

EASTERN WASHINGTON PARTNERSHIP

WORKFORCE DEVELOPMENT COUNCIL

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WDC Policy #: 112
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SUBJECT: METHODS OF ADMINISTRATION POLICY

A. PURPOSE

The Workforce Development Council and partnering agencies will provide universal access to programs and services for customers with disabilities. The policies are written to comply with the American's With Disabilities Act of 1990 (ADA), Section 504, Rehabilitation Act of 1973, Workforce Innovation and Opportunity Act Methods of Administration and Washington State laws and policies. These policies are written to establish local procedures and are not intended to supersede applicable laws or regulations.

B. POLICY

Non-discrimination policies with organization's responsibility — The Eastern Washington Partnership Workforce Development Council (hereinafter referred to as the WDC) and its WorSource partnering agencies and subcontractors thereof (hereinafter referred to as agencies) agree to uphold the highest standards of non-discrimination. Agencies will provide its customers with information concerning the requirements of federal disability laws including: The Americans with Disabilities Act of 1990, which prohibits employers and social service agencies from discriminating against qualified individuals with physical or mental disabilities on any basis; Section 504, Rehabilitation Act of 1973, as amended, which prohibits discrimination against persons with a physical, sensory or mental disability in programs receiving or benefiting from federal funding (e.g., financial assistance from the Department of Labor), or employed under federal contracts. Washington State law RCW 49.60, which also prohibits discrimination against persons with a physical, sensory or mental disability. These laws and their regulations are applicable to the Workforce Development Council, agencies and employers, for the benefit of all customers applying for, receiving or benefiting from services, programs and activities.

The Workforce Development Council and agencies shall not discriminate against individuals or classes of individuals on the basis of a physical, mental, or sensory disability when providing assistance, benefits, and services.

No customer shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied services, access to services or programs and/or facilities, in the administration of, or in connection with, any such program or activity funded in whole, or in part by the Workforce Innovation and Opportunity Act or in connection with agencies, or employers on the basis of disability.

The need to provide a reasonable accommodation will not be a factor in the selection of a participant for program participation, or any opportunity, which may have an impact on the person's career development.

Actions that are considered discriminatory may include, but are not limited to:

- Denial of services, privileges and benefits equal to that afforded to other customers;
- Lack of provisions for reasonable accommodation necessary to participate in activities as effectively as other customers who do not have disabilities.
- Perpetuating discrimination by providing significant assistance to, or contracting with, an agency, organization or business that discriminates on the basis of a customer's disability status.

Agency staff members are responsible for communicating their commitment to nondiscrimination to customers.

All agency and WDC staff are responsible for adherence to this policy.

C. PRINCIPLE ASSUMPTIONS

- Agency buildings will meet the ADA accessibility requirements.
- All customers, regardless of disability, have the opportunity to seek access to all services offered at the Agency.
- Communication with individuals with disabilities is as effective as communications with others without disabilities.
- Customers for the most part are experts in understanding their disability and their specific needs based on that disability. Customers will make the decision to identify themselves as needing an accommodation.
- Reasonable accommodations should reflect customer choice whenever possible.
- Agencies will provide reasonable accommodations for persons with disabilities in order for each person to access all services and will implement advance actions whenever feasible.
- Customers can request reasonable accommodation unless the request would result in undue hardship for the agency, or fundamentally alter program activities or services.
- Reasonable accommodation need not be the most expensive accommodation available as long as it is effective for its purpose.
- All customers are welcome to bring a support person/attendant to help them access Agency services with the exception of assistance with testing. Assistance during testing will be determined on a case-by-case basis with consideration for the validity of the test.

D. DEFINITIONS

Career Services – Career services are those that are available to everyone seeing services at WorkSource offices including: Orientation to the WorkSource office, labor market information, job skills requirements for job listings, information on demand occupations, performance information on eligible training, development of an individual employment plan, career planning, short-term prevocational services, internships and work experiences that are linked to careers, workforce preparation activities, and financial literacy.

Customer — For the purposes of this document, a customer is defined as a job seeker, someone from the business community, a program participant, and/or Agency staff.

