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**Report to the Legislature on the  
Employment Security Department's  
employment services to individuals  
with disabilities**



**Employment  
Security  
Department**  
WASHINGTON STATE

# Report to the Legislature on the Employment Security Department's employment services to individuals with disabilities

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This report was prepared in accordance with RCW 50.12.210 State of Washington

Washington State Employment Security Department  
*Cami Feek, acting commissioner and chief executive officer*

Employment Connections Division  
*Nona H. Mallicoat, strategic operations manager*

Executive Programs/Equal Opportunity Office  
*Teresa Eckstein, director*

Executive Programs — Public Affairs Office/Government Relations Unit  
*Stasha Espinosa, government relations director*  
*Bianca Stoner, legislative policy analyst*

Governor's Committee on Disability Issues and Employment  
*Elizabeth Gordon, executive director*

Labor Market and Economic Analysis Branch  
*Tracy Hall, operations manager*

Policy, Data, Performance and Integrity Division  
*Dan Zeitlin, director*  
*Gary Kamimura, policy manager*

For more information or to get this report in an alternative format, email Employment Security Department's Government Relations Director at [SEspinosa@esd.wa.gov](mailto:SEspinosa@esd.wa.gov).

The Employment Security Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance services for limited English proficient individuals are available free of charge. Washington Relay Services: 711.

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## Legislative mandate

[RCW 50.12.210](#) (Employment services for persons with disabilities—Report to legislative committees) directs the employment services division of the Employment Security Department (ESD) to give particular and special attention in the delivery of services to individuals with disabilities as defined under the federal Rehabilitation Act of 1973 (Public Law 93-112). The bill further directs ESD to report during every odd-numbered year to appropriate House and Senate committees regarding the actions it has taken in furtherance of this mandate.

ESD uses the term “employment services” throughout this report to encompass the efforts of both ESD and the state’s one-stop service delivery system under the Workforce Innovation and Opportunity Act (WIOA) of 2014 (Public Law 113-128), which is called WorkSource in Washington. That is because ESD’s Employment Services Program is a core/required partner of the WIOA one-stop system and both entities often use a systemwide approach to addressing accessibility by individuals with disabilities as well as other populations that have barriers to employment. Throughout this report, ESD uses the term “employment services” to collectively refer to these efforts.

## Employment services available from Employment Security

The U.S. Department of Labor (DOL) funds the employment services that ESD provides for Washingtonians through a formula-based state allotment under Title III of WIOA. The more common name for Title III is the Wagner-Peyser Employment Services Program, and it offers the following staff-assisted services:

- Basic assessments regarding skills, education, career objectives and barriers to employment.
- Comprehensive and specialized assessments using diagnostic tools and in-depth interviewing and evaluation.
- Individual employment plans that spell out employment or career pathway goals and objectives, the services needed to achieve those goals, and steps to remove barriers.
- Career guidance and counseling to identify career or vocational goals, prepare for the job market, and identify steps to obtain employment or training.
- One-on-one assistance to match needs and abilities to the job market, develop job search and interviewing techniques, create resumes and complete applications.
- Testing to determine the extent to which people already have, are interested in, and are able to acquire skills and knowledge.
- Financial aid eligibility for people interested in post-secondary education and training options.
- Financial literacy to teach people how to make informed decisions by creating a household budget and savings plan.
- Workforce preparation activities that promote basic academic, digital literacy, critical thinking, and self-management skills to prepare people for transitioning and completing education, training, and/or employment.
- Short-term prevocational services to impart skills related to communication, punctuality, personal maintenance and conduct.
- Basic skills instruction in remedial literacy (reading/writing), mathematics, study skills, including high school equivalency diploma (GED) preparation.
- Translation and interpretation services and English as a second language instruction.
- Workshops covering topics such as job search preparation, resume writing and interviewing.

- Job clubs for people to network and share job search strategies and tips.
- Unemployment assistance from one-stop staff who have training in filing unemployment benefit claims and explaining rights and responsibilities.
- Labor market information regarding occupations and industry sectors, as well as industries in demand or decline.
- Referring people to other one-stop system programs.
- Referring people to employment opportunities.
- Transitional jobs in the form of subsidized, time-limited work experience for people who have chronic unemployment and barriers to employment.
- Paid and unpaid work experience and internships.

The Wagner-Peyser Employment Services Program sponsors self-service tools including the free, online [WorkSourceWA.com](http://WorkSourceWA.com) site, which people can use to search job openings, post resumes, and research readily-available state and regional labor market information at [esd.wa.gov/labormarketinfo](http://esd.wa.gov/labormarketinfo). Self-service customers can also use other free online sites that DOL sponsors to explore careers, do trainings, and view jobs. These sites are [America's Career One-Stop](#) and [Washington Career Bridge](#), a free online education and training information site that the state's Workforce Training and Education Coordinating Board (WTECB) sponsors. These online platforms comply with Section 504 of the federal Rehabilitation Act of 1973, as amended.

