

**Northern Middle Tennessee Local  
Workforce Development Board, Inc.**  
**NOTICE OF NONDISCRIMINATION & GRIEVANCE PROCEDURES**  
***Equal Opportunity Is the Law***

It is against the law for Northern Middle Tennessee Local Workforce Development Board, Inc. to discriminate on the following bases:

- Against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and
- Against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIA Title I-financially assisted program or activity.

WE, Inc. must not discriminate in any of the following areas:

- Deciding who will be admitted, or have access, to any WIA 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.

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

If you think you have been subjected to discrimination under a WIA Title I—financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either of the following:

North Tennessee Workforce Board		Tennessee Department of Labor		Director, Civil Rights Center (CRC)
Attn: Barbara U, EO Officer	or	and Workforce Development	or	200 Constitution Avenue NW
523 Madison Street Suite A		Attn: EO Officer		Room N-4123
Clarksville, TN 37040		710 James Robertson Pkwy, 1 <sup>st</sup> floor		Washington, D.C. 20210
		Nashville, TN 37243		

If you file your complaint with Northern Middle Tennessee Local Workforce Development Board, Inc. you must wait either until NMTLWDB, Inc. issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with Civil Rights Center (see address above).

If NTWB, Inc. 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 NMTLWDB, Inc. to issue that Notice before filing a complaint with CRC. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with WE, Inc.).

If WE, Inc. does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

## **GENERAL COMPLAINT PROCEDURES**

Any individual, agency bidding for WIA funds, or recipient of WIA funds may file a grievance/complaint. To file a grievance/complaint, one must do the following:

1. The complainant must discuss the matter with the WIA agency. If the matter is not resolved, the complainant must submit a written statement of the grievance/complaint to the appropriate WIA agency representative. A complaint must be filed within one (1) year from the date of the alleged occurrence except for fraud or criminal activity.
2. An informal resolution will be attempted. If the complainant is not satisfied, a request must be submitted in writing for a formal hearing.
3. A hearing will then be scheduled with an impartial hearing officer. The complainant will be notified in writing of the date, time, and place of the hearing at the reasonable convenience of the complainant. At the hearing, the complainant may have representation, and will be afforded the opportunity to present evidence, have witnesses, and to question opposing witnesses. The hearing must be conducted within thirty (30) days of the filing of the grievance.

## **STATE REVIEW**

A review may be requested by the Commissioner of the Tennessee Department of Labor, if the complainant does not receive a decision at the LWIA grant recipient/Title I substate grantee level within sixty (60) days of filing the complaint, or if an unsatisfactory decision is received. A written request may be submitted to the Commissioner, Tennessee Department of Labor, 710 James Robertson Parkway, Gateway Plaza, 2nd Floor, Nashville, Tennessee 37243, within ten (10) days of receipt of the adverse decision, or fifteen (15) days from the date on which a decision should have been received.

## **SPECIAL HANDLING OF LABOR STANDARDS VIOLATIONS**

A complaint alleging Labor Standards violations may be submitted to the Secretary of Labor by either party to the complainant when:

- The complainant has exhausted WE, Inc., and State general complaint procedures, or
- The time period established in WE, Inc., General Complaint Procedures specified for reaching a decision at each level has elapsed without a decision.

The Secretary shall investigate the allegations contained in a complaint alleging labor standards violations, make a determination whether a violation has occurred, and issue a decision within 120 days of receipt of the complaint.

The Secretary may require modification or reversal of the State decision, at which time the Secretary will offer an opportunity for a hearing. If the Secretary upholds a State decision, the determination is

final, and is not appealable.

Except as otherwise provided in this policy, remedies available under this section to a complaint for violations of Section 1434 of the Act shall be limited to:

1. Suspension or termination of payments under the Act;
2. Prohibition of placement of a participant, for an appropriate period of time, in a program under the Act with an employer that has violated Section 143 of the Act, as determined under Section 144(d) or (e) of the Act; and/or
3. Appropriate equitable relief (other than back pay).

### **ALTERNATIVE PROCEDURES FOR HANDLING LABOR STANDARDS VIOLATIONS**

A person alleging a labor standards violation, as an alternative to processing the grievance, may submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides.

