adverse decision from the State Review Panel. In cases where the State Review Panel did not issue a decision, the complainant must file an appeal within 120 days of either of the following: • The date on which the complainant filed the appeal of a local level decision or request for EDD review with the state. • The date on which the complainant filed the grievance or complaint with the state.

All appeals to the Secretary must be sent to the DOL National Office via certified mail with return receipts requested. Copies of the appeal must simultaneously be provided to the DOL Employment and Training Administration (ETA) Regional Administrator and the respondent. Mailing addresses for the DOL National Office and ETA Regional Administrator are included below:

Secretary of Labor
Attn: Assistant Secretary of ETA
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

ETA Regional Administrator
Office of Regional Administrator
U.S. Department of Labor
P.O. Box 193767
San Francisco, CA 94119-3767

Grievances or complaints filed directly with the Secretary that were not previously filed with the Local Area and/or state will be remanded to the Local Area or state, as appropriate.

The Secretary shall issue a final determination no later than 120 days after receiving the appeal.

Direct all questions, grievances, and complaints filed with NCCC to:

Rhea Burns, NCCC EO Officer
rburns@ncen.org
1110 Civic Center Blvd., Suite 402A
Yuba City, CA 95993
(530) 822-7145
7-1-1 CRS for TTY Users

I understand and have received a copy of the Civil Rights and the Complaint Summary form for WIOA programs.

Signature_____

Date_____

NCCC is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

NCCC LIMITED ENGLISH PROFICIENCY PLAN

To ensure compliance with EDD Directive, WSD17-03, Limited English Proficiency, WIA Section 188 and Title 29 Code of Federal Regulations Part 38, it is prohibited to discriminate on the basis of national origins including Limited English Proficiency (LEP). This LEP Plan is intended to outline the reasonable steps to ensure that individuals with LEP are not excluded, delayed from, or denied meaningful access to NCCC's four-countywide programs and services.

Definitions –

Babel Notice – A short notice included in a document or electronic medium (e.g. web site, ''app,'' email) in multiple languages informing the reader that the communication contains vital information, and explaining how to access language services to have the contents of the communication provided in other languages (29 CFR Section 38.4[i]).

Employment-related training – Training that allows or enables an individual to obtain skills, abilities and/or knowledge that are designed to lead to employment (29 CFR Section 38.4[t]).

LEP individual – An individual whose primary language for communication is not English and who has a limited ability to read, speak, write, and/or understand English. An LEP individual may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing) (29 CFR Section 38.4[h]).

LEP Plan – A written language access plan which assists in ensuring that LEP individuals have meaningful access to WIOA Title I-financially assisted programs and activities (29 CFR Section 38.9 Appendix).

Meaningful Access – Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.

Primary language – An individual's primary language is the language in which an individual most effectively communicates, as identified by the individual.

Meaningful Access –

NCCC Staff and NCCC sub-recipients are required to take the following reasonable steps to ensure meaningful access for LEP Individuals.

a. For languages spoken by a significate portion of the population eligible to be served or likely to be encountered sub-recipients must translate vial information in written materials into these languages, the translations must be readily available upon request in hard copy or electronically.

b. For languages not spoken by a significant portion of the population sub-recipients must take reasonable steps to meet the language needs of the LEP individuals who seek program and training information. This information may be conveyed orally if not translated material.
c. Sub-recipients must have Babel Notices, indicating that language assistance is available.
d. Conducted an assessment of the LEP individuals to determine their language assistance needs. This can be accomplished through interviews, use of an accommodation request form or other means.
e. Provide oral interpretation or written translation of both hard-copy and electronic materials in appropriate non-English languages to LEP individuals.
f. Conduct outreach to LEP communities to improve service delivery in needed languages and to inform of all the services available through the system.
g. Provide meaningful access to training programs may include written training material in appropriate non-English languages by written translation, or by oral interpretation, or summarization.
h. Oral training content in appropriate non-English languages through in-person or telephone translation.