## Employment services and the WIOA One-Stop system

It is important to note that the Wagner-Peyser Employment Services Program does not stand alone. Instead, it is one partner within an integrated WIOA one-stop service delivery system that includes numerous partner programs whose staff coordinate service delivery to serve common customers, including those with disabilities. In other words, when customers connect to any one WIOA one-stop program, they can also participate in other WIOA one-stop programs if they are eligible.

Other WIOA core and required one-stop system partner programs (beyond employment services):

- WIOA Title I-B youth, adult, and dislocated workers (Employment Security Department, local workforce development boards, and contracted service providers).
- WIOA Title II adult education and literacy (State Board for Community and Technical Colleges and the state's two-year public community and technical colleges).
- WIOA Title IV vocational rehabilitation (Division of Vocational Rehabilitation and Department of Services for the Blind).
- Trade Adjustment Assistance (Employment Security Department).
- Jobs for Veterans State Grant (Employment Security Department).
- Unemployment Insurance (Employment Security Department).
- Senior Community Services Employment Program (Department of Social and Health Services and contracted service providers).
- Job Corps (local grantees).
- YouthBuild (local grantees).
- Native American Program (tribal governments and corporations).

- National Farmworker Jobs Program (OIC of Washington).
- Carl Perkins Career and Technical Education (State Board for Community and Technical Colleges, Office of the Superintendent of Public Instruction, two-year public community and technical colleges and K-12 school districts).
- Temporary Assistance to Needy Families (TANF – Department of Social and Health Services).
- Supplemental Nutrition and Assistance Program (SNAP) Employment and Training (Department of Social and Health Services); and
- Housing and Urban Development Employment and Training (Department of Commerce).

This includes both the Wagner-Peyser employment services and affiliated WIOA one-stop system partner programs, which WorkSource centers in Washington deliver locally through one-stop sites that operate under the WorkSource brand. The reason for mentioning both is because these entities often – but not always – implement equity and inclusion strategies and initiatives at the system level instead of on a program-by-program basis, including programs that make services more accessible to individuals with disabilities.

## **WIOA State Plan, Washington’s Workforce Economic Recovery Plan, and accessibility**

WIOA requires states to develop four-year plans that describe and set the tone for how the state’s one-stop system partner programs will integrate and coordinate service delivery to assist customers in their employment and training journeys.

In Washington, the 2020 to 2024 plan is called [Talent and Prosperity for All \(TAP\)](#). One of the plan’s five key goals is accessibility, which includes developing and implementing solutions to remove barriers to access for historically excluded populations, including individuals with disabilities. Federal WIOA statutes identify individuals with disabilities as one of 13 populations with significant barriers to employment that the one-stop system must focus on in engagement efforts.

The Wagner-Peyser Employment Services Program is a required core partner in the WIOA one-stop system, so it is bound by and subscribes to the accessibility directives in the WIOA State Plan. The Governor designated the WTECB as the state workforce development board for WIOA and as the lead on Washington’s WIOA State Plan. As part of TAP implementation, WTECB established a TAP Barrier and Accessibility Solutions Committee that includes an ESD member who represents the Wagner-Peyser Employment Services Program, as well as other ESD programs that are required one-stop partner programs.

WIOA also requires the Local Workforce Development Boards (LWDBs) to develop local WIOA plans that align with the WIOA State Plan. There are 12 LWDBs in Washington, and they oversee the 12 workforce development areas (WDAs) that geographically cover the entirety of the state. As a result, local WIOA plans include the same accessibility directives and accessibility committees, except at the local level. In addition, the Governor recently tasked the WTECB with developing [Washington’s Workforce Economic Recovery Plan](#) as one component of the state’s overarching post-pandemic economic recovery plan. The plan acknowledges the pre-pandemic workforce system equity gap, which worsened because of the pandemic’s disproportionately adverse impact on populations with barriers to employment, including individuals with disabilities. The WTECB, its members, and the workforce system prominently commit in the plan to identifying and eliminating equity gaps across the system.

## Washington's 2020 WorkSource Nondiscrimination Plan

Under 29 CFR Part 38, governors must identify state designees to implement WIOA nondiscrimination and equal opportunity provisions. In Washington, the Governor has designated the ESD Commissioner, who subsequently appointed a state Equal Opportunity (EO) Officer to administer the implementation of nondiscrimination and equal opportunity provisions under WIOA. This work includes developing and submitting a nondiscrimination plan each year to DOL's Civil Rights Center. The State EO Officer's duties include:

- Coordinating and ensuring that the state complies with Section 188 of WIOA, 29 CFR Part 38 and Title VI of the Civil Rights of 1964, as amended.
- Serving as the state's liaison with the U.S. Department of Labor's (USDOL) Civil Rights Center.
- Providing technical guidance to Local Workforce Development Board (LWDB) EO Officers statewide to ensure compliance with DOL and other federal and state laws, regulations, policies, procedures and directives.
- Monitoring and investigating recipients' activities to ensure compliance with WIOA nondiscrimination and EO requirements.