A person electing to have her/his complaint on labor standard violations processed under binding arbitration provisions shall (a) choose binding arbitration before, and in lieu of, initiating a complaint under the general complaint procedures, and (b) may not elect binding arbitration for a complaint that previously has been heard. Binding arbitration decisions are not revisable by the Secretary.

The remedies available to a complainant under binding arbitration are limited to those set forth at Section 144(f)(1)(c) and (f)(2) of the Act.

Nothing in this section shall be construed to prohibit a complainant from pursuing a remedy authorized under another federal, state, or local law for a violation of labor standards.

### **NON-WIA REMEDIES**

Whenever any person, organization, or agency believes that the State, grant recipient/Title I sub-state grantee, or other subrecipient has engaged in conduct that violated the Act and that such conduct also violates a federal statute other than WIA, or a state or local law, that person, organization, or agency may, with respect to the non-WIA courses of action, institute a civil action or pursue other remedies authorized under other federal, state, or local law against the State, grant recipient/Title I sub-state grantee, or other subrecipient without first exhausting the remedies stated in the LWIA grievance procedures.

### **AUDIT FINDINGS, INVESTIGATIONS, AND MONITORING REPORTS**

According to Provision Number 11 of the Tennessee Department of Labor's WIA Financial Management Handbook, grievances for Audits will follow the general complaints procedures. This holds true for Investigations and Monitoring reports.

## **Affidavit of Understanding TITLE VI**

I have been advised regarding my responsibilities under Title VI of the Civil Rights Act. I understand that our programs and services may not discriminate on the basis of race, color, or national origin.

I have been provided a copy of the TITLE VI, and have had an opportunity to review the North Tennessee Workforce Board, Inc. Grievance Procedures.

I understand my responsibility to ensure applicants and participants are aware of their rights under TITLE VI and to guide them into the complaint process if the need arises.

Employee Name (print or type) \_\_\_\_\_

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

# **Affidavit of Understanding**

## **TITLE VI**

I have been advised regarding my responsibilities under Title VI of the Civil Rights Act. I understand that our programs and services may not discriminate on the basis of race, color, or national origin.

I have been provided a copy of the TITLE VI, and have had an opportunity to review the North Tennessee Workforce Board, Inc. Grievance Procedures.

I understand my responsibility to ensure applicants and participants are aware of their rights under TITLE VI and to guide them into the complaint process if the need arises.

Employee Name (print or type) \_\_\_\_\_

\_\_\_\_\_  
Employee Signature

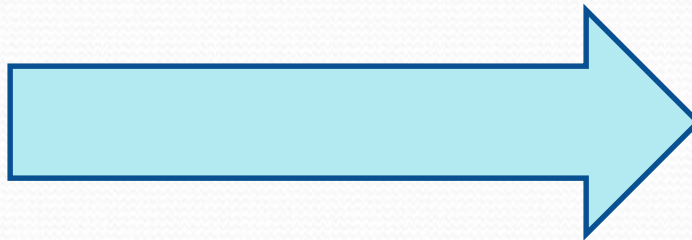
\_\_\_\_\_  
Date

EMPLOYER COPY



**Federal Civil Rights Laws  
Training  
For American Job Center  
Employees**

# One Simple Concept...



Civil Rights  
Obligations

Whenever Federal funds are involved, there are civil rights requirements that follow



# The Office for Civil Rights Enforces:

- Title VI of the Civil Rights Act of 1964
- The Omnibus Crime Control & Safe Streets Act of 1968
- Section 504 of the Rehabilitation Act of 1973
- Title II of the Americans with Disabilities Act of 1990
- Age Discrimination Act of 1975
- Title IX of the Education Amendments of 1972
- Section 1407 of the Victims of Crime Act (VOCA)



# Title VI, Civil Rights Act of 1964

“No Person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any *program or activity* receiving Federal financial assistance.”

## Title VI, Civil Rights Act of 1964

# To Whom do the Provisions Apply?

Generally, the entire department or office within a state or local government is identified as the “*program or activity*.”

- Example: If a project of a county prosecutor receives Federal funds, the entire prosecutor's office is covered, but not the other departments in the county.



