

# U.S. Department of Labor Civil Rights Center



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# Yesterday Recap

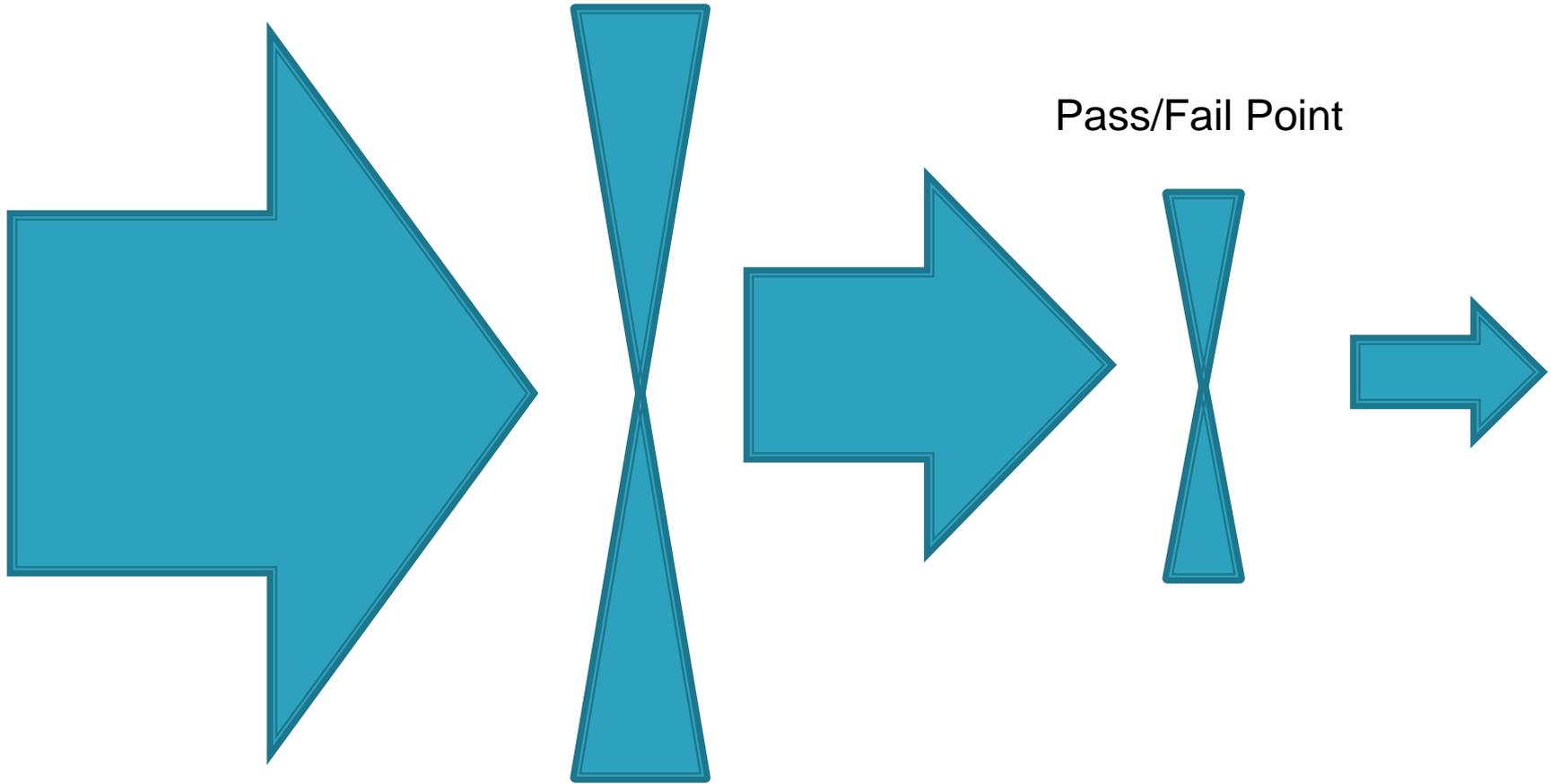
- Monitoring is essential and required
  - Compare Success Rate of Favored vs Unfavored Groups
  - Use 80% and 2 Standard Deviation
    - Remember this is not a “Bright” line distinction
  - Looking for Patterns of Discrimination
    - Treatment
    - Impact
  - Don't forget to look for non-statistical signs
  - Always Compare Against Community
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# Help Hints from Roger

- Define Success from the point of view of the client
  - Initial Comparisons
    - Whites vs All Others
    - Any Group over 2% (in the population) vs All Others
    - Male vs Females
    - Individuals with Disabilities vs All Others
    - Each Age Group (as reported to ETA) vs all others
      - multiple reports
  - Separate Analysis for:
    - Each Physical Location
    - Each Decision Maker
    - Each Avenue of Application
  - Keep in Mind History Discriminatory Practices
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# Process Mapping