Customer who has a disability — A customer who has a disability is defined as a person with a physical or mental impairment that substantially limits one or more major life activities, or as defined in Washington State law:

WAC 162-22-020 Definitions.

- (1) "Disability" is short for the statutory term "the presence of any sensory, mental, or physical disability," except when it appears as part of the full term.
- (2) "The presence of a sensory, mental, or physical disability" includes, but is not limited to, circumstances where a sensory, mental, or physical condition:
 - (a) Is medically cognizable or diagnosable;
 - (b) Exists as a record or history;
 - (c) Is perceived to exist whether or not it exists in fact.

A condition is a "sensory, mental, or physical disability" if it is an abnormality and is a reason why the person having the condition did not get or keep the job in question, or was denied equal pay for equal work, or was discriminated against in other terms and conditions of employment, or was denied equal treatment in other areas covered by the statutes. In other words, for enforcement purposes a person will be considered to be disabled by a sensory, mental, or physical condition if he or she is discriminated against because of the condition and the condition is abnormal.

Fundamental alteration — Fundamental alteration is a radical or primary modification or adaptation that alters nature of the aid, benefit, service or training.

The responsibility of "reasonable accommodation" needs to be applied to the practice of "fundamental alteration." Reasonable accommodation is a critical component of the ADA's assurance of nondiscrimination. However, "undue hardship" is another element of this balance. The Agency is not required to provide an accommodation if it will impose an undue hardship on the operation of its business.

Reasonable Accommodation — A reasonable modification and/or accommodation is any change in the delivery of, or adjustment to programs, policies, practices, procedures and/or the environment that enables customers with a disability to have an equal opportunity to benefit from and have access to Agency services.

Examples of "Reasonable Accommodation" are:

- Access to services, which may include provision of readers, interpreters, and other auxiliary aids necessary for participating as effectively as other customers;
- Modifications or adjustments to the structure or essential functions of the aid, benefit, service or training that does not compromise the performance criteria or outcomes.

- Modifications or adjustments to the manner in which a training program is conducted, or the provision of auxiliary aids necessary for participating as effectively as people who do not have disabilities. (The goal of these efforts is to enable an otherwise qualified person who has a disability to perform satisfactorily to his/her fullest potential.)

In determining the reasonableness of an accommodation, ADA identifies the following factors to be considered:

- Whether the cost is high in view of the size of the program.
- Whether the cost of accommodation can be included in future planning efforts.
- A qualified professional’s assessment of the capabilities of the person to benefit from the aid, benefit, services and training.
- Does not fundamentally alter or change the program/activity outcomes, and the accommodation does not create safety hazards.

Undue hardship/burden — Undue hardship is an accommodation, which when implemented, requires significant difficulty or expense when considered in light of a number of factors. These factors include the nature and cost of the accommodation in relation to the size, resources, nature, and structure of the Agency operation. Where the entity making the accommodation is part of a larger agency or business, the structure and overall resources of the larger organization would be considered, as well as the financial and administrative relationship of the entity to the larger organization. In general, a larger entity would be expected to make accommodations requiring greater effort or expense than would be required of a smaller one.

Undue hardship is defined by the ADA as an action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business.

E. PROCEDURES

1. Advance Actions — The Agency system has made considerable effort to take advance actions to assist people with disabilities to make use of equipment, services and programs in a manner equal to a person without a disability. The following accommodations are available for anyone without documentation upon verbal request:

Computers

- Adjustable height computer tables
- Large screen computer monitors
- Left hand or right hand-only keyboards with typing tutors
- “Expert Mouse” trackballs
- Screen magnification software
- Screen reading software (JAWS)

Telephones

- Telephone handset amplifier
- State relay service number

Printed Material

- Projection onto TV screen
- Available in alternative formats

Meeting and Classroom Sound

- FM personal PA system

- 2. Requests for Reasonable Accommodation (Process for Receiving and Responding to Requests)** — Customers with accommodation needs seeking Agency services may direct their request to the first staff person they come in contact with, an employment counselor, or they may request an appointment with the Agency lead contact person. If necessary, the accommodation request will be forwarded to the appropriate manager.

Agency staff will treat requests for accommodation with discretion and sensitivity. Customers may be hesitant to request an accommodation because they believe that it may negatively affect his or her employability and the counselor's interest in working with him or her.