## Title VI, Civil Rights Act of 1964

# **Title VI Regulations Prohibit:**

- Providing different services to individuals
- Denying the opportunity to participate as a member of planning or advisory body
- Selecting the location of a facility with the purpose or effect of excluding individuals

# Omnibus Crime Control and Safe Streets Act of 1968

“No person in any state shall, on the ground of *race, color, religion, national origin, or sex*, be excluded from participation in, be denied the *benefits* of, or be subjected to discrimination under or be denied *employment* in connection with any programs or activity funded in whole or in part with funds made available under this chapter.”

# Protected Classes

Race

Color

National  
Origin

Religion

Sex

Disability

Age



# Race

- American Indian or Alaskan Native
- Native Hawaiian or Other Pacific Islander
- Black or African American
- Asian
- White

*Hispanic / Latino: Is not a race, it is an ethnicity*

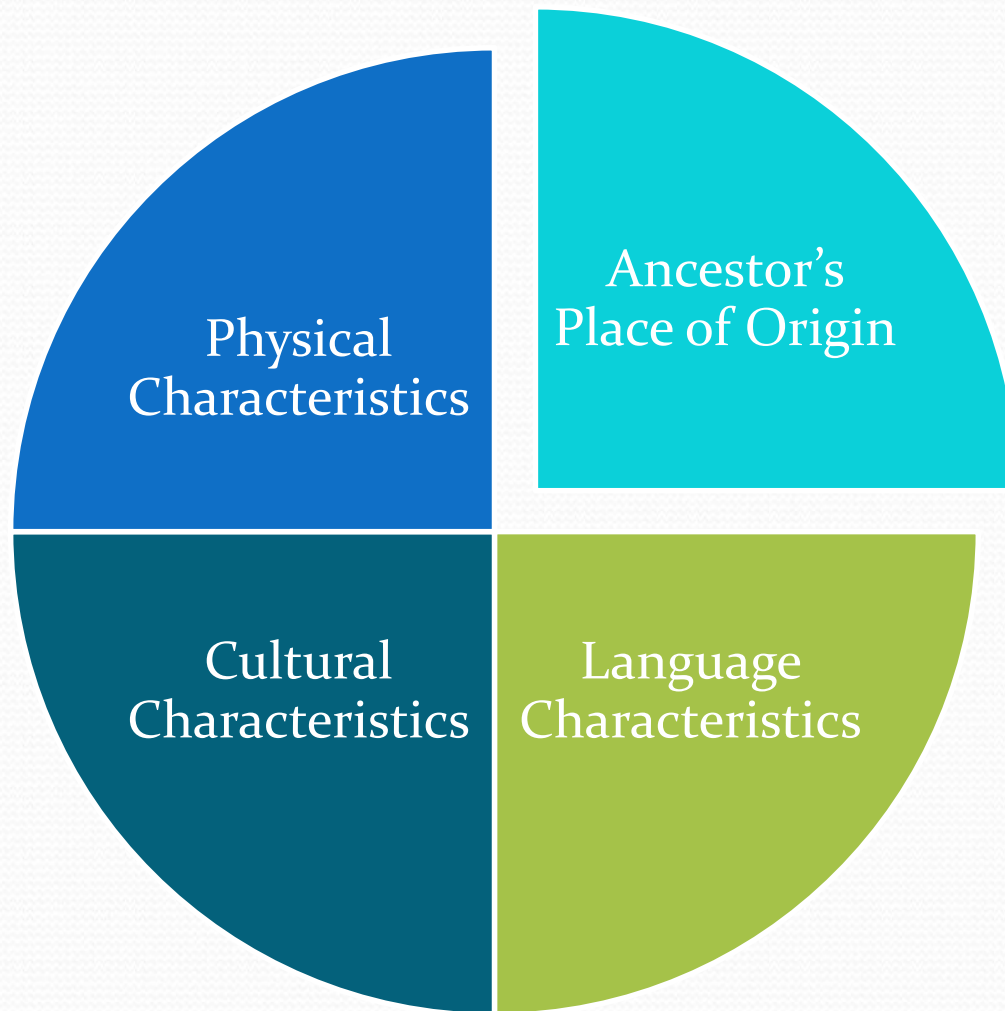


# Color Discrimination



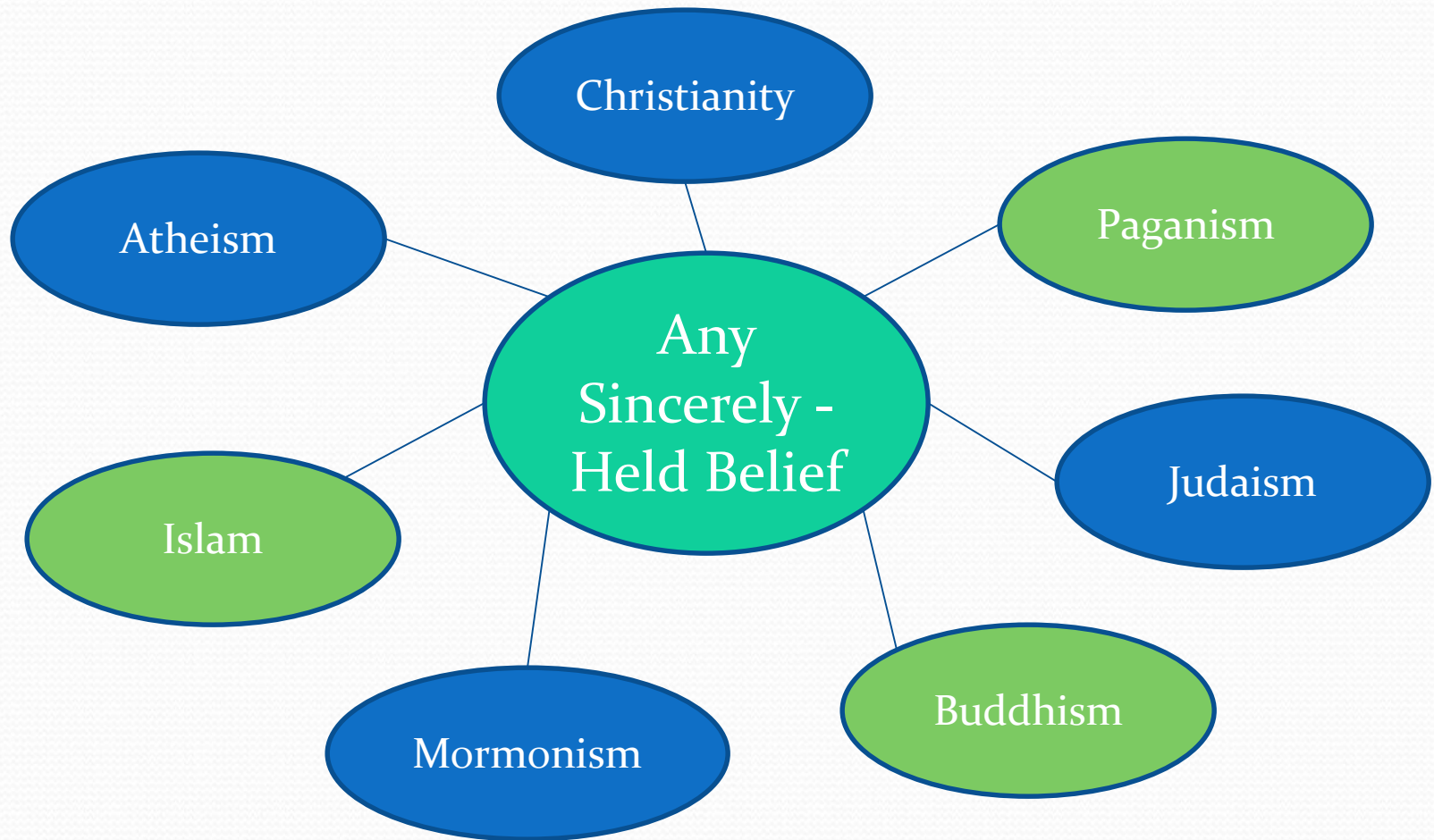
Preference for or aversion to persons of different skin colors, regardless of whether the actor is in the same racial or national origin group

# National Origin



# What is a Religion?

All aspects of religious observance, practice, and belief are protected





# Sex Discrimination Can Occur Between:



# Who is in the “Disability” Class?

Individuals who have, have a record of having, or are regarded as having a *physical or mental impairment* which *substantially limits* one or more *major life activities*.





