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## LOCAL POLICY: EQUAL OPPORTUNITY

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<b>Date:</b>	<b>July 08, 2018</b>
<b>To:</b>	UPWARD Talent Council recipients of WIOA funding including: participants, sub-grantees, subcontractors, service providers, employees, partners, providers of training services and other interested parties
<b>From:</b>	UPWARD Talent Council Equal Opportunity Officer
<b>Subject:</b>	Equal Opportunity: Discrimination, Reasonable Accommodations, Limited Language Proficiency
<b>Programs Affected:</b>	All
<b>References:</b>	Workforce Development Agency Policy Issuance (PI) 18-09 Nondiscrimination and Equal Opportunity Requirements; Workforce Development Agency Policy Issuance 18-17, Michigan Works! System Plan (MWSP) Instructions for Calendar Year 2018, the period of January 1, 2015 through December 31, 2019.
<b>Resource:</b>	<a href="https://www.dol.gov/oasam/programs/crc/">https://www.dol.gov/oasam/programs/crc/</a>

## BACKGROUND

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This policy applies to all of UPWARD Talent Council Michigan Works! participants, sub-grantees, subcontractors, service providers, employees, One-Stop partners, providers of training services, and other interested parties. The policy establishes procedures for alleged equal opportunity discrimination complaints. This policy is not intended to unduly supplant or replace federal and state regulations and requirements contained in applicable statutes. If in any instance the use of this policy appears to be in conflict with the rights and authorities given to the UPWARD Talent Council and/or TIA under the regulations, such conflicts must be resolved in the favor the applicable regulation.

In addition to equal opportunity, this policy provides guidance to harassment, reasonable accommodations and limited language proficient as required by the Workforce Innovation and Opportunity Act (WIOA).

## EQUAL OPPORTUNITY AND HARASSMENT

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### **Policy**

UPWARD Talent Council (UTC) employees, all subcontractors and grantees, and sub-recipients thereof of Workforce Development Board funds, must comply with Section 188 of the Act and 29 CFR§38 of the WIOA EO regulations and subsequent changes, along with Title VII of the Civil Rights Act of 1964 and Michigan Civil Rights Act.

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases: against any individual in the United States, on the basis of 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, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the WIOA, on the basis of the individual's citizenship status or participation in any WIOA Title I—financially assisted program or activity.

The recipient must not discriminate in any of the following areas: deciding who will be admitted, or have access, to any WIOA Title I—financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity. Recipients of federal financial assistance must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

UTC including all UTC employees, all subcontractors and grantees, and sub-recipients thereof of Workforce Development Board funds, expressly prohibits and will take quick and decisive measures in response to any form of discrimination, harassment, sexual harassment (physical, including unwelcome touching or gesturing., verbal, including unwelcome requests for a date or sexual favors or lewd remarks or sounds., visual, including unwelcome exposure to sexual photos, cartoons or drawings) or other unlawful harassment (unwelcome behavior that creates a hostile work or training environment) based on race, color, religion, sex, national origin, age, disability, height, weight, genetic information, marital status, arrest without conviction, political affiliation or belief, and for beneficiaries only, citizenship or participation in any federally assisted program or activity.

Furthermore, UTC is committed to protecting any individual who reports harassing conduct or otherwise participates in an investigation or review of such charges.

Interference with the ability of UTC to carry out this policy will not be tolerated. All UTC subcontractors and grantees, and sub-recipients thereof of Workforce Development Board funds are required to adopt and disseminate comparable nondiscrimination and discriminatory harassment policy.

UTC and their sub-recipients will permit all individuals the right to freely express their views and exercise their right to religious freedom.

UTC and their sub-recipients will make “reasonable accommodations” to the known physical or mental limitations of otherwise qualified individuals with disabilities and for religious practices or beliefs, unless the requested accommodation would impose an undue hardship. All participants, employees, applicants for employment, and the general public may request accommodations in accessing agency programs and services. Forms for requesting such accommodations are available upon request at any UTC Michigan Works! Service Center.