Agency staff will require documentation from a person who has requested an accommodation in order to answer the following questions:

- Does a disability exist?
- If no accommodation were provided, would the person be denied an equal opportunity to derive an equal benefit (equal to that received by a person who does not have a disability) from the aids, benefits, services and training offered at the Agency?

Reasonable accommodation will be provided based on a review of the request, documentation submitted, and whether or not the request would create an undue hardship or safety hazard to the organization.

Need for and feasibility of a reasonable accommodation is based on individual circumstances relating directly to the customer. If the customer for whom the accommodation is being offered refuses reasonable attempts for accommodation, the legal responsibility to provide an accommodation would be satisfied, provided the customer did not suggest reasonable alternatives. To ensure compliance with the law, efforts taken to provide accommodation should be documented.

If the Agency finds the accommodation presents an “undue hardship”, the staff will work with the customer to find other resources that may be available to accommodate the customer’s needs.

- 3. Services where reasonable accommodations can be requested** — If assistive devices or services are not readily available and are needed, accommodations can be requested by any customer who has a physical or mental impairment that substantially limits his or her ability to equally participate in Agency services.

Customers must give two weeks notice if they will need interpretive services. Some rural areas may take longer to schedule the needed service provider.

Plan to Implement Reasonable Accommodation: Decisions regarding accommodation will be made, whenever possible, within five working days of the request. Customers will be informed by phone, mail, e-mail or in person.

Local Agency Centers and Affiliates: Agencies may determine if a request would create an undue hardship to the organization or fundamentally alter program activities or service.

Diagnosis and Documentation Required: Documentation and/or diagnosis may include, but is not limited to: medical reports, identification of tests administered, test results, description of the covered disability, and recommended accommodations. Documents submitted are required to be signed by a qualified professional.

Personal Use Items: Personal accommodations are welcome; however, Agencies will not provide them.

Request for Testing Accommodation: Employment testing accommodations may be requested by customers with disabilities. To receive testing accommodation, customers are responsible for providing appropriate documentation regarding the disability. Documentation and/or diagnoses may include, but is not limited to: medical reports, identification of tests administered, test results, description of the covered disability, and recommended accommodation.

ADA requires that the agency administering the test must provide any necessary and reasonable accommodation at no cost to the test-taker.

Testing accommodation will be provided based on the reasonableness of the request, documentation submitted, and whether or not the request would create an undue hardship or safety hazard to the organization and does not fundamentally alter the test outcomes.

4. Point of Contact —

Local Point of Contact: Each agency will identify a lead contact person to work with the customer and the counselor to develop a response to an accommodation request.

Agency staff is authorized to determine the appropriate reasonable accommodation and to provide that accommodation if no expenditure of funds is necessary. If the expenditure of funds is necessary, the lead contact person will submit the request to the Agency representative designated to make the decision. Each Agency will establish procedures for processing the request.

Regional Point of Contact: The Workforce Development Council Equal Opportunity Officer will review the number and kinds of requests for reasonable accommodation and develop recommendations and advance actions for anticipated accommodation requests. The goal is to ensure that customers requesting reasonable accommodations are provided consistent responses to their request.

Local Agency Centers and Affiliates: The Agencies are responsible for identifying a lead contact person and assuring that the person will be trained to fulfill his/her responsibilities.

- 5. Communication —** Information regarding the complaint process is made available in multiple formats to Agency staff, as well as clients. Posters, with both print and pictures, informing and instructing applicants on complaint procedures are posted throughout the WorkSource Washington System to recipients, sub recipients, affiliate and co-location sites.

Information about how to file a complaint will be presented in each Agency orientation with contact information for the staff that can assist a customer with a disability to navigate the system.

During the initial applicant intake interview, an explanation of the full range of services available, including the complaint system, is provided to Customers. Customers also receive a handout that explains the complaint procedure. The handout is accessible to customers needing other formats or additional assistance upon request. All Agency staff are provided with a copy of the complaint procedure.

The state WorkSource website (go2worksource.com) provides a link to a copy of “*EO is the Law*” statements in English and Spanish. The site includes the list of local and state EO Officers, the WIOA discrimination complaint procedures, and the complaint form.