# What is a Major Life Activity?

*These are activities that an average person can perform with little or no difficulty, such as:*

- Eating
- Walking
- Breathing
- Seeing
- Hearing
- Speaking
- Learning
- Sitting
- Caring for oneself
- Working
- Performing manual tasks
- Standing
- Lifting
- Reading



# Disability Definitions

- **Mental Impairment:** includes any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

# Disability Definitions

- **Physical Impairments:** any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following systems:

- Neurological
- Musculoskeletal
- Special Sense Organs
- Respiratory
- Speech Organs
- Cardiovascular

- Reproductive
- Digestive
- Genito-Urinary
- Hemic
- Lymphatic
- Skin
- Endocrine



# Disability Definitions

- **Substantially Limits:** means the individual must be unable to perform, or be significantly limited in the ability to perform, an activity compared to an average person in the general population. Courts have looked at *three factors* in determining whether someone is substantially limited:
  1. **Extent:** its nature and severity
  2. **Duration:** How long it will last or is expected to last
  3. **Impact:** Its long term impact or expected impact

# Disability Definitions

- Exclusions:

- A person who currently uses illegal drugs is not protected by the ADA
- Homosexuality and bisexuality are not impairments and are therefore not disabilities covered by the ADA



# Age Discrimination Act of 1975

- Prohibits Federally funded organizations from discriminating against *persons of any age* in its programs and activities
- *Does not cover* discrimination in employment
- EEOC enforces the *Age Discrimination in Employment Act*, which prohibits employment discrimination against persons over the age of 40

# Employment Discrimination

## Five Forms of Employment Discrimination:

1. Disparate Treatment
2. Adverse Impact
3. Harassment
4. Failure to Accommodate
5. Retaliation



# Disparate Treatment

- Consists of *intentional discrimination* where an employer deliberately takes an adverse action against an employee based on:
  - Race
  - Color
  - National origin
  - Sex
  - Religion
  - Disability

# How Do You Prove Intentional Discrimination?

- Direct Evidence
- Indirect Evidence, such as:
  - Similarly situated people of a different class were treated differently than the complainant
  - Evidence of bias
  - False explanation for the differential treatment
  - Statistical evidence



# What is Adverse Impact?

**Adverse Impact** occurs when an employer has a neutral policy or practice which has the *effect* of excluding employees of a particular race, color, sex, national origin, religion, or disability.

# Adverse Impact Examples

The following are examples of employment policies which have been found to cause an adverse impact:

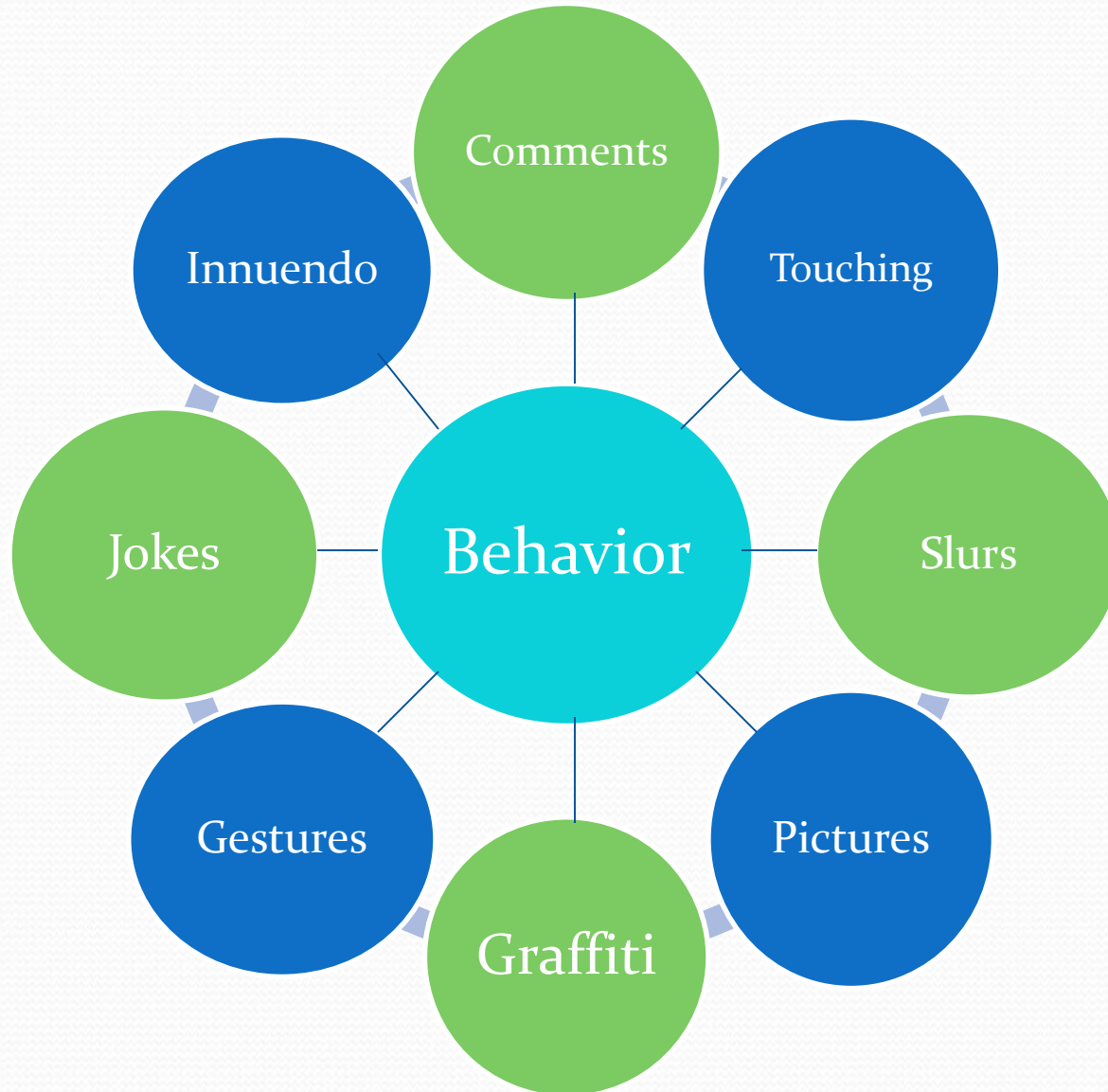
1. Minimum height requirements
2. Certain educational requirements
3. Physical agility tests
4. No beard policies



# What is Harassment?

Harassment is behavior which creates a hostile work environment for individuals *because of* their race, sex, color, national origin, religion, or disability

# What is Harassment?





# What Makes a Work Environment Hostile?

- A stray remark is *not enough* to constitute a hostile work environment
- The harassment must be *sufficiently severe or pervasive* to alter the terms and conditions of employment

# Determining Severity or Pervasiveness – Six Factors

Use a *reasonable person standard* to determine the following:

1. Was the conduct verbal or physical or both?
2. How frequently was the conduct repeated?
3. Was the conduct hostile or merely offensive
4. Was the harasser a co-worker or supervisor?
5. Did others join in the harassment?
6. Was the harassment directed at more than one individual?



# Accommodation: Religion & Disability

- An employer must make a reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability
- An employer must make a reasonable accommodation to the known religious beliefs or practices of an applicant or employee



# Protection for Employees

- Retaliation against an employee for opposing an unlawful employment practice or participating in an investigation, proceeding, or hearing under the following statutes is *prohibited*:
  - Title VI of the Civil Rights Act
  - The Americans With Disabilities Act
  - The Omnibus Crime Control and Safe Streets Act
  - Title IX of the Education Amendments
  - The Rehabilitation Act
  - The Age Discrimination Act

# Protection for Employees

- As long as an employee had a reasonable and good faith belief that the employer's conduct was illegal, even if the employee turns out to be wrong, the employee is protected
- However, if the way the individual chooses to protest perceived discrimination is unreasonable or if the opposition is false and malicious, the anti-retaliation provisions will not apply



# Discrimination in Delivery of Services

Whenever a service is provided, there are potential beneficiaries, and those beneficiaries must be treated equally regardless of race, sex, national origin, age, color, disability, or religion

- Think of a program in which you are involved that receives federal funding:
  - Who are the potential beneficiaries?
  - What are the potential civil rights issues?



