

## § 37.54

reports in the manner prescribed by the Director.

### **§ 37.54 What are a Governor's obligations to develop and maintain a Methods of Administration?**

(a) (1) Each Governor must establish and adhere to a Methods of Administration for State programs as defined in § 37.4. In those States in which one agency contains both SESA or unemployment insurance and WIA Title I—financially assisted programs, the Governor should develop a combined Methods of Administration.

(2) Each Methods of Administration must be designed to give a reasonable guarantee that all recipients will comply, and are complying, with the non-discrimination and equal opportunity provisions of WIA and this part.

(b) The Methods of Administration must be:

(1) In writing, addressing each requirement of § 37.54(d) with narrative and documentation;

(2) Reviewed and updated as required in § 37.55; and

(3) Signed by the Governor.

(c) [Reserved]

(d) At a minimum, each Methods of Administration must:

(1) Describe how the State programs and recipients have satisfied the requirements of the following regulations:

(i) Sections 37.20 through 37.22 (assurances);

(ii) Sections 37.23 through 37.28 (Equal Opportunity Officers);

(iii) Sections 37.29 through 37.36 (Notice and Communication);

(iv) Sections 37.37 through 37.41 (Data and Information Collection and Maintenance);

(v) Section 37.42 (Universal Access);

(vi) Section 37.53 (Governor's Oversight Responsibilities Regarding Recipients' Recordkeeping); and

(vii) Sections 37.76 through 37.79 (Complaint Processing Procedures); and

(2) Include the following additional elements:

(i) A system for determining whether a grant applicant, if financially assisted, and/or a training provider, if selected as eligible under section 122 of the Act, is likely to conduct its WIA

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Title I—financially assisted programs or activities in a nondiscriminatory way, and to comply with the regulations in this part;

(ii) A system for periodically monitoring the compliance of recipients with WIA section 188 and this part, including a determination as to whether each recipient is conducting its WIA Title I—financially assisted program or activity in a nondiscriminatory way. At a minimum, each periodic monitoring review required by this paragraph must include:

(A) A statistical or other quantifiable analysis of records and data kept by the recipient under § 37.37, including analyses by race/ethnicity, sex, age, and disability status;

(B) An investigation of any significant differences identified in paragraph (A) of this section in participation in the programs, activities, or employment provided by the recipient, to determine whether these differences appear to be caused by discrimination. This investigation must be conducted through review of the recipient's records and any other appropriate means; and

(C) An assessment to determine whether the recipient has fulfilled its administrative obligations under section 188 or this part (for example, recordkeeping, notice and communication) and any duties assigned to it under the MOA;

(iii) A review of recipient policy issuances to ensure they are non-discriminatory;

(iv) A system for reviewing recipients' job training plans, contracts, assurances, and other similar agreements to ensure that they are both non-discriminatory and contain the required language regarding non-discrimination and equal opportunity;

(v) Procedures for ensuring that recipients comply with the requirements of Section 504 and this part with regard to individuals with disabilities;

(vi) A system of policy communication and training to ensure that EO Officers and members of the recipients' staffs who have been assigned responsibilities under the nondiscrimination and equal opportunity provisions of WIA or this part are aware of and can

effectively carry out these responsibilities;

(vii) Procedures for obtaining prompt corrective action or, as necessary, applying sanctions when noncompliance is found; and

(viii) Supporting documentation to show that the commitments made in the Methods of Administration have been and/or are being carried out. This supporting documentation includes, but is not limited to:

(A) policy and procedural issuances concerning required elements of the Methods of Administration;

(B) copies of monitoring instruments and instructions;

(C) evidence of the extent to which nondiscrimination and equal opportunity policies have been developed and communicated as required by this part;

(D) information reflecting the extent to which Equal Opportunity training, including training called for by §§ 37.25(f) and 37.26(c), is planned and/or has been carried out;

(E) reports of monitoring reviews and reports of follow-up actions taken under those reviews where violations have been found, including, where appropriate, sanctions; and

(F) copies of any notices made under §§ 37.29 through 37.36.

**§ 37.55 When must the Governor carry out his or her obligations with regard to the Methods of Administration?**

(a) Within 180 days of either the date on which this interim final rule is effective, or the date on which the Department gives final approval to a State's Five-Year Plan, whichever is later, a Governor must:

(1) Develop and implement a Methods of Administration consistent with the requirements of this part, and

(2) Submit a copy of the Methods of Administration to the Director.

(b) The Governor must promptly update the Methods of Administration whenever necessary, and must notify the Director in writing at the time that any such updates are made.

(c) Every two years from the date on which the initial MOA is submitted to the Director under § 37.55(a)(2), the Governor must review the Methods of Administration and the manner in

which it has been implemented, and determine whether any changes are necessary in order for the State to comply fully and effectively with the nondiscrimination and equal opportunity provisions of WIA and this part.

(1) If any such changes are necessary, the Governor must make the appropriate changes and submit them, in writing, to the Director.

(2) If the Governor determines that no such changes are necessary, s/he must certify, in writing, to the Director that the Methods of Administration previously submitted continues in effect.

**Subpart D—Compliance Procedures**

**§ 37.60 How does the Director evaluate compliance with the nondiscrimination and equal opportunity provisions of WIA and this part?**

From time to time, the Director may conduct pre-approval compliance reviews of grant applicants for, and post-approval compliance reviews of recipients of, WIA Title I financial assistance, to determine compliance with the nondiscrimination and equal opportunity provisions of WIA and this part. Reviews may focus on one or more specific programs or activities, or one or more issues within a program or activity. The Director may also investigate and resolve complaints alleging violations of the nondiscrimination and equal opportunity provisions of WIA and this part.

**§ 37.61 Is there authority to issue subpoenas?**

Yes, section 183(c) of WIA authorizes the issuance of subpoenas. A subpoena may direct the individual named on the subpoena to take the following actions:

(a) To appear:

(1) Before a designated CRC representative,

(2) At a designated time and place;

(b) To give testimony; and/or

(c) To produce documentary evidence.

The subpoena may require the appearance of witnesses, and the production of documents, from any place in the United States, at any designated time and place.