In compliance with requirements in the nondiscrimination plan, each LWDB designates a local EO Officer whose duties include:

- Conducting EO and nondiscrimination monitoring reviews and investigating the activities of service providers, and other recipients in their area, to ensure compliance with the nondiscrimination and EO obligations under WIOA and 29 CFR Part 38.
- Reviewing written policies to ensure they are nondiscriminatory.
- Developing and publishing procedures for processing discrimination complaints and ensuring adherence to the procedures.
- Coordinating local-level WIOA EO responsibilities, including ensuring that service providers comply with the nondiscrimination and EO provisions of WIOA.

There are 44 comprehensive and affiliate WorkSource (one-stop) centers across the state's 12 WDAs. All sites refer EO-related matters to their LWDB-designated EO Officer or the State EO Officer, as appropriate. LWDB EO Officers may refer issues to ESD, One-Stop partner EO Officers, or other entities, depending on jurisdiction, to ensure that WorkSource customers do not face discrimination in WorkSource services or access.

**EO notices and training:** LWDBs receive the WIOA "Equal Opportunity is the Law" posters, which they post in prominent locations in their offices and recipients' offices for public viewing. The posters provide the identity and contact information of the LWDB EO Officer and State EO Officer to all applicants, registrants, eligible applicants and registrants, participants, employees, and applicants for employment, as well as interested members of the public.

The State EO Officer proactively identifies and meets the training needs of LWDB EO Officers, providing training on the Washington State Nondiscrimination Plan, WIOA EO and Nondiscrimination provisions, EO and WIOA Section 188 law, and the ADA accessibility guide. EO Officers also receive training so that they can provide EO training to staff in their areas. This training is mandatory for new EO Officers, who also receive refreshers as needed. Other EO Officers and staff who assist with EO duties also receive invitations to this training, and new EO Officers also receive hands-on monitoring training in their local areas.

The State EO Officer also provides two annual training conferences for LWDB EO Officers. Each fall, the State EO Officer provides a one-day training conference for LWDB EO Officers in conjunction with the Washington Workforce Association's annual conference. In addition, the State EO Officer delivers a two-day spring training conference each year. The State EO Officer also has regular EO Officer conference calls to share information and discuss current issues.

WorkSource center staff, including Wagner-Peyser employment service staff, regularly receive training on customer-focused EO and nondiscrimination issues. The training addresses WIOA's nondiscrimination requirements and focuses on ensuring nondiscrimination while serving and providing equal access to customers. The interactive training, which also includes tabletop exercises and a training quiz, occurs a minimum of every two years for all recipient staff. LWDBs are responsible for providing the training for recipients in their WDAs.

**Notice and communication:** Within WorkSource, ESD and other program partners provide notice that they do not discriminate on any prohibited basis and notice of WIOA's nondiscrimination and equal opportunity requirements, and these notices go to registrants, applicants, eligible applicant/registrants, participants, people who apply for employment, employees, unions, professional organizations, subrecipients, and the public.

Both WIOA and ESD EO and Nondiscrimination policies incorporate these laws and regulations:

- Title VI and Title VII of the Civil Rights Act of 1964, as amended.
- Section 504 of the Rehabilitation Act of 1973, as amended.
- Americans with Disabilities Act of 1990, as amended.
- The Age Discrimination Act of 1975, as amended.
- The Age Discrimination in Employment Act of 1967, as amended.
- Title IX of the Education Amendments of 1972, as amended.
- Section 188 of the Workforce Innovation and Opportunity Act (WIOA) of 2014.
- Title 29, Code of Federal Regulations, Part 38.

The EO Officer training covers the notice and communication requirements, which participants also discuss during the EO and nondiscrimination training course for recipients and their staff. The EO and nondiscrimination training occurs on a regular basis. The State-Level EO Officer provides informational updates and notices of EO training from other organizations, such as EEOC Summits. The State EO Officer also provides ongoing technical assistance to LWDB EO Officers. The EO and nondiscrimination monitoring reviews include compliance monitoring regarding training delivery and staff attendance.

The 11-inch by 17-inch WIOA "Equal Opportunity is the Law" posters contain the wording that 29 CFR 38.35 specifies and go to the statewide WorkSource system. The posters are available in English and Spanish, plus Russian, Ukrainian, and Vietnamese. [ESD's EO webpage](#) has links to the posters, plus audio recordings of the EO Notice poster in English and Spanish.

All comprehensive and affiliate WorkSource sites and other one-stop affiliated sites prominently display the EO Notice posters. During EO monitoring reviews, reviewers ensure that EO posters are in reasonable numbers and places.

The EO Notice goes to all registrants, applicants, eligible applicants/registrants, participants, subrecipients, and interested members of the public, and it advises people of their right to file a discrimination complaint during orientations and/or registration for WIOA services.



WIOA recipients require registered participants to sign a statement acknowledging that they understand their rights and have received the EO Notice. Participants sign this statement electronically when they register through the state's WorkSource management information system, which is called Efforts to Outcomes (ETO), and a copy of goes into participants' files.