Language Assistance and Interpreter Services –

NCCC AJCCs shall not require an LEP individual to provide their own interpreter. Furthermore, Local Areas shall not rely on an LEP individual's minor child or adult family or friend to interpret or facilitate communication, except for the following circumstances:

- In emergency situations while awaiting a qualified interpreter.
- When the information conveyed is of minimal importance to the services to be provided.
- When an LEP individual specifically requests that an accompanying adult provide language assistance and they agree to provide assistance to the individual. If a Local Area permits an accompanying adult to serve as an interpreter for an LEP individual, it must make and retain a record of the LEP individual's decision to use their own interpreter.

Monitoring and oversight, including updating the LEP plan

NCCC Administrative Staff will conduct monitoring and oversight of sub-recipient documentation and evidence to assure that LEP individuals were served in a manner equally consistent and effective as the manner in which non-LEP persons are served. This plan will be updated when new information and guidance is issued.

[1] Based on an assessment, a determination was made that the highest number of LEP customers speaks Spanish as their primary language. Others languages generally spoken within NCCC counties include Punjabi and Hmong.

References: The U.S. Census Bureau's/American Fact Finder/2019 American Community Survey 5-year Estimates report that individuals that speak a language other than English the highest percentage is speaking Spanish. For the counties of Colusa, Glenn, Sutter and Yuba range from 19.1% to 44.2%.

REASONABLE ACCOMMODATION POLICY AND PROCEDURE GUIDE

I. Introduction

NCCC has adopted this procedural guide from the EDD WDS17-01, Nondiscrimination and Equal Opportunity Procedure Directive. The purpose of this guide is to assist local entities who are funded with *Workforce Innovation and Opportunity Act* (WIOA) or *Wagner-Peyser* (W-P) *Act* funding, in processing reasonable accommodation requests. Each entity will ensure that reasonable accommodations are provided to qualified individuals with disabilities to enable them to do the following:

- Be considered for the aid, benefits, services, training or employment as desired.
- Perform the essential functions of their jobs, or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities.
- Enjoy benefits and privileges of the aid, benefits, services, training, or employment equal to those that are enjoyed by other similarly situated individuals without disabilities, unless providing such accommodation would impose an undue hardship.

The requirement to provide reasonable accommodations applies to disabilities that are known to the local entity. The reasonable accommodation process, including a description of key terms, is set forth below and should be implemented immediately.

II. Key Terms

A. *Reasonable accommodation* means any of the following:

1) Modifications or adjustments to an application/registration process that enables a qualified individual with a disability to be considered for the aid, benefits, services, training, or employment that the qualified individual desires.
2) Modifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities.
3) Modifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated individuals without disabilities.

B. *Qualified individual with a disability* means any of the following:

1) With respect to employment, an individual with a disability who, with or without reasonable accommodation, is capable of performing the essential functions of the job in question.

2) With respect to aid, benefits, services, or training, an individual with a disability who, with or without reasonable accommodation and/or reasonable modification, meets the essential eligibility requirements for the receipt of such aid, benefits, services, or training.

C. *An applicant* is an individual seeking federally-assisted aid, benefits, services, or training. An individual is considered an “applicant” at the point in which they submit personal information in response to a request by the local entity for such information.

D. *A participant* is an individual who is receiving aid, benefits, services or training under a WIOA Title I or W-P funded program.

E. *A disability* means the following, with respect to an individual:

1) "Medical condition" includes the following:
   a) Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.
   b) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:
      i. Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.
      ii. Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

2) "Mental disability" includes, but is not limited to, all of the following:
   a) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:
      i. “Limits” shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
      ii. A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

iii. “Major life activities” shall be broadly construed and shall include physical, mental, and social activities and working.

Any other mental or psychological disorder or condition not described in paragraph (a) that requires special education or related services.

b) Having a record or history of a mental or psychological disorder or condition described in paragraph (a) or (b), which is known to the employer or other entity covered by this part.
c) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.
d) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (a) or (b).

