

877—12.19(7B,PL97-300,PL102-367) Equal opportunity compliance. The Directorate of Civil Rights (DCR) has adopted regulations, 29 CFR Part 34 (January 15, 1993), to implement the equal opportunity and nondiscrimination provisions of the Act. These regulations require the department of workforce development to establish and adhere to a method of administration (MOA) designed to give reasonable guarantee of compliance with equal opportunity and nondiscrimination provisions. The department's MOA requires each SDA to develop a local MOA which includes required elements as outlined in the JTPA handbook to ensure compliance with the Act and regulations. Those requirements include, but are not limited to:

12.19(1) Designation of equal opportunity officer. Each grantee shall designate an individual or committee to coordinate equal opportunity and affirmative action responsibilities.

a. The name, title of position, address, telephone and TDD (or relay) number of the equal opportunity (EO) officer should be made public.

b. An adequate level of resources (i.e., nonpersonnel, such as travel budget, and training funds) must be provided to the EO officer to enable the officer to accomplish the responsibilities assigned. The EO officer must report directly, on EO matters, to the grantee's director.

c. The equal opportunity officer should have a background relative to EO laws, regulations, theories of discrimination, and understanding of how to conduct EO investigations and reviews or be given the opportunity to receive training and appropriate technical assistance to develop such a background.

12.19(2) Notification. Procedures must be established to inform applicants, participants, program beneficiaries and employees that the program does not discriminate in admission, access, treatment or, where applicable, employment in JTPA programs.

a. A system should be maintained for periodic distribution of EO-related policies, guidelines, and information.

b. Publication in languages other than in English must be provided to ensure all individuals are informed of JTPA programs and activities. In determining the language(s) used to provide the information, the grantee shall consider the scope of the program and the size and concentration of the population.

c. Advertisements, recruitment materials, program brochures, and other similar publications regarding JTPA programs must contain the initial and continuing notice or alternative tagline as required by 29 CFR 34.23.

12.19(3) Posters. Equal opportunity and affirmative action posters must be displayed prominently and in reasonable numbers. Posters should explain briefly the procedures for filing a complaint and identify a local contact person who can provide assistance.

12.19(4) Monitoring. A system for periodic monitoring of the compliance status of subcontractors and subrecipients must be established and implemented.

a. The system should provide for periodic on-site reviews to assess their EO compliance.

b. Findings should be documented and retained.

c. The system should identify EO training and technical assistance needs and identify methods to meet these needs.

12.19(5) Discrimination complaint procedures. The equal opportunity officer for the grantee, administrative entity or subrecipient is responsible for adopting and publishing the complaint procedures. The complaint procedure must include the following minimum elements:

a. Who may file. Any persons may file who believe they have been subjected to discrimination on the basis of race, color, national origin, religion, sex, age, disability, political affiliation or belief and, for beneficiaries only, citizenship or participation in JTPA.

b. Where to file. The complainant may file with grantee, administrative entity, subrecipient or the director of the Directorate of Civil Rights (DCR) at the following address: Director, Directorate of Civil Rights, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, D.C. 20210.

c. When to file. A complaint must be filed within 180 days of the alleged discrimination. Only the director of DCR may, for good cause shown, extend the filing deadline.

d. Contents of complaint. Each complaint should be in writing and shall:

(1) Be signed by the complainant or representative;

(2) Contain the complainant's name and address (or specify another means of contacting the complainant);

(3) Identify the respondent;

(4) Describe the complainant's allegations in sufficient detail to allow the grantee, administrative entity or subrecipient to determine whether the complaint falls under the jurisdiction of the grantee, administrative entity or subrecipient jurisdiction, was timely filed, and has apparent merit. This information may be provided by completing DCR's Complaint Information Form (CIF) and accompanying Privacy Act Consent Form.

e. Due process elements. The complaint handling process and responses to those charges should provide for:

(1) Notice to all parties of the specific charges and responses to those charges;

(2) An impartial decision maker;

(3) The right of both parties to representation;

(4) The right of both parties to present evidence;

(5) The right of both parties to question others who present evidence; and

(6) A decision made strictly on the presented evidence.

f. Processing time frames. The complaint procedure must provide for notice to the complainant of the following time frames:

(1) If the complainant chooses to file with the recipient, the complainant shall allow the grantee, administrative entity or subrecipient 60 days to process the complaint.