6. Customer’s responsibility (disclosure, provision of documentation, timely notice)

Customers with accommodation needs who are seeking services of the Agency may direct their request to the first staff person they come in contact with, an employment counselor, or they may request an appointment with the Agency lead contact person. If necessary the accommodation request will be forwarded to the appropriate manager.

When customers with a disability are in training programs outside the Agency and have an accommodation need, they should direct those requests to the training facility representative prior to program registration. The customer will provide documentation of a disability in order for Agency staff to answer the following questions:

- Does a disability exist?
- Absent an accommodation, would the person be denied an equal opportunity to derive an equal benefit (equal to that received by a person who does not have a disability) from the aid, benefit, service and training offered at the Agency?

If additional information is necessary for staff to determine if an accommodation is “reasonable” the customer will work cooperatively with staff to obtain the needed information and/or documentation. If the Agency finds the accommodation presents an “undue hardship”, the customer will work with staff to find other resources that may be available to accommodate the customer’s needs.

7. Pre-enrollment inquiries — Staff may ask a customer questions about his/her ability to perform program-related activities. Staff may also ask a customer to describe or to demonstrate how, with or without reasonable accommodation, he or she will access and utilize Agency services.

If a customer discloses that he or she has a disability and needs an accommodation, staff may enter into a conversation related to how the Agency can assist the person with accommodations. Staff should not ask for unnecessary personal information about the nature or extent of the illness, injury or disability unless it is needed to provide the accommodation.

Any information that is disclosed is confidential.

It is not necessary to inquire whether an applicant has a disability, or as to the nature or severity of the disability, with the following exceptions:

- Inquiries necessary for compliance with requirements of programs or projects, in determining eligibility for specific projects.
- To measure compliance with laws and regulations which require equal opportunity for persons who have a disability (without disclosing information about the individual).

Information shared by customers with the Agency regarding a disability should be considered in assessing ability to perform the duties of specific jobs with or without an accommodation, but this information should be kept confidential. Information gathered about whether a person has a disability, which will be used for Affirmative Action purposes, is voluntary and customers should be so informed.

8. Release of Information — The customer completes a release of information fully documenting:

- to whom/which agency the information is to be shared;
- specific information/reports that are to be shared; and
- time-lines (date of release and date release expires)

Each agency will provide an internal system to safeguard all releases of information in addition to making sure the time-lines are strictly followed.

Each agency must insure that information shared is used only for the purpose(s) listed on the release. Therefore, a new release must be obtained for any additional party to receive information from the confidential file.

Confidentiality relates to verbal communication as well as written. Releases are required in order to share conversation(s) as well as written information. This also requires that a release of information is specific to the services available to the customer. All staff need to safeguard the confidentiality of the public served.

All customer information related to a disability or medical condition is required to be stored in locked file cabinets. Access is limited to staff members who work with the particular customer and requiring the confidential file information.

9. Counselor's role working with potential employers — If an Agency screens applicants for an employer, it may obtain information about the job applicant's medical history, and his/her disability. This information may not to be shared with employers prior to an offer to hire.

10. Staff Training — Agency staff that provides direct services to customers should receive training about serving customers who have disabilities. Staff that provides reception and/or front-line services should receive priority for training.

Type of Training and Timeline for Training:

- *Initial Training* - Should be completed by the end of ninety (90) days of the hire date of new employees.

WDC Disability Policy

- Complaint Process
- Point of Contact Team
- Confidentiality & Privacy (inter/intra agency/business)
- Sensitivity including communication etiquette
- Customer orientation to services for people with disabilities.

Training Provided by the Equal Opportunity Officer: Staff is required to attend any training that is deemed necessary by the Equal Opportunity Officer, which includes but is not limited to specific elements of the Methods of Administration.

Documentation of Training: Agency staff shall maintain a log of staff training and make it available to the Equal Opportunity Officer upon request.

- 11. Complaint Procedures and Timelines** — Agency staff will advise customers, verbally and/or in written format, of their right to file a complaint. This will include information about the process they can use to file the complaint (see Workforce Development Council Complaint and Hearing Policy #211).

F. INQUIRIES:

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