“Mental disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

3) "Physical disability” includes the following:
   a) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
      i. Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.
      ii. Limits a major life activity. For purposes of this section:
         - “Limits” shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
         - A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.
         - “Major life activities” shall be broadly construed and includes physical, mental, and social activities and working.
   b) Any other health impairment not described in paragraph (a) that requires special education or related services.

c) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (a) or (b) which is known to the employer or other entity covered by this part.
d) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.
e) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (a) or (b).
f) “Physical disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

F. *Essential eligibility requirements* are such criteria that can be shown to be necessary for the provision of the aid, benefit, service, training, program, or activity being offered.

G. *Essential functions* means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:
   a) The function may be essential because the reason the position exists is to perform that function.
   b) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.
   c) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

2) Evidence of whether a particular function is essential includes, but is not limited to the following:
   a) The employer's judgment as to which functions are essential.
   b) Written job descriptions prepared before advertising or interviewing applicants for the job.
   c) The amount of time spent on the job performing the function.
   d) The consequences of not requiring the incumbent to perform the function.
   e) The terms of a collective bargaining agreement.
   f) The work experiences of past incumbents in the job.

g) The current work experience of incumbents in similar jobs.

H. *Fundamental alteration* means a change in the essential nature of a program or activity, or a cost that the local entity can demonstrate would result in an undue burden. Factors to be considered in determining whether a requested modification would result in a fundamental alteration are referenced in Step 3 of this process (described later in the Step by Step Process section of this guide.)

I. *Major life activities* mean functions such as the following:

- Caring for one's self
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Learning
- Working

J. *Undue hardship* means an action requiring significant difficulty or expense, when considered in light of the following factors:

1) The nature and cost of the accommodation needed.

2) The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility.

3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities.

4) The type of operations, including the composition, structure, and functions of the workforce of the entity.

5) The geographic separateness, administrative, or fiscal relationship of the facility or facilities.

III. Effective Communication and Other Assistance

Each local entity shall be responsible for ensuring effective communication between the qualified individual with a disability and entity staff throughout the reasonable accommodation process. Effective communication may require arranging for sign language interpreters, assistive listening equipment, alternative formats for people with visual impairments, or other approaches. In addition, the local entity shall also be responsible for providing such other reasonable assistance as is requested throughout the reasonable accommodation process, as well as through the process of any necessary appeals.

IV. Confidentiality

Local entity must maintain confidentiality. All documentation and information concerning the medical condition or history of an individual with a disability requesting an accommodation must be collected on forms separate from other forms related to that individual, and must be maintained by the local entity in separate medical files. The information shall be treated as confidential medical records, and access to the records must be limited, except to the extent of the following:

1) The local entity management must be informed about work restrictions or reasonable accommodations.

2) The first-aid and safety personnel need to be informed if the disability may require emergency treatment.

3) Government officials investigating compliance with law are required to be provided with relevant information upon request.

What Accommodations Are Reasonable?

The reasonableness of an accommodation will depend upon the circumstances of each case. For additional clarification as to what are reasonable accommodations in the employment context, refer to 29 CFR Part 32. Reasonable accommodations include, but are not limited to the following:

- Making facilities that are not otherwise required to comply with Federal accessibility standards physically accessible to and usable by people with disabilities (e.g., providing ramps, restroom grab bars, signage, etc.).
- Restructuring of job or training tasks (e.g., reallocating non-essential typing, telephone or other clerical assignments among employees, assignment of non-essential tasks to others, eliminating non-essential tasks, etc.).

- Modifying schedules (e.g., permitting alternative starting and ending times to avoid standing and jostling on subways).
- Providing or modifying equipment, devices or materials (e.g., raising a desk on boards for a person who uses a wheelchair, providing flashing lights and volume controls on intercoms and telephones, installing text telephones [TTYs], providing large-print computer display programs, or materials in alternative formats, including Braille, audio tape or enlarged print, etc.).
- Providing qualified readers, interpreters, or other support services for all aspects of programs and activities including the application, interview, and testing processes, and during training and employment-related activities.