UTC will make reasonable modifications to agency policies, practices, and procedures when requested, unless such modifications would result in a fundamental alteration in the nature of UTC programs activity or service. UTC and its sub-recipients will disseminate both public and internal agency notice of the local accommodations process and maintain, as readily available materials, any forms or instructions that are to be used to initiate an accommodations request.

All UTC staff and sub-recipients shall develop an ongoing program of staff training and development on ADA and programs, services and accommodations for persons with disabilities.

### **What to do if you believe you have experienced discrimination:**

If you think that you have been subjected to discrimination under a WIOA Title I– financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either: the recipient’s Equal Opportunity Officer. Complaints are filed with and addressed initially by the local EO officer in accordance with State Policy:

**Cherilynn Lampinen, Equal Opportunity Officer**  
**UPWARD Talent Council**  
**2950 College Avenue**  
**Escanaba, MI 49829**  
**(906) 789-0558 | [eeo@isupward.org](mailto:eeo@isupward.org) | 711 (Voice & TTY)**

Or you may file a complaint directly with the:

**Director, Civil Rights Center (CRC) U.S. Department of Labor**  
**200 Constitution Avenue NW, Room N-4123**  
**Washington, D.C. 20210**

If you elect to file your complaint with the recipient, you must wait until the recipient issues a decision or until 60 days have passed, whichever is sooner, before filing with the CRC (see address above). If the recipient has not provided you with a written decision within 60 days of the filing of the complaint, you need not wait for a decision to be issued, but may file a complaint with CRC within 30 days of the expiration of the 60-day period. If you are dissatisfied with the recipient's

resolution of the complaint, you may file a complaint with the CRC. Such complaint must be filed within 30 days of the date you received notice of the recipient's proposed resolution.

Should any administrative enforcement actions or lawsuits alleging discrimination on prohibited grounds be filed against UTC and/or any of its recipients/provider agencies while administering local workforce programs, the EO Officer will promptly notify TIA. If the pending litigation or enforcement action is filed against a program receiving federal financial assistance from the USDOL, a copy of the notice will be simultaneously filed with the Director of the Civil Rights Center.

**NOTE: THIS PROCEDURE APPLIES ONLY TO CASES OF ALLEGED DISCRIMINATION. NON DISCRIMINATION GRIEVANCES ARE COVERED IN UPWARD TALENT COUNCIL'S COMPLAINT AND GREIVENCE POLICY.**

## REASONABLE ACCOMMODATIONS

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In order to provide a positive experience for applicants for employment, agency staff, general public and where applicable, applicants for program services, who may need special accommodations in order to utilize programs and services funded through Michigan Works! shall abide by the following request for reasonable accommodations process:

### **Requesting Accommodations**

This Policy/Procedure serves as notice that auxiliary aids and services will be made available to individuals with disabilities upon request. Such notices will be made available via worksite posting, meeting announcements, printed materials and other forms of general communications. If a request is made, then UTC will determine in a timely manner (within 30 days) the most appropriate way of providing the accommodation desired.

1. All requests must be in writing and include date of request, name, address, phone number, accommodation requested and whether it is a permanent or temporary request. If accommodation is for a specific event, event date and time must also be given.
2. All requests will be given to the EO Officer for review. If a determination of undue financial burden is necessary the requests will be directed to the Director of Administration.

### **Respect for Religious Beliefs**

All individuals have the right to freely express their views and exercise their right to religious freedom. Should reasonable accommodations for religious practices or beliefs be needed, the request will follow the same process as for Requesting Accommodations listed above.

### **Restructuring Job or Training Programs**

When a participant or employee with a disability or a religious belief requires that a job or a training program be restructured, every consideration will be explored. It is suggested that job descriptions indicate essential duties (such as driving or typing), in order that applicants become

aware of specific expectations. Some conditions may be restructured fairly easily (modified work or training schedules, modified breaks or the use of adaptive equipment). Other restructuring may suggest more complicated solutions, such as the provision of a driver. Such accommodations will be taken under consideration, with respect to duration, cost, availability and other criteria to be explored jointly by the employer and the employee.