The goal is to ensure that communications with individuals who have disabilities are just as effective as communications with those who don't. During each monitoring review, LWDB EO Officers and WorkSource administrators receive notice that they may develop an audio recording of an EO Notice for individuals who are blind or have low vision. They may also read the notice to the person, and as an example, the Spokane area Workforce Development Council (WDC) made its EO notice available in Braille.

ESD, recipients, and subrecipients include the following tagline on their official websites, job announcements, brochures, broadcasts, publications, and advertisements that describe programs, or the requirements for participation, financially assisted under Title I of WIOA:

“WorkSource (or name of recipient) is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.”

When materials indicate that people can reach the recipient by phone, the information includes the Washington Relay Service 711 either at the end of the tagline or next to the phone number.

**Assurances:** The ESD Contracts Office reviews all contracts and agreements to ensure that they include EO assurances. The agency requires all applications for federal financial assistance under WIOA to include EO assurances, thereby committing recipients to full compliance with WIOA nondiscrimination provisions.

The State EO Officer works with the Contracts Office and the Employment System Administration and Policy staff to develop language that incorporates nondiscrimination clauses, EO assurances, and sanctions. This language goes into contracts, grant agreements, interagency agreements, personal service contracts, and requests for proposal processes where the funding for these services comes from state and federal funds.

ESD issues guidance to LWDBs regarding EO assurances, and each recipient must ensure that their training plans, contracts, and agreements are consistent with the EO and nondiscrimination provisions of WIOA. The annual EO and nondiscrimination monitoring includes a review to ensure compliance with these requirements.

**Outreach:** WorkSource is committed to providing services to members of the groups that these regulations protect, including individuals with disabilities, and develop the outreach plans based on census data, labor market analysis, service need assessments, and information from community and social service organizations, educational institutions, employers, and labor and community service advocates.

**Monitoring:** LWDBs continue to monitor their customer composition by comparing local labor market information with data from ETO. These reports show the makeup of their participants, including members of both sexes, various racial and ethnic groups, individuals with disabilities, and individuals in differing age groups. They work with their recipients and other community organizations to share information, sponsor job fairs, and provide outreach to target various populations. Through onsite compliance reviews, the State EO Officer continually monitors and evaluates efforts by ESD and LWDBs to broaden representation in programs, services and employment.

**Compliance with Section 504 of the Rehabilitation Act of 1973 and 29 CFR Part 38:** Washington is committed to making sure that individuals with disabilities can access and use all services, facilities, and information. This includes all programs, services, and activities provided by or made available within the WorkSource system to customers, potential customers, job applicants, employees, volunteers, and recipients.

Washington ensures nondiscrimination based on disability by:

- Providing opportunities for participation or benefits equal to that afforded to others.
- Providing financial aid, benefits, services or training equal to that provided to others.

- Ensuring that qualified individuals with disabilities have the option of participating in the same programs or activities as non-disabled individuals.
- Ensuring that licensing and/or certification programs operate in a matter that does not discriminate against qualified individuals with disabilities.
- Ensuring that eligibility criteria do not screen out individuals with disabilities from fully and equally enjoying any aid, benefit, service, training, program or activity, unless such criteria is necessary to provide the aid, benefit, service, training, program or activity.
- Eliminating barriers to employment and providing accommodations in the workplace.
- Ensuring that an agency, organization, or person who discriminates based on disability does not receive assistance.

During monitoring reviews, the State EO Officer evaluates employment practices to ensure there are no barriers to employment.

**Reasonable Accommodation for Disabilities:** WorkSource provides reasonable accommodations to qualified individuals with disabilities in all aspects of its programs, services, activities, and employment, unless providing the accommodation causes undue hardship.

Reasonable accommodations are modifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities. Accommodations may include, but are not limited to, qualified sign language interpreters, auxiliary aids, and information in alternate formats. WorkSource makes reasonable modifications in policies, practices, or procedures when necessary to avoid discrimination based on disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity.

**Programmatic Accessibility:** ESD and WorkSource take steps to ensure that services, programs, and activities are readily accessible for individuals with physical, mental, or sensory disabilities:

- Policy and Procedure Number 0013-1 (Reasonable Accommodation, and Nondiscrimination on the Basis of Disability) directs ESD employees to provide timely, reasonable accommodations to otherwise-qualified employees or customers who have disabilities, which includes physical, mental, or sensory limitations. Accommodations may include adjustments and modifications so that individuals with disabilities can perform the essential functions of their job, enjoy the benefits and privileges of employment, or participate in department programs, services, and activities. Qualified sign language interpreters, readers, and other auxiliary aids are available upon request.
- WorkSource operates each service, program, or activity so that individuals with disabilities can readily access and use them, and offers all programs, services and activities to individuals with disabilities in the most integrated setting appropriate. To achieve program accessibility, WorkSource considers redesigning equipment and providing appropriate auxiliary aids and services, including assistive technology and sign language interpreters.
- WIOA Title I Policy 5402 (Equal Opportunity and Nondiscrimination) directs recipients who are funded by WIOA in whole or in part to ensure equal opportunity and nondiscrimination in programs and activities. As a result, they must operate all programs in a manner so that qualified individuals with disabilities can readily access them.