Reasonable accommodation may also include permitting the individual with a disability to use aids or services that the local entity is not otherwise required to provide. For example, although a local entity generally would not be required to provide a motorized scooter to an individual with mobility impairment, reasonable accommodation may include providing an area to stow such a mobility aid, if necessary.

The local entity is not required to provide personal items to individuals with disabilities. Such items include hearing aids, prosthetic limbs, wheelchairs, or eyeglasses. However, such items may constitute reasonable accommodation where they are specifically designed to meet needs that are related to the program or activity in which the person is participating, or the job the person is performing. For example, eyeglasses designed to enable the individual to view a computer monitor, but which are not otherwise needed outside of the program or activity in which the person is participating, or the job the person is performing, may constitute a reasonable accommodation.

Where more than one possible reasonable accommodation exists, the local entity should give primary consideration to the individual's preference in determining what accommodation it will provide.

As noted above, some requests for reasonable accommodation can be granted and implemented immediately following their receipt, without formal evaluation, consistent with this procedure. Such may be the case where the individual identifies any requested accommodation with specificity. For example, an employee who is deaf and routinely uses a text telephone (TTY) can readily identify a job-related limitation, as well as the accommodation needed. Where it is obvious that providing the TTY will enable the individual to meet the job's essential functions, the TTY can be ordered, provided and documented without the more comprehensive analysis provided for in Steps 2 and 3 (described later in the Step by Step Process section of this guide.) In these cases, the reasonable accommodation process is merely compressed; it is not eliminated.

Accommodations may be considered “unreasonable” only if they impose an undue hardship for the specific local entity in question. For example, shifting tasks among clerical employees to accommodate an employee with a disability may be reasonable where a sufficient number of employees exist among whom the tasks can be distributed; however, such an accommodation may be unreasonable in a very small office with few employees. The factors listed in the definition of “undue hardship” in 29 CFR Section 38.4 must be considered in making this determination.

If a requested accommodation would result in undue hardship, the recipient must, after consultation with an individual with a disability (or individuals with disabilities), take any other action that would not result in such hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefit, service, training, or employment provided by the recipient.

REASONABLE ACCOMMODATION POLICY AND PROCEDURE
Step by Step Process

Step 1 – Individual with a Disability Requests Reasonable Accommodation

Initial Consultation

The individual with a disability should submit a reasonable accommodation request to designated staff. If a request for reasonable accommodation is made to facilitate the application process, the local entity manager supervising the application process should assist where requested and, in conjunction with the local entity staff, process the request for accommodation. The local entity manager receiving the request shall acknowledge each request in writing. The current request for reasonable accommodation shall not preclude the submission of subsequent requests.

Generally, it is the responsibility of the individual with a disability to inform the local entity of the need for an accommodation. Reasonable accommodation must be provided for disabilities that are known. Nevertheless, once the local entity is aware of an individual’s disability, it may have the responsibility to initiate discussions about reasonable accommodation and set these procedures in motion.

Where the need for a requested accommodation is not apparent, the local entity manager supervising the application process may ask the individual to provide documentation in support of the request. For example, if the individual with dyslexia requests additional time within which to complete a timed, written entrance qualifying examination, that individual may be asked to provide documentation in support of that request.

Similarly, if an individual with a mental disability requests a flexible schedule to attend psychotherapy during the work day, the individual may be asked to provide documentation from the treating professional in support of that request.

After acknowledging a request for accommodation, the local entity manager should do one of the following:

- Provide or implement the request and document the accommodation
- Proceed to Step 2 of this procedure.

Step 2 – Consult with the Individual Requesting a Reasonable Accommodation

The reasonable accommodation process sometimes can be accomplished without a formal analysis of the individual's limitations and the local entity's resources, as in the example provided above, where an individual's desk is elevated on blocks to permit access from a wheelchair. Other situations are more complex, however, and require structured analysis. In these instances, upon receipt of a request for reasonable accommodation, the local entity should consult with the individual requesting the accommodation to assess the limitations of the disability and how the individual may best be involved in the accommodation process.

