MOA Element 1

Designation of State and Sub-State Level
Equal Opportunity (EO) Officers
AGENDA

• **Presentation:** Review of Learning Objectives

• **Presentation:** Key Requirements for Designation of State and Sub-state Area Equal Opportunity Officers

• **Activity:** Mini-Case Study on Conflict of Interest

• **Presentation:** Designation of State and Sub-state EO Officers’ Supporting Documentation

• **Presentation:** Review of the State’s Policy for Designating an EO Officer

• **Activity:** Wrap-up Activity – Quiz
LEARNING OBJECTIVES

- The participant will be able to explain the federal requirements for designating EO Officers under WIOA.

- The participant will be able to define a “conflict of interest.”

- The participant will be able to identify acceptable documentation for the designation of EO Officers under WIOA.

- The participant will be able to describe the state’s policy for designating EO Officers.
KEY REQUIREMENTS FOR DESIGNATION OF EQUAL OPPORTUNITY OFFICERS

Section 188 of the Workforce Innovation & Opportunity Act lists requirements for designating an Equal Opportunity Officer. They are:

1. Every state and sub-state level workforce service area must designate an EO Officer (29 CFR 38.23), excepting small recipients and service providers (29 CFR 38.27-28).

2. An EO Officer must be eligible for the position (29 CFR 38.24 and 38.25[e]).

3. The EO Officer must coordinate the responsibilities of the position (29 CFR 38.25).

4. State and sub-state level areas must carry out specific obligations regarding their EO Officer (29 CFR 38.26).
**KEY REQUIREMENT #1:**
**DESIGNATE AN EO OFFICER**

The first key requirement is that every state and sub-state level workforce service area (excepting small recipients and service providers) must designate an EO Officer.

So, what entities are required to designate an EO Officer?

- All 50 states
- Washington D.C.
- Puerto Rico
- Virgin Islands
NOTE:
The current regulations state that every recipient - except for small recipients and service providers - must designate an Equal Opportunity Officer. The USDOL Civil Rights Center intends to propose a revision of this requirement to limit the designation of an EO Officer to workforce service area recipients at the state and sub-state levels.

How many sub-state level workforce service areas are in your state?

Do you know your state’s designated EO Officer?

Do you know your sub-state designated EO Officer(s)?
KEY REQUIREMENT #2:  
DESIGNATE ELIGIBLE PERSON

The second key requirement establishes that the person chosen to serve as an EO Officer must meet specific eligibility requirements.

To qualify to as an EO Officer, a person must, at least:

- Be a senior–level employee, at the state and the sub-state level, reporting directly to the top official on EO matters.

- An EO officer may be assigned other duties, however, those duties must not create a conflict of interest, or give the appearance of conflicting with the duties and responsibilities associated with the EO officer position.
The first eligibility criterion for EO Officers is that they be:

- A senior–level employee, at the state and the sub-state level, reporting directly to the top official on EO matters.

  - If the EO position does not directly report to the top official, it must have access to that person.

Term to Know – Top Official

“Top official” means the head of local day-to-day operations and administration of WIOA programs and activities.
The second eligibility criterion for EO Officers is that:

- An EO officer may be assigned other duties, however, those duties must not create a conflict of interest, or give the appearance of conflicting with the duties and responsibilities associated with the EO officer position.

**Term to Know - Conflict of Interest**

A “conflict of interest” is a situation in which a person, such as a public official, has an interest sufficient to influence, or appear to influence, the objective exercise of his or her official duties. This interest may be personal in nature or may result from a clash of official responsibilities.
Term to Know - Conflict of Interest

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For example, the following will have a conflict of interest:

1. EO Officers whose functions include making judgments about possible equal opportunity wrongdoings regarding their bosses’ decisions

2. EO Officers whose functions include defending actions taken and decisions made by management staff against legal challenges
Example of a Conflict

In this example, the EO Officer reports to the HR Director. The HR Director is directly responsible for the EO Officer’s performance appraisals and recommendations for promotion.

The EO Officer is expected to review the HR Director’s personnel actions for EO compliance.

In such a situation, the EO Officer’s obligation to enforce EO laws, in regards to the HR Director’s actions, may conflict with a personal interest in pleasing the boss in order to get promoted.
Evaluating Conflicts of Interest

The state and the USDOL Civil Rights Center will evaluate conflicts of interest on a case-by-case basis, considering the following factors:

- All the duties, responsibilities, and organizational locations of the EO Officer and EO staff
- Whether the state has a method in place for a neutral party to handle complaints filed by an EO Officer

Why do you think it is important to have these provisions?
ACTIVITY:
MINI CASE STUDY ON
IDENTIFYING A CONFLICT OF INTEREST

Purpose:

➢ To identify a potential conflict of interest

Task:

✓ You are a member of the Civil Rights Center review team. You have been asked to review a state’s MOA Element 1 documentation for a potential conflict of interest.

✓ Read the Mini Case Study on the next page. Identify any potential conflicts of interest, taking into account the eligibility requirements for EO Officers.

✓ Share your findings with the class.

Time:

① 5 minutes to read the Mini Case Study

① 10 minutes for the class discussion
MINI CASE STUDY ON
IDENTIFYING A CONFLICT OF INTEREST

The State of Independence LWSA
Workforce Development Department
MOA Submission for Designation of EO Officer

Ms. Clark is the Deputy Director for the Workforce Development Department. She is responsible for processing EO complaints for the LWSA’s Workforce Development Department as the EO Officer. Ms. Clark reports directly to Ms. Andersen, the Director of Workforce Development.