Pass/Fail Point



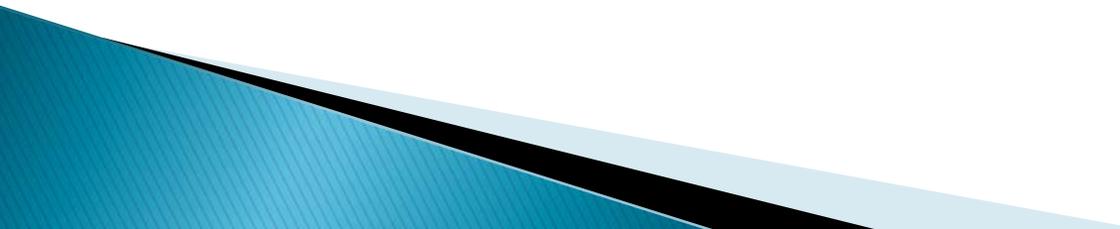
Pass/Fail Point

# Process Mapping – Employment

Hires

Promotions

Terminations



# Process Mapping – Unemployment Insurance

- Getting a Check
- Keeping a Check
- Number of Weeks
- Amount of Check
- Appeals

Note: Look out for Employers Discriminating by challenging UI for some groups only

# Process Mapping –Training Providers

- Applicants to Selection
  - Successful Completion
  - Drop Outs
  - Community Comparison
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# Process Mapping – AJCs

- For each service provided
  - from the clients point of view
- Look for Non-Traditional Training and Jobs
  - Occupational Codes
- By LWIA and Each Office Location

# Remember: Theories of Discrimination

## **Disparate Impact**

The **adverse effect of a facially neutral practice** that nonetheless discriminates against persons because of their race, sex, national origin, age, or disability and that is not justified by business necessity

## **Disparate Treatment**

Occurs when a person is **intentionally treated differently** from others because of one or more of the protected factors

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# Methods of Administration (MOA)

Each Governor **must establish and adhere to a Methods of Administration** for **State programs** as defined in §37.4.

Each Methods of Administration must be designed to **give a reasonable guarantee** that all recipients will comply, and are complying, with the **nondiscrimination and equal opportunity provisions** of WIA and this part.

*From 29 CFR 37.54*

## 29 CFR 37.4 - Definitions

*State Programs* means **programs** financially assisted in whole or in part under Title I of WIA in which either:

- (1) The Governor and/or State receives and disburses the grant to or through LWIA grant recipients; or
- (2) The Governor retains the grant funds and operates the programs, either directly or through a State agency.

“State programs” also includes State Employment Security Agencies, State Employment Service agencies, and/or State unemployment compensation agencies.

*Program or activity:* See “WIA Title I-financially assisted program or activity” in this section.

*WIA Title I-funded program or activity means:*

(1) A program or activity, operated by a **recipient** and funded, in whole or in part, under Title I of WIA, that provides either:

(i) Any aid, benefits, services, or training to individuals; or

(ii) Facilities for furnishing any aid, benefits, services, or training to individuals;

(2) Aid, benefits, services, or training provided in facilities that are being or were constructed with the aid of Federal financial assistance under WIA Title I; or

(3) Aid, benefits, services, or training provided with the aid of any non-WIA Title I funds, property, or other resources that are required to be expended or made available in order for the program to meet matching requirements or other conditions which must be met in order to receive the WIA Title I financial assistance.

See the definition of “aid, benefits, services, or training” in this section.

*Recipient* means any entity to which financial assistance under WIA Title I is extended, either directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIA Title I-funded program or activity. In instances in which a Governor operates a program or activity, either directly or through a State agency, using discretionary funds apportioned to him or her under WIA Title I (rather than disbursing the funds to another recipient), the Governor is also a recipient. “Recipient” includes, but is not limited to:

- (1) State-level agencies that administer, or are financed in whole or in part with, WIA Title I funds;
  - (2) State Employment Security Agencies;
  - (3) State and local Workforce Investment Boards;
  - (4) LWIA grant recipients;
  - (5) One-Stop operators;
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- (6) Service providers, including eligible training providers;
- (7) On-the-Job Training (OJT) employers;
- (8) Job Corps contractors and center operators, excluding the operators of federally-operated Job Corps centers;
- (9) Job Corps national training contractors;
- (10) Outreach and admissions agencies, including Job Corps contractors that perform these functions;
- (11) Placement agencies, including Job Corps contractors that perform these functions; and
- (12) Other National Program recipients.

In addition, for purposes of this part, One-Stop partners, as defined in section 121(b) of WIA, are treated as “recipients,” and are subject to the nondiscrimination and equal opportunity requirements of this part, to the extent that they participate in the One-Stop delivery system.

# Role of the MOA

“...the MOA is intended to be a document that State-and local-level staff and management, through the EO Officer, can consult when **determining appropriate steps to take when confronted with an EO issue.**”

*--State Guidance for Developing Methods of Administration (MOA) Required by Regulations Implementing Section 188 of the Workforce Investment Act of 1998 (WIA) Federal Register / Vol. 65, No. 166 / Friday, August 25, 2000 / Notices/Page 51984*

# MOA Elements

1. Designation of Equal Opportunity Officers
  2. Equal Opportunity Notice & Communication
  3. Assurances, Contracts & Agreements
  4. Universal Access
  5. Compliance with Section 504
  6. Data Collection & Record keeping
  7. Monitoring
  8. Complaint Processing Procedures
  9. Corrective Actions/Sanctions Procedures
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# Element 1. Designation of State-and local-level Equal Opportunity (EO) Officers

“...any individual appointed as EO Officer should **have the skill, ability, knowledge and authority** to properly oversee and direct the EO program to which that individual has been assigned.”