### **Modified Work or Training Schedules**

In order to accommodate an employee with a disability or a religious belief that precludes performance within the established work schedule, the following options will be considered as solutions: different starting/ending times, modified work breaks, job sharing, flex time or other variations in schedules. Benefits and/or compensation may be prorated, depending on the total reduction of hours worked, if applicable.

### **Altering Assessment/Testing Techniques**

Most of the assessments performed by UTC are performed in writing or during an interview. When necessary and appropriate, written materials will be read out loud, recorded for playing on audiotape, or enlarged by computer. If a hearing disability exists, and written communication is not effective, efforts will be made to secure the services of an interpreter. The evaluation of altered assessments or test will not adversely affect a person's inclusion in employment.

### **Providing Auxiliary Aids and Services**

All service centers are equipped with computers with a large monitor with enlargement capabilities. Each service center has at least one height adjustable work station to accommodate the appropriate height for the user. Materials generated by UTC will be made available in larger type upon request by individuals with visual disabilities. If available a sign language interpreter will be secured for meetings or interviews with advance notice provided by the individual with a hearing disability. Other unforeseen accommodations will be addressed on an individual basis.

### **Acquiring or Modifying Equipment or Devices**

In addition to the devices already provided, UTC will consider other requests for modified equipment or devices. The acquisition of such devices will take into consideration the duration of need (full time employees may need more permanent solutions than occasional visitors to the One-Stop Center, for example), the cost, the number and frequency of users, and the anticipated benefit to the user. Such a decision will be made by the Director of Administration.

### **Facility Accessibility**

The service centers have been self-evaluated to determine barrier free access. If it is determined that alterations required in the future to continue complying with the Americans with Disabilities Act, the management will consult with the building owner and proceed with the appropriate modification or alterations.

## Determination of Undue Financial Burden

As with most expenditures, consideration will be given to cost versus benefit received. The determination of undue financial burden for accommodations will be made on an individual basis, using the following guidelines to assist in decision-making:

Employees:

1. Is the person who requires accommodations an existing non-probationary employee who requires permanent alterations or accommodations in order to continue to perform his/her job duties? or,

Is the person who requires accommodations a viable candidate for permanent employment who will require permanent alterations or accommodations in order to continue to perform his/her job duties?

2. Will the accommodation cost less than 10 percent of the person's wage?

If the above answers are yes, and funds are available, UTC or a service provider will be expected to provide satisfactory accommodations, unless they can provide a substantial reason not to proceed.

General Public:

3. Is an accommodation needed in order for casual visitors to the One-Stop Center to access frequently used resources?
4. Have other methods of addressing special needs been exhausted (additional staff assistance, alternate formats, assistive technology)?
5. Will the accommodation cost less than \$500?

If the above answers are yes, and funds are available, UTC will be expected to provide satisfactory accommodations, unless they can provide a substantial reason not to proceed.

The final decision to provide reasonable accommodations to individuals with disabilities or a religious belief rests with the Director of Administration.

In responding to requests for reasonable accommodations, UTC and service providers are not required to take any action that they can demonstrate would result in fundamental alteration in the nature of their program activity or an undue financial or administrative burden. UTC or service provider has the burden of proving such alteration or burden exists after considering all resources for use in the operation of the federally funded program, activity or service. Such determination must be made by the agency director or his/her designee, and be accompanied by a written statement of the reasons for reaching that conclusion.

UTC must further provide a copy of the written determination to the individual requesting the accommodation. The determination that a requested accommodation would result in an undue financial or administrative burden does not provide relief from the duty to furnish accommodation or service.

Questions regarding policy or filing a Request for Reasonable Accommodation should be directed to:

**Cherilynn Lampinen, Equal Opportunity Officer**  
**UPWARD Talent Council Michigan Works**  
**2950 College Avenue**  
**Escanaba, MI 49829**  
**(906) 789-0558 TTY#711**  
**eeo@isupward.org**

## COMMUNICATION WITH PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

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UPWARD Talent Council will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits. All interpreters, translators and other aids needed to comply with this policy shall be provided without cost to the person being served, clients and their families will be informed of the availability of such assistance free of charge.