In order to avoid any conflict of interest, our office has established an alternate person to process any complaints against Ms. Clark and/or Ms. Andersen. Mr. Curry, Director of Finance, will process and investigate any EO complaints against the Director and/or Deputy Director.
Organizational Chart

Lisa Anderson
Director WFD

Jane Clark
Deputy Director
EO Officer

Jeff Curry
Dir. of Finance

Paul Brown
Operations Manager

Karen Rodriguez
HR Administrator

Carol Scott
Staff Assistant

Dan Thomas
Dir. of Policy Analysis

Sue Jacobs
Executive Assistant

Ed Morton
Assistant Analyst
KEY REQUIREMENT #3: PERFORM RESPONSIBILITIES OF THE EO OFFICER POSITION

The EO Officer is responsible for coordinating the recipients’ EO performance. Those responsibilities include, but are not limited to:

- Being a liaison to the Civil Rights Center
- Conducting EO monitoring & investigations
- Reviewing recipients’ written EO policies
- Developing and publishing procedures for processing discrimination complaints
- Reporting EO matters directly to the top official
- Participating in training to maintain competency
- Developing and implementing the MOA, if applicable
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**KEY REQUIREMENT #4: ASSIST EO OFFICER**

State and sub-state recipients are obligated to support EO Officers, in the performance in their duties, in the following way:

- Make the EO Officer’s name and other contact information known to the public

- Ensure that the EO Officer’s identity and contact information appear on all internal and external communications about EO and nondiscrimination programs

- Assign sufficient staff and resources to the EO Officer and provide necessary top management support

**Term to Know – Sufficient Staff**

CRC does not prescribe what staff is needed. Any reasonable justification for the staffing levels and resources proposed for meeting the needs of the local area, given its size and population, will be accepted.

- Ensure that the EO Officer and staff have the opportunity to receive the appropriate training they need to maintain their competency.

How does your state demonstrate that there are enough resources to support their EO Officers(s)?
SUPPORTING DOCUMENTATION:
DESIGNATION OF STATE AND
SUB-STATE LEVEL EO OFFICERS

The WIOA implementing regulations require that document be submitted to demonstrate compliance with the requirement of designating an EO Officer.

Generally the documentation should include, but is not limited to describing:

- Policy governing EO designations
- That state and sub-state recipients have been instructed on how to comply with the designation and support of EO Officers
- That state and sub state recipients have furnished proof of the required publication of EO identities and location
- Proof of state and sub-state provision of sufficient EO personnel, staff training, and operating resources
Supporting documentation, which indicates the state’s compliance with the requirements for Designation of State and Sub-State Level EO Officers, should include but need not be limited to:

- Copies or examples of each communication, that instruct the state’s recipients as to the actions they are to take to comply with WIOA in regard to the designation and support of EO Officers. (29 CFR 38.23-28) i.e.,:
  - Policy directives governing sub-state EO Officer designations

- Copies or examples of documents, (e.g., notices, directives, memoranda, flyers, letters to community groups, and relevant pages of handbooks and manuals) that communicate, either internally or externally, the information that must be made available regarding state and sub-state level EO Officers, which includes:
  - Name
  - Position title
  - Business address, including e-mail address
  - Telephone number, including TDD/TTY number

The documents that must contain this information include:

- Notices
- Letters
- Memorandums
- Flyers
- Advertisements
- Handbooks etc.
Additional documentation that is proof of state and sub-state provision of sufficient EO personnel, staff training, and operating resources include:

- Copy of the state EO Officer’s position descriptions, showing those duties specifically related to WIOA equal opportunity activities, and other duties
  - Position descriptions should include required knowledge, skills, and abilities (KSA) and other qualifications

- A representative sample of local level EO Officer position descriptions (If a single standard position has been adopted for all local-level EO Officers, a single copy of that position description is sufficient for supporting documentation.)

- Copy of staffing chart showing the organizational location of each EO Officer

- Copies of records that identify any staff who perform duties that support WIOA EO activities (e.g., clerical, data analysis), a position description for each such staff member
  - For any positions that are not devoted to WIOA, the records should include the average number of hours per week spent on EO-related activities by each such staff member

- Copies of the EO annual operating budget and the source of funds to ensure that appropriate financial resources are being provided

- Copy of document that summarizes all of the EO-related training that staff (EO staff and others) has received, and a schedule of EO training to be delivered in the future
  - The training may be delivered by the state, or by a local-level EO Officer to a recipient’s staff. The training may also be delivered to EO Officers or recipient staff by outside sources, such as CRC/TATC Consulting.
THE STATE’S POLICY FOR DESIGNATING EO OFFICERS

This part of the training has been reserved to discuss the state’s approach to implementing the MOA’s Designation of State and Sub-State EO Officers requirements. The state specialist will address the following:

• State’s procedures for designating LWSA EO Officers

• Description of the duties and responsibilities of the EO Officers

• Identification of the EO duties and responsibilities to be performed by implementation staff
**Wrap-up Activity – Quiz**

- Each group will have 5 minutes to come up with three questions regarding designating an EO Officer to quiz the other groups.

- After 5 minutes, the groups will draw lots to determine which group will get to ask a question first.

- The first group will ask the other groups a question. The group that first answers correctly gets a point and then gets to ask the other groups one of their questions.

- This process will continue until all the groups have asked all their questions or until 20 minutes have elapsed.

- The group with the most points wins!