## Element 2. Notice and Communication

“...ensure the establishment of a notice and communication system that makes all registrants, applicants, eligible applicants/registrants, applicants for employment, employees and interested members of the public aware of both the recipient's obligation to operate its programs and activities in a nondiscriminatory manner, and the extent of the rights of members of these groups to file complaints of discrimination.”



## **Element 3. Review assurances, job training plans, contracts, and policies and procedures**

“...the procedures the State and its recipients are following and will continue to follow in assessing the ability of grant applicants, if funded, or training providers, if declared eligible, **to comply with WIA section 188 and 29 CFR part 37.**”



## Element 4. Universal Access

“...comply with the requirements of 29 CFR 37.42 relating to the provision of **universal access to programs and activities.**”



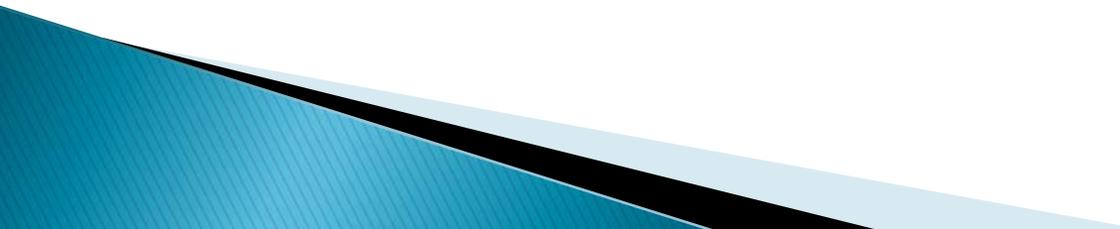
## **Element 5. Compliance with section 504 of the Rehabilitation Act of 1973, as amended and 29 CFR part 37**

“...comply with the requirements of the **disability related requirements** of WIA section 188; Section 504 of the Rehabilitation Act of 1973, as amended; and their implementing Regulations...”



## Element 6. Data and Information Collection and Maintenance

...ensure that a **data and information collection and maintenance system** for its WIA Title I-financially assisted State programs is established and maintained. (See 29 CFR 37.53.)”



## Element 7. Monitor Recipients for Compliance

“...establish procedures to **monitor periodically all aspects of the recipient's compliance** with WIA section 188 and 29 CFR part 37.”

## Element 8. Complaint Processing Procedures

“...comply with the requirements of 29 CFR 37.76 through 37.79 regarding **complaint processing procedures.**”

## Element 9. Corrective Actions/Sanctions

“...comply with the requirements of 29 CFR 37.54(d)(2)(vii).” 29 CFR 37.54(d)(2)(vii):  
*Procedures for obtaining prompt corrective action or, as necessary, applying sanctions when noncompliance is found...*”

## **§37.25 What are the responsibilities of an Equal Opportunity Officer?**

An Equal Opportunity Officer is responsible for coordinating a recipient's obligations under this part. Those responsibilities include, but are not limited to:

- (a) Serving as the recipient's liaison with CRC;
  - (b) Monitoring and investigating the recipient's activities, and the activities of the entities that receive WIA Title I funds from the recipient, to make sure that the recipient and its subrecipients are not violating their nondiscrimination and equal opportunity obligations under WIA Title I and this part;
  - (c) Reviewing the recipient's written policies to make sure that those policies are nondiscriminatory;
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## **§37.25 What are the responsibilities of an Equal Opportunity Officer?**

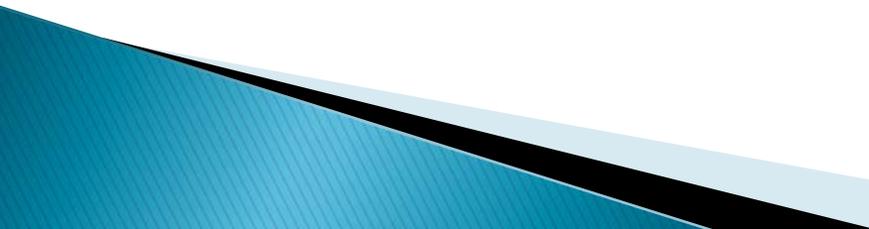
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(d) Developing and publishing the recipient's procedures for processing discrimination complaints under §§37.76 through 37.79, and making sure that those procedures are followed;

(e) Reporting directly to the appropriate official (including, but not limited to, the State WIA Director, Governor's WIA Liaison, Job Corps Center Director, SESA Administrator, or LWIA grant recipient) about equal opportunity matters;

(f) Undergoing training (at the recipient's expense) to maintain competency, if the Director requires him or her, and/or his or her staff, to do so; and

**(g) If applicable, overseeing the development and implementation of the recipient's Methods of Administration under §37.54.**



Discussion:

Your Role Under Arizona's MOA