Using a collaborative, open and flexible approach, the local entity should consider how any limitations can be overcome, discuss possible reasonable accommodations, and assess the effectiveness of each. Other possible resources to consult with throughout this process include, but are not limited to, the following:

- The Job Accommodation Network, which can be reached at 1-800-JAN-7234 or by accessing their website at: www.Jan.wvu.edu.
- The California Committee on Employment of People with Disabilities at the Department of Rehabilitation. They can be reached at: (855) 894-3436 or via email at: CCEPD@dor.ca.gov.

The local entity must consider the individual's preferences, along with what is reasonable and does not impose an undue hardship.

The circumstances, in which documentation can be requested, as well as the procedure for requesting such documentation, are as follows:

A. When the disability and/or the need for accommodation are not obvious, the local entity may ask the individual for reasonable documentation about his/her disability and functional limitations.

Reasonable documentation means that the local entity may require only the documentation that is needed to establish that a person has an actual, current disability, and that the disability necessitates a reasonable accommodation. However, the local entity, in response to a request for reasonable accommodation, cannot ask for documentation that is unrelated to determining the existence of a disability and the necessity for an accommodation.

The local entity may require that the documentation about the disability and the functional limitations come from an appropriate health care or rehabilitation professional. The appropriate professional in any particular situation will depend on the disability and the type of function limitation it imposes. Appropriate professionals include, but are not limited to, doctors (including psychiatrists), psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals.

In requesting documentation the local entity should specify what types of information they are seeking regarding the disability, its functional limitations, and the need for reasonable accommodation. For example, the person can be asked to sign a limited release allowing the local entity to submit a list of specific questions to the health care or vocational professional. **The local entity must maintain the confidentiality of all medical information collected during this process, regardless of where the information comes from.**

1) It is unlawful except as provided in paragraph (2) or (3), for any employer or employment agency to require any medical or psychological examination of an applicant, to make any medical or psychological inquiry of an applicant, to make any inquiry whether an applicant has a mental disability or physical disability or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.

2) Notwithstanding paragraph (1), an employer or employment agency may inquire into the ability of an applicant to perform job-related functions and may respond to an applicant's request for reasonable accommodation.

3) Notwithstanding paragraph (1), an employer or employment agency may require a medical or psychological examination or make a medical or psychological inquiry of a job applicant after an employment offer has been made but prior to the commencement of employment duties, provided that the examination or inquiry is job-related and consistent with business necessity and that all entering employees in the same job classification are subject to the same examination or inquiry.

4) It is unlawful except as provided in paragraph (5), for any employer or employment agency to require any medical or psychological examination of an employee, to make any medical or psychological inquiry of an employee, to make an inquiry whether an employee has a mental disability, physical disability, or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.

5) Notwithstanding paragraph (4), an employer or employment agency may require any examinations or inquiries that it can show to be job-related and consistent with business necessity. An employer or employment agency may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that worksite.

B. If a person provides insufficient documentation of a disability in response to the local entity's initial request, the local entity may require the person to go to a health care professional of the local entity's choice. However, the local entity should explain why the documentation is insufficient and allow the person an opportunity to provide the missing information in a timely manner.

Please note that under the federal disability nondiscrimination law, the local entity cannot ask for documentation under the following circumstances:

1) Both the disability and the need for reasonable accommodation are obvious, or
2) The person has already provided sufficient information to substantiate they have an actual, current disability and needs the reasonable accommodation requested.

If the individual's disability or need for reasonable accommodation is not obvious, and they refuse to provide the reasonable documentation requested by the local entity, then they are not entitled to reasonable accommodation. On the other hand, failure by the local entity to initiate or participate in an interactive process with the individual after receiving a request for reasonable accommodation could result in liability for failure to provide a reasonable accommodation.

Step 3 – Local Entity Management and/or Designated Staff Analyzes the Request for Reasonable Accommodation

After consulting with the individual with a disability, the entity should examine the request and determine if the requested accommodation is feasible and does not create an undue hardship or result in a fundamental alteration. Please note, if a requested accommodation would result in undue hardship, the recipient must, after consultation with an individual with a disability (or individuals with disabilities), take any other action that would not result in such hardship, but

would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefit, service, training, or employment provided by the recipient (29 CFR Section 38.14[a][3]).