# Limited English Proficiency

- A *Limited English Proficient* (LEP) person has a first language other than English and a limited ability to read, speak, or understand English.
- National Origin Discrimination includes discrimination on the basis of LEP
- Recipients of Federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important benefits, rights, programs, information and services.

# Limited English Proficiency

To avoid discrimination against LEP persons, recipients must do the following:

- Take *reasonable steps* to ensure *meaningful access* to the programs, services, and information the recipients provide, *free of charge*.
- Establish and implement *policies and procedures* for language assistance services that provide LEP persons with meaningful access.



# Limited English Proficiency

## Determining Reasonable Steps: Four Factor Analysis –

1. The *number or proportion* of LEP persons served or encountered in the eligible service population
2. The *frequency* with which LEP individuals come in contact with the program
3. The *nature and importance* of the program, activity, or services provided by the program
4. The *resources* available to the recipient



# Limited English Proficiency Language Services

## Oral Language Services

- Bilingual Staff: Direct foreign language communication by fluent personnel
- Interpreters: Ensure interpreter competency. Usually family members, friends, and uncertified co-workers are not appropriate

## Translation

- Safe Harbor Provision:
  - Applies only to translation of written materials
- Based on number of LEP persons served



---

## ***Certificate of Training***

---

This is to certify that I have successfully completed  
Federal Civil Rights Laws Training

---

# Training

Date\_\_\_\_\_

Employee Name\_\_\_\_\_

Employee Signature\_\_\_\_\_



**Americans with Disabilities Act - ADA**



# Learning Goals & Objectives:

## Goal:

Ensure that all Workforce Essentials employees and clients are treated with respect and dignity to create an environment free from disability related discrimination and harassment.

- Understand how to better interact with individuals with disabilities
- Have a basic understanding of the Americans with Disabilities Act, as amended (ADA)
- Identify resources for employees or clients who may have a disability and need reasonable accommodation.



# Why is this training important?

- People with disabilities are a diverse group, crossing lines of age, ethnicity, gender, race, sexual orientation, and socioeconomic status.
- Approximately 54 million Americans have at least one disability making people with disabilities the largest minority group in the United States, making up an estimated 20% of the total population.
- As the baby boomer population ages and more veterans return from war with injuries, this number is expected to double within the next 20 years.
- It is more likely that you will work or have worked with someone with a disability.
- Attitudes and stereotypes remain barriers to successful employment reported by people with disabilities.



# “People First”

The concept of “ people first” language is to focus on the individual first and foremost rather than on his/ her disability.

- Treat adults as adults.
- Use people first language.
- Use eye contact and speak directly to the person with a disability.
- If you offer assistance, wait until the offer is accepted.
- Be considerate of the extra time it may take a person with a disability to perform a major life activity.
- Everyone makes mistakes from time to time, if you make a mistake and offend someone....apologize.
- Do not make assumptions about a person’s needs or wishes- everyone is different.
- Relax, it is okay to ask questions when you are unsure of what to do.





# Overview of the ADA

- Protects individuals from discrimination on the basis of his/her disability, perceived disability, or association with an individual with a disability.
- Requires employers to provide reasonable accommodations to qualified individuals with a disability to allow the person to perform the essential functions of his/her job.
- Restricts disability related inquiries.



# Who is a person with a disability?

- A physical or mental impairment that substantially limits a major life activity-

The impairment impacts on the major life activity is evaluated without regard to mitigating measures such as medical treatment, medications, or assistive devices.