All LWDBs receive DOL Office of Disability Employment Policy's Section 188 Disability Checklist.

Washington continues to assist registrants, applicants, eligible applicants, or registrants and participants with disabilities by providing:

- Accessibility assessments for all comprehensive and affiliate WorkSource centers.
- Individual disability access improvement plans, which each center develops based on the results of their assessment. Centers also develop and disseminate model policies and procedures for serving customers with disabilities.
- Staff training, which is part of all major WorkSource conferences and training events in the state. As an example, many WorkSource offices have instituted a practice of holding monthly staff training sessions on different disability issues.
- Technical assistance. ESD, the Governor’s Committee on Disability Issues and Employment (GCDE) and the Department of Social Health Services’ Division of Vocational Rehabilitation established a Technical Assistance Clearinghouse that serves as a single point of contact on issues related to serving individuals with disabilities and provides access to information, links to useful resources, and assistance with creative problem-solving.

The Washington State Office of the Chief Information Officer adopted standards for technology accessibility that states:

- Individuals with disabilities must be able to access and use all covered technology, either directly or by using assistive technology. Standard 188.10, which is the Minimum Accessibility Standard, outlines the minimum levels for compliance and includes all covered technology acquired, procured, developed or substantially modified, or substantially enhanced after the effective date of the policy, including software available at no cost.
- In situations when it isn’t possible to bring a covered technology into compliance, the system or content owner is responsible for providing equivalent access to individuals with disabilities.
- For each instance of non-compliant covered technology, a waiver must be requested and approved.

**Architectural Accessibility:** State entities and ESD WIOA Title I recipients must follow specific requirements of the Americans with Disabilities Act (ADA), as amended. LWDBs are aware of their obligation to abide by WIOA EO and nondiscrimination provisions and other federal ADA requirements, which are reflected in WIOA Title I Policy 5612 (One-Stop Evaluation and Certification). There is also a self-assessment process for certifying WorkSource sites assurance language in WIOA grant agreements. WorkSource sites that the state does not own or lease, must also abide by local building codes and accessibility standards.

Both ESD and WorkSource take steps to ensure that all programs and activities are architecturally accessible to individuals with disabilities, and these steps include:

- ESD Policy and Procedure Number 0013-1 (Reasonable Accommodation and Nondiscrimination on the Basis of Disability), which provides that “[t]he Department shall provide its services and operate its programs and/or activities so that, when viewed in their entirety, they are accessible to qualified persons with a disability” and that “[a] program must be accessible to clients, or a comparable program must be made available at an alternate site that is accessible.”
- The ESD Facilities Unit inspects ESD’s facilities at lease renewal to ensure that facilities comply with federal ADA requirements. The evaluation focuses on site access, signage at primary building entrances of inaccessible facilities, interior door and corridor widths, public restroom requirements, and other architectural specifications from the ADA Accessible Guidelines. The purpose of these inspections is to ensure that the facilities comply with Washington Administrative Code (WAC) 51-50-005 and the Washington State Building Code.

- LWDBs provide mandatory criteria for WorkSource site certification. Each LWDB provides this information in the way that works best for their area.
- Each LWDB EO Officer has ADA measuring devices including a pressure gauge and an ADA tape measure. The instruments help LWDB EO Officers conduct EO and nondiscrimination monitoring reviews and keep centers accessible for individuals with disabilities.

**Communication:** ESD and LWDBs take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with those who do not have disabilities. ESD and LWDBs provide auxiliary aids and services to individuals with disabilities when appropriate and necessary so that they have opportunities to participate in and enjoy the benefits of WIOA programs and activities, including using the Washington Relay Service to communicate if they are hard of hearing, deaf, or have speech impairments. In addition, whenever ESD and LWDBs provide phone numbers, they must also provide the relay service number.

LWDBs are aware of their obligation to ensure that communications with members of the public, customers, and applicants with disabilities are as effective as communications with others. WIOA Title I Policy 5402 (Equal Opportunity and Nondiscrimination) states that recipients must ensure that they provide programs in the most integrated setting appropriate for the needs of individuals with disabilities, and that their communications with individuals with disabilities are as effective as their communications with others.

ESD is committed to ensuring that individuals with physical, mental, or sensory disabilities can readily access its programs, services and activities. ESD also provides qualified sign language interpreters, readers, and other auxiliary aids and services upon request, and makes documents and publications available in alternate formats.

**Complaint Processing Procedures:** ESD and LWDBs maintain compliance with Section 188 of WIOA and its regulations regarding processing discrimination complaints. All WorkSource program partners adhere to WorkSource System Policy 1012 (Customer Concern and Complaint Resolution and the WorkSource Complaint Handbook), which includes a discrimination complaint form that is available in both English and Spanish. LWDBs may develop their own discrimination complaint policies and procedures but cannot conflict with WorkSource System Policy 1012.