It is unlawful for an employer or other entity covered by the WIOA, Section 188, 29 CFR part 38, W-P, the Americans with Disabilities Act (ADA), and the Fair Employment and Housing Act (FEHA), to fail to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition.

The factors to be considered in determining whether an accommodation would impose an undue hardship or in determining whether the cost of a modification would result in a fundamental alteration, includes the following:

A. The nature and net cost of the accommodation/modifications needed, taking into consideration the availability of tax credits and deductions, and/or outside funding, for the accommodation/modification.

B. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation/modification, including the following:

    1) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities.
    2) The effect the accommodation/modification would have on the expenses and resources of the facility or facilities.

C. The overall financial resources of the local entity, including the following:

    1) The overall size of the local entity.
    2) The number of persons aided, benefited, served, trained, or employed by the local entity.
    3) The number, type and location of the local entity's facilities.

D. The type of operation or operations of the local entity, including the following:

    1) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the local entity.
    2) Where the individual is seeking an employment related accommodation/modification, the composition, structure and functions of the local entity's workforce.

E. The impact of the accommodation/modification upon the operation of the facility or facilities, including the following:

   1) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties.
   2) The impact on the facility's ability to carry out its mission.

It is unlawful for an employer or other entity covered by the WIOA, Section 188, 29 CFR part 38, W-P, ADA, and the FEHA, to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee. Nothing in this document shall be construed to require an accommodation that is demonstrated by the employer or other covered entity to produce undue hardship to its operation.

Step 4 – Select and Implement an Appropriate Reasonable Accommodation

Within 10 business days of receipt of a request for reasonable accommodation, the local entity to where it was submitted shall either grant or deny the request in writing. Provisions of this accommodation should commence immediately. If a requested accommodation would result in undue hardship, the recipient must, after consultation with an individual with a disability (or individuals with disabilities), take any other action that would not result in such hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefit, service, training, or employment provided by the recipient (29 CFR Section 38.14[a][3]).

Where the provision or implementation of a reasonable accommodation will take longer than 10 business days, the steps taken to order, secure or carry out the accommodation shall be documented and discussed with the individual requesting a reasonable accommodation. In all instances, however, the local entity shall act as expeditiously as possible to provide reasonable accommodations.

Where further supporting documentation has been sought from the individual requesting a reasonable accommodation, the grant or denial of a request for reasonable accommodation shall be rendered as noted below:

A. For those cases in which medical documentation is necessary in order to understand the individual's limitations and what accommodations are possible, the grant or denial shall be issued within 10 business days of receipt of the requested documentation.

B. For those cases in which the documentation is being requested merely to verify the information provided by the individual with a disability, the grant or denial shall be issued within 5 business days of receipt of the requested documentation.

C. For those cases in which the individual refuses to provide reasonable requested documentation, the grant or denial shall be issued within 5 business days of the notification of refusal.

Where the local entity determines to deny a request for accommodation, or to provide an accommodation other than the individual's expressed preference, the local entity shall first consult with the individual requesting the reasonable accommodation. The local entity will document the determination in writing. Where the determination is to deny the request on the basis of undue hardship or fundamental alteration, the proposed alternative accommodation or modification will also be documented.

What if an Appropriate Reasonable Accommodation cannot be identified?

Sometimes, the local entity, or the individual requesting the reasonable accommodation, cannot identify possible reasonable accommodations. In those instances, the local entity should consult with appropriate resources e.g., those listed in Step 2 of these instructions. The local entity will seek to facilitate effective communication between the parties with the goal of identifying and implementing appropriate reasonable accommodation and, where a reasonable accommodation has been selected, shall monitor its implementation.

Throughout the Step 2 consultation process, the individual, and the local entity may seek technical assistance or clarification of each component of the reasonable accommodation process from appropriate resources.