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Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act

Comment On: [DOL-2016-0001-0001](#)

Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act

Document: [DOL-2016-0001-0318](#)

Comment from James Kayer, Pennsylvania Department of Labor & Industry

Submitter Information

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General Comment

1. State Level Equal Opportunity Officer must report directly to the Governor.

Proposed section 38.28(a) states:

Every Governor must designate an individual as a State Level Equal Opportunity Officer (EO Officer), who reports directly to the Governor and is responsible for statewide coordination of compliance with the equal opportunity and nondiscrimination requirements in WIOA and this part, including but not limited to 38.51, 38.53, 38.54 and 38.55. The State Level EO Officer must have staff and resources sufficient to carry out these requirements. (emphasis added)

This new requirement directs Governors to create a new position and organize their staff in a specific and direct way without any additional resources. The current regulations require the designation of an Equal Opportunity Officer for each recipient of WIOA funds and do not dictate how a State must organize this function. Currently, states may structure the equal opportunity function as appropriate for their state structure. The proposal inserts an additional level of Equal Opportunity Officer a State Equal Opportunity Officer, and requires that the individual reports directly to the Governor. This new position is not required under WIOA, and imposes additional staff without additional funding. Every recipient must also have an EO Officer and this is sufficient to enforce the requirements of WIOA. Having a state level EO officer overseeing a state agency-level EO officer would be duplicative and inefficient. The proposed regulation adding a State Level Equal Opportunity Officer will divert much needed funding away from direct job training and toward additional administrative costs for duplicative functions. In Pennsylvania, the current structure of the Governor identifying the Secretary of Labor & Industry

to be responsible for compliance with WIOA has worked in a satisfactory manner to date.

2. Increased monitoring is not supported by WIOA: The proposed regulations specify [in section 38.51] that WIOA grant recipients must be monitored annually. This is a change from the prior regulations which required periodic monitoring. [old section 37.54]. States are in the best position to determine when monitoring is appropriate, and WIOA does not require annual monitoring. Many states currently conduct WIOA grant recipient monitoring once every two years. The proposed regulations are doubling the workload for many states, and there is no additional funding.

We propose the term annually should be revised to periodically.

3. Authority to monitor the activities of the Governor: The proposed regulations specify those actions that the Director of CRC may take in the event that the Governors performance under the Nondiscrimination Plan is inadequate. These actions include, issuance of a letter of findings, the entry into a conciliation agreement and if the Governor fails or refuses, to take remedial or corrective action. Historically, many states have requested technical assistance from CRC in areas including adequacy of monitoring and data analysis and those requests have not been consistently addressed. The regulations should reaffirm that technical assistance will be provided in the event that a Governors performance is deemed to be inadequate or at any other time that a state submits a request for such technical assistance to assure compliance with these regulations.