ESD maintains a separate discrimination complaint policy and procedure for its employees, ESD Policy and Procedure Number 0013 (Discrimination Complaint Processing), which ESD employees are required to review annually.

**Process:** Both ESD and LWDB have a policy of advising WorkSource customers and employees of their right to file discrimination complaints. People have the right to file a discrimination complaint if they believe they have experienced discrimination based on their race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, **disability**, political affiliation or belief, or for any beneficiary of, applicant to, or participant in programs financially assisted under Title I of WIOA, based on the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity. People must file discrimination complaints within 180 days of the alleged discrimination or retaliation, and they can file the complaints with their LWDB EO Officer, the State EO Officer, or the Director of the Civil Rights Center, U.S. Department of Labor. If the complainant is under 18 years of age, the complainant's parent or legal guardian must sign the written discrimination complaint.

The discrimination complaint process provides prompt and equitable resolution of complaints and includes:

- A written and signed discrimination complaint.
- A Notice of Receipt that includes:
  - Acknowledgement of receipt of the discrimination complaint.

- Notice that the complainant has the right to representation in the complaint process.
- Notice of rights contained in 29 CFR Part 38.35.
- Notice that the complainant has the right to request and receive, at no cost, auxiliary aids and services, language assistance services, and that the notice at 29 CFR Part 38.35 will be translated into the appropriate non-English language as required in 29 CFR Part 38.34, 29 CFR Part 38.36, and 29 CFR Part 38.9.
- A list of each issue from the discrimination complaint and, for each issue, a statement that the investigator has or has not accepted each issue, which must include the reason(s) for rejection.
- An invitation to participate in alternative dispute resolution (ADR).
- A period of fact-finding or ADR (if the person accepts this).
- A written Notice of Final Action (NOFA), which the complainant must receive within 90 calendar days of the date of filing the discrimination complaint. The NOFA contains:
  - For each issue in the complaint, a statement of either:
    - The recipient's decision on the issue and an explanation of the underlying reasons for the decision; or
    - A description of the way the parties resolved the issue; and
    - Notice that the complainant has a right to file a complaint with the Civil Rights Center within 30 calendar days of the date on which the claimant receives the NOFA if the complainant is dissatisfied with the recipient's final action on the complaint.

Upon receipt of discrimination complaints, EO Officers must keep the following information confidential to the maximum extent possible, consistent with applicable law and fair resolution:

- The fact that the complainant has filed the complaint.
- The complainant's identity.
- The identity of any individual who is a respondent to the allegations; and
- The identity of any individual who furnished information relative to or assisting in investigating a complaint.

If the State or LWDB EO Officer determines that they do not have jurisdiction over a discrimination complaint, the EO Officer must:

- Inform the complainant of this decision in writing.
- Inform the complainant of the entity that has jurisdiction.
- Promptly refer the complaint to that entity, explaining the circumstances; and
- Advise the complainant of their right to file a complaint with the Director of the CRC.

Each LWDB EO Officer and ESD maintains a discrimination complaint log and at the state level for logging, tracking and reporting discrimination complaints. This log must contain:

- The name and address of the complainant.
- The basis of the discrimination complaint.

- A description of complaint.
- The complaint filing date.
- The disposition and date; and
- Any other pertinent information.

Information that could identify an individual who filed a complaint must be confidential. In addition, there is monitoring to ensure that recipients comply with the discrimination complaint process.

**Responsibilities:** The State EO Officer has overall responsibility for developing and implementing discrimination complaint procedures, ensuring that agency recipients develop their procedures, and ensuring that staff (including recipient staff) receive the training under 29 CFR Part 38. The State EO Officer provides oversight, monitoring and technical assistance for processing all discrimination complaints, including providing the Alternative Dispute Resolution (ADR) services that 29 CFR Part 38 requires.

LWDB EO Officers are responsible for:

- Publicizing and implementing their own or adopting the state WIOA discrimination complaint process in accordance with 29 CFR Part 38 in their local areas.
- Assisting local WorkSource customers in filing discrimination complaints.
- Logging, tracking, reporting, and processing discrimination complaints regarding local recipients, including training providers, in their workforce development area.
- Conducting intake to determine whether 29 CFR Part 38 covers complaints, resolving jurisdictional issues and, if appropriate, routing discrimination complaints to the entity that has the appropriate jurisdiction to process the complaints; and
- Providing EO and nondiscrimination training within their LWDB.

The LWDB EO Officer confers with the State EO Officer promptly when they receive a discrimination complaint before they determine jurisdiction over the matter. ESD's Employment Service Complaint Officer forwards discrimination complaints to the State EO Officer.

**Communication Signage:** ESD and WorkSource partner program staff and customers can obtain information about the discrimination complaint process. LWDB and WorkSource centers display "Equal Opportunity is the Law" posters, which inform and instruct individuals on discrimination complaint procedures. The EO Notice advises people of their right to file a discrimination complaint during orientations and/or registration for WIOA services.