- Record of such an impairment
- Regarded as having such an impairment



## Examples of Qualifying Physical or Medical Impairments:

- Autism
- Cancer
- Diabetes
- Deafness
- Blindness
- Cerebral Palsy
- Post-Traumatic Stress Disorder
- Obsessive-Compulsive Disorder
- Partially or Completely Missing Limbs
- Mobility Impairments Requiring the Use of a Wheelchair
- Intellectual Disability
- Epilepsy
- HIV/AIDS
- Bipolar Disorder
- Major Depression
- Multiple Sclerosis
- Muscular Dystrophy





# Qualified Individual with a disability:

A qualified individual is someone who:

- Meets the skill, experience, and education requirements of the position; and
- Can perform the essential functions or basic duties of the job with or without accommodations.

Thus, if an individual with a disability is not qualified for a position despite possible reasonable accommodations, the ADA does not require that an employer hire or retain that individual even if the person's inability to do the job is caused by his or her disability. At the heart of the ADA is the requirement to provide reasonable accommodations, as these accommodations are designed to help level the playing field so that an individual with a disability has equal access and opportunity to succeed in a job.



# Reasonable Accommodation:

The purpose of reasonable accommodations is not to provide an advantage but to make the person's opportunity for success equal to someone who does not have a disability. A *reasonable accommodation* is any modification or adjustment to a job, practice, policy, or the work environment that allows an individual with a disability to participate equally in an employment opportunity.

Approximately 50% of reasonable accommodations cost absolutely nothing. The vast majority of the other reasonable accommodations have a limited one-time cost of an average of \$600.

Examples of accommodations include but are not limited to:

- Making existing facilities accessible
- Modifying a work schedule
- Altering training materials, tests, or policies
- Acquiring or modifying equipment
- Providing an interpreter
- Restructuring a job
- Leave without pay
- Reassignment to a vacant position



# Reasonable Accommodation Process:

An employee who believes he or she has a disability and needs an accommodation should contact Human Resources.

A supervisor or Human Resources staff member who believes an employee might have a disability and is in need of an accommodation should also contact Human Resources.

A trained evaluator within Human Resources will enter into a confidential interactive process with the employee. This process is an open dialogue between the employee and the evaluator to determine what challenges the employee is having and what reasonable accommodations might help the individual overcome those challenges.

The role that a supervisor has in the process will be to discuss the business needs of the unit and implement approved reasonable accommodations. Confidential medical information is not shared with the employee's supervisor at any point during the evaluation and accommodation request process.

The trained evaluator will obtain and review medical documentation and determine whether:

- 1) The employee is a qualified individual with a disability; and, if so,
- 2) What accommodations are reasonable and effective in assisting the employee.





# Reasonable Accommodation:

The ADA requires employers to provide accommodations to qualified individuals with disabilities:

*This means reasonable accommodations, not all accommodations;*

*Effective accommodations, not an employee's preferred accommodations;*

*Accommodations must not pose an undue hardship to the employer, which evaluates how disruptive or expensive an accommodation might be.*

It is the employee's responsibility to make a request for reasonable accommodation. There are no magic words the employee has to say.



# Employee Privacy: Medical Information:

Privacy of employees is an important component of the ADA evaluation process, and disclosing medical information or asking certain questions violates Purdue policy as well as the ADA.

Medical information learned during the interactive process, including the specific impairment, is not disclosed to an employer's manager. Accommodation information is shared with a supervisor on a need-to-know basis.

Medical information is not shared with co-workers.

If an individual requires an accommodation during the job application process, information about the nature of the applicant's disability is not shared with hiring supervisors.



## Summary:

- Use “people first” language to focus on the individual first and foremost rather than on the individual’s disability.
- The ADA protects individuals from discrimination on the basis of his/her disability, perceived disability, or association with an individual with a disability; requires employers to provide reasonable accommodations to qualified individuals with a disability to allow the person to perform the essential functions of his/her job; and restricts disability-related inquiries.
- It is the employee’s responsibility to make a request for reasonable accommodation. There are no magic words the employee has to say to be considered a request for a reasonable accommodation.







---

## ***Certificate of Training***

---

This is to certify that I have successfully completed  
American with Disabilities Act

---

## **Training**

Date \_\_\_\_\_

Employee Name \_\_\_\_\_

Employee Signature \_\_\_\_\_