(2) Within 60 days, the grantee, administrative entity or subrecipient shall offer a resolution of the complaint to the complainant and shall notify the complainant of the right to file a complaint with the director of the DCR and inform the complainant that this right must be exercised within 30 days.

(3) If, by the end of 60 days, the grantee, administrative entity or subrecipient has not completed its processing of the complaint or has failed to notify the complainant of the resolution, the complainant or the complainant's representative may, within 30 days of the expiration of the 60-day period, file with the director of DCR.

(4) The director of DCR may extend the 30-day time limit for good cause shown.

(5) The grantee, administrative entity or subrecipient shall notify the complainant immediately in writing upon determining that it does not have jurisdiction over the complaint. The notice shall be in writing, include the reasons for the determination, and state the complainant's right to file with the director of DCR within 30 days' receipt of the notice.

g. Service providers. In the case of service providers, the required complaint procedures must be adopted and published on behalf of the service provider by the grantee.

h. Resolution. The grantee, administrative entity or subrecipient must have a sanction policy to ensure that a resolution can be enforced.

i. Complaint log. The grantee, administrative entity or subrecipient must maintain a log of all discrimination complaints.

12.19(6) Accessibility. JTPA-funded programs must be accessible to persons with disabilities and program information must be available, as necessary, in languages other than English and for the visual and hearing impaired.

a. JTPA grantees should conduct a self-evaluation regarding the accessibility of the facilities where JTPA services are provided and establish alternate methods of providing services where facilities are determined not to be physically accessible to persons with disabilities.

b. Accessibility standards should be consistent with regulations adopted by the DOL, Directorate of Civil Rights to implement JTPA.

12.19(7) Record keeping. Characteristics data (e.g., race, sex, national origin, age, disability status) must be maintained in the records on applicants, participants, program beneficiaries and employees and records must be sufficient to determine whether grantees are in compliance with nondiscrimination and equal opportunity provisions of the applicable civil rights laws, regulations, and executive orders.

12.19(8) Overcoming sex stereotyping. Mechanisms must be developed for the use of recruitment, training, and other program activities and services to overcome sex stereotyping by encouraging entry of

men or women into occupations with skill shortages where their representation is less than 25 percent of the labor force in the occupation. A list to assist in identifying those Iowa occupational areas where men or women represent less than 25 percent within the occupational area is available to grantees from the state administrative entity.

12.19(9) *Methods of administration (MOA).* Each grantee, administrative entity, or subrecipient shall develop and submit to DWD their MOA. The MOA shall be in compliance with 29 CFR Part 34 and the Iowa JTPA handbook. The purpose of the MOA is to give reasonable guarantee that grantees, administrative entities, or subrecipients have established systems to ensure the implementation of nondiscrimination and equal opportunity requirements under JTPA.

12.19(10) *Corrective action sanctions.* Procedures must be established for taking prompt action to correct or remedy noncompliance or, as necessary, to invoke sanctions where noncompliance cannot be resolved voluntarily. Procedures for corrective action sanctions should provide for:

- a. Notice to contractor to correct deficiencies;
- b. Coordination with federal and state civil rights enforcement agencies, when necessary;
- c. An appeal process with risk of contract suspension, termination, denial, discontinuance, or debarment from future contracting subject to a final appeal utilizing the existing complaint procedure;
- d. Rights and remedies for suspension, termination, denial or discontinuance of the contract for cause should be stated in the contract;
- e. Execution, as necessary, of a written assurance or a conciliation agreement which includes documentation that violations have been corrected. A conciliation agreement must be in writing, address each cited violation, specify the corrective or remedial action to be taken within a specified period, provide for periodic reporting on the status of corrective and remedial action, ensure violations will not recur, and provide for enforcement for a breach of the agreement.
- f. Contract termination and debarment procedures must be developed. The procedures should take into consideration the history of experience with the contractor, nonperformance, the response to the corrective action required, lack of good faith or a minimal effort taken to indicate remedial action. These procedures should establish the basis for debarment or termination of the grant whether due to civil rights violations or violations of any other contract provision.

12.19(11) *Contracting with small and minority firms and women's business enterprises.* Steps must be taken to ensure small and minority firms and women's business enterprises are used when possible as sources of supplies, equipment, construction and services. Grantees should identify small, minority and women's business enterprises in their SDAs and maintain a list to be contacted.