All ESD employees receive copies of the Discrimination Complaint Processing policy and must annually review the policy and sign to confirm that they read it.

The [ESD website](#) contains an "Equal opportunity" link in the banner at the bottom of each page that links to the EO and nondiscrimination web page containing WIOA and ESD discrimination complaint policies, procedures, and forms.

**Records:** Under 29 CFR 32.15(d) and the ADA, ESD and LWDBs must ensure confidentiality of medical information that may reveal peoples' disabilities, so they must keep medical information in a single, secure location separate from other files. They also use electronic systems that support separate recordkeeping for information about medical conditions, as well as conducting pre-employment and employment medical inquiries in accordance with WIOA, ADA and regulations under Section 504 of the Rehabilitation Act of 1973. Recipient's policies refer to specific guidance, and EO monitors to ensure that ESD and LWDBs adhere to these provisions.

## Americans with Disabilities Act and One-Stop Certification

WorkSource centers that deliver WIOA services locally, including by Wagner-Peyser Employment Services Program staff, must be certified no less than once every three years by LWDBs. As the state [WIOA Title I-B Policy 5612 \(One-Stop Evaluation and Certification\)](#) reflects, physical and programmatic access is one of the one-stop principles and ADA accessibility is one of the requirements that entities must meet for site certification. These requirements include providing universal access to services, as well as performing outreach to populations with barriers to employment. Site certification teams typically have representatives from WIOA Title IV (vocational rehabilitation) partners from the Division of Vocational Rehabilitation and Department of Services for the Blind, as well as nonprofit one-stop partners (e.g., Goodwill Industries, Lighthouse for the Blind) serve as evaluators for this part of the certification process. One-stops that do not meet accessibility standards must develop plans to address deficiencies before they can obtain certification.

Thanks in large part to the state's Nondiscrimination Plan and ADA accessibility standards regarding one-stop certification in Washington, customers with disabilities will find these features, and many others, when they engage in services through one-stops:

- Employment Services partnership and coordination with the Division of Vocational Rehabilitation (DVR), which hosts one-stop orientation/information sessions for customers with disabilities, including referrals from Employment Services and other one-stop staff to DVR and vice-versa.
- Assistive technology in one-stop offices with staff who have special training in the use of the technology.
- Live Chat option for customers who struggle to use the (otherwise self-service) WorkSourceWA.com online labor exchange platform.
- Interpretation, including American Sign Language, upon request.
- A minimum of at least one dedicated assistive workstation in each one-stop that is adjustable and has computing equipment with zoom text and screen-reading technology.
- ADA Navigators – Interested staff take on these roles voluntarily in addition to their regular duties. While the specific services can vary, the services to customers with disabilities typically include, but are not limited to:
  - Facilitating access to one-stop services and supports.
  - Guiding job seekers when they have questions or concerns about their rights in applying for, interviewing for, accepting, and maintaining employment.
  - Providing information and resources to customers and staff with disabilities on how and when to request accommodations during job search, hiring, and post-hiring processes, and when and how to report grievances.
  - Coordinating with one-stop service providers on referrals and service delivery to individuals with disabilities (e.g., Department of Services for the Blind, DVR).
  - Providing employment services to DVR customers whom DVR refers, or who are not eligible for DVR services.
  - Supporting one-stop facility and programmatic access and maintaining, updating, and replacing accessibility equipment such as computer keyboards, ball and foot mouse, writing tools, and tablets. One example is maintaining a computer station designated for users with visual or hearing impairments that includes a screen reader, screen resolution, sound amplifier and/or captions.
  - Training staff on disability laws, such as the ADA, Rehabilitation Act, and amendments, and delivering accessible program activities and materials, such as documents, and PowerPoint

presentations with alternate text. This also includes providing resources such as Web Content Accessibility Guidelines (WCAG), WebAim, and contrast checkers for use in creating accessible materials.

- Providing desk aids and tutorials to staff on the use of accessibility devices and software, such as Ease of Access for Microsoft Windows applications, built-in screen readers and apps, adjusting screen resolution, engaging screen magnifiers, keyboard commands, font size, and background colors.
- Tutorials and training on activities such as serving as human guides to customers with visual impairments.
- Educating staff on the different possible types of disabilities and how to respond to and provide services based on customer-centered needs.
- Awareness of and referral to community-based resources and events for individuals with disabilities.

Additionally, under ESD's Professional Pathways training program, one-stop staff who want to hire or promote into WorkSource Specialist 4 positions must observe and document a two to four-hour desktide engagement between an ADA Accessibility Navigator and a customer with a disability to gain an understanding of the needs of one-stop customers with disabilities. If they do not have an opportunity to shadow an ADA Accessibility Navigator, then they must research the ADA National Network, watch "At Your Service; Welcoming Customers with Disabilities," and discuss what they learned with their direct supervisor.