Language assistance will be provided through use of competent bilingual interpretation or translation services, or technology and telephonic interpretation services. All staff will be provided notice of this policy and procedure, and staff that may have direct contact with LEP individuals will be trained in effective communication techniques, including the effective use of an interpreter.

UTC will conduct a regular review of the language access needs of our patient population, as well as update and monitor the implementation of this policy and these procedures, as necessary.

### **PROCEDURES:**

#### **1) IDENTIFYING LEP PERSONS AND THEIR LANGUAGE**

Staff will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification card (or "I speak cards," available online at [www.lep.gov](http://www.lep.gov)), google translate or posters to determine the language. In addition, when records are kept of past interactions with clients or family members, the language used to communicate with the LEP person will be included as part of the record.

#### **2) OBTAINING A QUALIFIED INTERPRETER**

Once staff has determined the need, type of service and language, they will contact the EO Officer to let them know the extent of services required.

Approval or denial will be given for the use of an interpreter service such as the Language Line or similar service.

Once approved, staff will call the Language line at 1-888-808-9008 enter the PIN number and then clearly state the name of the language needed. They will answer no to dial a third party. Once the interpreter is on the line, staff will make sure that the speaker phone is on so that all parties can hear and participate.

When the conversation is over, staff will case note and contact by email the EO officer with the length of time of call and if the service will be needed for a future visit.

Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and after the LEP person has understood that an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the person's file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, competent interpreter services will be provided to the LEP person.

Children and other clients will **not** be used to interpret, in order to ensure confidentiality of information and accurate communication.

**3) PROVIDING WRITTEN TRANSLATIONS**

- a. When translation of vital documents is needed, **UTC** will submit documents for translation into frequently-encountered languages to **the EO Officer**. Original documents being submitted for translation will be in final, approved form with updated and accurate legal and medical information.
- b. Facilities will provide translation of other written materials, if needed, as well as written notice of the availability of translation, free of charge, for LEP individuals.

**4) PROVIDING NOTICE TO LEP PERSONS**

UTC will inform LEP persons of the availability of language assistance, free of charge, by providing written notice in languages LEP persons will understand. At a minimum, notices and signs will be posted in the Labor Laws and Rights section of the public area. Notification will also be provided through the following: outreach documents.

**5) MONITORING LANGUAGE NEEDS AND IMPLEMENTATION**

On an ongoing basis, UTC will assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition UTC will regularly assess the efficacy of these procedures, including but not limited to mechanisms for securing interpreter services, equipment used for the delivery of language assistance, complaints filed by LEP persons, feedback from clients and community organizations, etc.

## INQUIRIES

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Inquiries regarding this policy are to be directed to your supervisor.





# Equal Opportunity is the Law

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases: against any individual in the United States, on the basis of 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, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual’s citizenship status or participation in any WIOA Title I financially assisted program or activity.

The recipient must not discriminate in any of the following areas: deciding who will be admitted, or have access, to any WIOA Title I financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decision is the administration of, or in connection with, such a program or activity.

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## What to Do If You Believe You Have Experienced Discrimination

If you think that you have been subjected to discrimination under a WIOA Title I financially assisted program or activity, you may file a complaint in writing within 180 days from the date of the alleged violation with either: the recipient’s Equal Opportunity Officer (or the person whom the recipient has designated for this purpose):

<p><b>Cherilynn Lampinen, Equal Opportunity Officer</b>  <b>UPWARD Talent Council Michigan Works!</b>          2950 College Avenue          Escanaba, MI 49829          (906) 789-0558, Voice &amp; TTY 711</p>	<p><b>OR</b></p>	<p><b>Director, Civil Rights Center (CRC)</b>  <b>U.S. Department of Labor</b>          200 Constitution Avenue NW, Room N-4123          Washington, DC 20210</p>
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If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (CRS). If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with CRC. However, you must file your CRC complain within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient). If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decisions or resolution, you may file a complaint with the CRS. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.