## **Governor's Committee on Disability Issues and Employment**

The Governor's Committee on Disability Issues and Employment (GCDE) promotes equality, opportunity, independence, and full participation in life for individuals with disabilities. Under the leadership of the current chair, Patricia Bauccio, its 24 members represent a wide range of stakeholders who bring diverse geographic, ethnic and cultural perspectives regarding disability issues. ESD staffs GCDE through an Executive Director who oversees a five-person team of program coordinators and specialists. GCDE's charge is to:

- Advise the Governor, Legislature, and state agencies on policies that affect individuals with disabilities.
- Monitor legislation to ensure equal opportunity and access for employment, education, healthcare, and public services
- Promote understanding of the needs and potential of individuals with disabilities, offering information and awareness training to the public.
- Recognize employers who demonstrate leadership in employing individuals with disabilities.
- Provide training and technical assistance to the business community to promote employment opportunities and awareness of disability issues.
- Conduct activities in barrier-free environments and use appropriate auxiliary aids and services to ensure effective communication.

There are currently two areas where GCDE initiatives intersect with Wagner-Peyser employment services. The first area is the RETAIN (Retaining Employment and Talent After Injury or Illness Network) grant, in which GCDE subcontracts with local workforce development boards in King and Snohomish counties to provide return-to-work services to people who become injured or ill outside of the workplace. The second area is the Ticket to Work Program, currently funded in King and Snohomish counties, under DOL's Disability Employment Initiative. A new Ticket to Work Program is starting in Southwest Washington.



GCDE is available by phone at 360-890-3778, or people can dial 711 to connect to a Washington Relay Service operator. GCDE is also available by email at [gcde@esd.wa.gov](mailto:gcde@esd.wa.gov), and there's additional information available at [esd.wa.gov/GCDE](http://esd.wa.gov/GCDE).

## Employment Security Director of Equity, Diversity and Inclusion

ESD's [values lens](#) embraces a commitment to diversity, equity, and inclusion within the agency as it relates to employees and outside the agency as it pertains to customers, including those with disabilities.

To honor that commitment and implement the agency's strategic goals and objectives around diversity, equity, and inclusion, ESD created the position of Director of Equity, Diversity and Inclusion. This position reports to the Human Resources Director and has regular briefings with the Commissioner.

ESD's Director of Equity, Diversity and Inclusion joined the agency on October 1, 2020. She is currently developing an agency-wide plan that assesses the agency's current state and, based on that assessment, will establish a set of priorities for both outward-facing efforts (how the agency positions its programs, products and services to better address issues of equity, diversity, and inclusion) and inward-facing efforts (how the agency examines and executes its policies and practices to exemplify equity, diversity, and inclusion). She also works closely with the agency's Equal Opportunity team and GCDE (see above) to ensure equal opportunity and equal access for customers.

## Disability data collection and challenges

[RCW 50.12.210](#) places a special emphasis on counseling, referral, and notification of job openings from the full menu of employment services available to customers with disabilities. For this reason, in this report ESD focused on gathering data on Wagner-Peyser Employment Service that customers with disabilities received in program year (PY) 2019 (July 1, 2019 to June 30, 2020). This includes staff-assisted counseling services (i.e., career guidance, individual employment plan, or pre-vocational activities) and staff-assisted job search and referral services, plus all other employment services, which ESD consolidated into a separate "other" category.

Because Employment Services receives DOL funding and is affiliated with WIOA, Employment Services must collect and report to DOL on a range of demographic, service, and outcome data. Employment Services reports the data on a quarterly (ETA 9170) and annual (ETA-9169) basis in accordance with [Participant Individual Record Layout \(PIRL\)](#) specifications.

Data Element 202 of the PIRL captures whether a participant is an individual with a disability:

- Record 1 if the participant indicates that he/she has any "disability," as defined in Section 3(2)(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102). Under that definition, a "disability" is a physical or mental impairment that substantially limits one or more of the individual's major life activities.
- Record 0 if the participant indicates that he/she does not have a disability that meets the definition.
- Record 9 if the participant did not self-identify.

Because participants can choose to not answer, not self-identify, or not self-disclose a disability, ESD does not know whether those who did not answer or did not self-identify were individuals with disabilities.

With that qualifier, PY-2019 PIRL data on Data Element 202 reveal:

- More than 4,600 unique (unduplicated) individuals with disabilities received more than 14,800 staff-assisted workforce counseling services, representing eight percent of all unique customers who received such services.

- Nearly 4,600 unique individuals with disabilities received more than 15,000 staff-assisted job search and referral services; representing six percent of all unique customers who received such services.
- More than 3,700 unique individuals with disabilities received nearly 14,200 other staff-assisted employment services; representing eight percent of all unique customers who received such services.
- Altogether, approximately 6,300 unique individuals received more than 32,700 Wagner-Peyser employment services; representing eight percent of all unique customers who received such services.
- About 20 percent of all unique individuals who received Wagner-Peyser employment services neither answered nor self-identified as either individuals with disabilities or not individuals with disabilities. It's possible that some portion were individuals with disabilities who did not answer or chose not to disclose because of concerns about how the information might adversely impact their employment opportunities.