LOWCOUNTRY
Workforce Innovation and Opportunity Act

ACCESSIBILITY CONFIDENTIALITY AND REASONABLE ACCOMMODATION POLICY

TO: SC Works Lowcountry Operator, WIOA Program Service Provider, Staff and Partners

ISSUANCE DATE: November 1, 2021

EFFECTIVE DATE: November 1, 2021

SUBJECT: Accessibility, Confidentiality and Reasonable Accommodation

PURPOSE:
Entities within the SC Works Centers, a proud partner of the American Job Center Network (AJC), are required to have a policy on accessibility, confidentiality and reasonable accommodation that addresses the provisions identified herein. As set forth in the regulations (29 CFR Part 38) implementing Section 188 of WIOA, SC Works Centers have an obligation to make reasonable modifications to its policies, practices, and procedures to ensure equal opportunity for individuals with disabilities. Further, any entity that receives financial assistance under Title I of WIOA is a recipient obligated to ensure nondiscrimination and equal opportunity. This includes State and local Workforce Development Boards, SC Works operators, service providers, vendors, and subrecipients. This policy is directed toward ensuring that the programs, services (including services using technology and the Internet), and facilities of the SC Works Center delivery system are accessible to all.

BACKGROUND:
The Workforce Innovation and Opportunity Act (WIOA) stress physical and programmatic accessibility, including the use of accessible technology to increase access to high quality workforce services to individuals with disabilities. Title I of WIOA assigns responsibilities at the local, State and Federal levels to ensure the creation and maintenance of SC Works Centers that enhances the range and quality of workforce development services that are accessible to individuals seeking assistance. WIOA Title I prohibits discrimination on the basis of race, color, national origin, sex, age, disability, religion, political affiliation or belief, and participant status. Although gender identity is not an explicitly protected basis under the applicable federal laws, discrimination based on gender identify, gender expression, and sex stereotyping has been interpreted to be a form of prohibited sex discrimination, including under laws that apply to federal financially assisted training, education programs, and employment activities.

POLICY:
No individual is to be excluded from participation in, denied benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any program or activity,
funded in whole or in part under WIOA, because of race, color, religion, sex, national origin, age, disability, political affiliation or belief. This policy reflects all aspects of the SC Works Centers, partners and, programs, including: Registration and orientation; initial screening, assessment, and testing; and service delivery.

Prohibition on the Basis of Disability
A recipient is obligated to provide physical and programmatic accessibility and reasonable accommodation/modification in regard to the WIOA program, as required by Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 188 of WIOA. SC Works Centers are required to provide reasonable accommodation for individuals with disabilities to ensure equal access and opportunity. The term “reasonable accommodation” is defined in the current Section 188 regulations as “modifications or adjustments to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, training or employment that the qualified applicant/registrant desires;” or “modifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job, or receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities;” or “modifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated qualified individuals without disabilities.” The ADA defines a “disability” with respect to an individual to mean a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such an impairment, or being regarded as having such an impairment.

WIOA Program Accessibility
When providing aid, benefits, or services under a WIOA Title I financially assisted program or activity, a recipient must not directly or through contractual, licensing, or other arrangements, on the ground of disability: (1) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefits, services, or training; (2) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefits, services, or training that is not equal to that afforded others; [3] Provide a qualified individual with a disability with an aid, benefit, service or training that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others; (4) Provide different, segregated, or separate aid, benefits, services, or training to individuals with disabilities, or to any class of individuals with disabilities, unless such action is necessary to provide qualified individuals with disabilities with aid, benefits, services or training that are as effective as those provided to others; (5) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards; or (6) Otherwise limit a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service or training. Separate or different programs or services for individuals with disabilities are not prohibited under the ADA; however individuals with disabilities cannot be forced to participate in these programs instead of WIOA Title I financially assisted programs or activities.

Confidentiality
Medical information obtained in connection with the reasonable accommodation process must be kept confidential. This means that all medical information that is obtained in connection with the request for a reasonable accommodation must be kept in a separate file from the individual’s case file or personnel file. This includes the fact that a reasonable accommodation has been requested or approved and information about functional limitations. These confidentiality guidelines must be followed by all staff
involved in the process. SC Works Trident Operator, Service Provider, Partners and staff shall ensure that information is only used for the purpose of record keeping, reporting, determining eligibility, or financially assisted program activities. Any information that could lead to identification of a particular individual’s medical or other confidential information such as background, driving record or other personal information must be kept confidential. Confidential Records are to be stored in a separate location from the hard file and stored in a locked file cabinet or drawers. Confidential records of exited cases must be stored separate in locations from the hard file and in a locked file cabinet or drawers. The confidential file should be labeled with the participant’s name and state id. Access to confidential file folders should be limited to:

- For Active Cases, the current WIOA staff
- Exited cases should be limited to WIOA staff maintaining the storage of such files.

**Reasonable Accommodations**

It is required that reasonable accommodation be provided to employees, partners and customers with disabilities. With regard to aid, benefits, services, training, and employment, a recipient must provide reasonable accommodation to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship. Definitions of the terms “reasonable accommodation” and “undue hardship” are specified in 29 CFR § 38.4.

Titles II and III of the ADA makes it clear that service animals are allowed in public facilities and accommodations are required. A service animal must be allowed to accompany the handler to any place in the building or facility where members of the public, program participants, customers, or clients are allowed. Even if the business or public program has a “no pets” policy, it may not deny entry to a person with a service animal. Service animals are not pets. So, although a “no pets” policy is perfectly legal, it does not allow a business to exclude service animals.

When a person with a service animal enters a public facility or place of public accommodation, the person cannot be asked about the nature or extent of his disability. Only two questions may be asked:

1. Is the animal required because of a disability?
2. What work or task has the animal been trained to perform?

These questions should not be asked, however, if the animal’s service tasks are obvious. For example, the questions may not be asked if the dog is observed guiding an individual who is blind or has low vision, pulling a person’s wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability.

A public accommodation or facility is not allowed to ask for documentation or proof that the animal has been certified, trained, or licensed as a service animal. Local laws that prohibit specific breeds of dogs do not apply to service animals.

**Auxiliary Aids, Services and Assistive Technology**

To afford individuals with disabilities an equal opportunity to participate in and enjoy the benefits of the WIOA Title I program or activity, a recipient must furnish appropriate auxiliary aids or services where necessary. In determining what type of auxiliary aid or service is appropriate and necessary, recipients must give primary consideration to the requests of the individual with a disability. Primary consideration means honoring the choice unless the agency can demonstrate that another equally effective means of
communication is available, or that using the means chosen would result in a fundamental alteration in the service, program, activity, or undue financial and administrative burdens.

**PROCEDURES:**
In case of an emergency, contact appropriate emergency service first and then notify the Center Manager or designated staff/partner immediately.

**Reasonable Accommodations**
One key aspect of ensuring equal opportunity for individuals with disabilities who are applicants, registrants, participants and applicants for employment with regard to aid, benefits, and training is the provision of reasonable accommodations. SC Works Centers are required to provide reasonable accommodations for individuals with disabilities to ensure equal access and opportunity. A reasonable accommodation is a change in the way the program is administered that enables an individual with a disability to receive benefits, services and training equal to those provided to individuals without disabilities. There are many forms of reasonable accommodations and the individual with a disability and the SC Works centers should work together to identify the most effective reasonable accommodation for each individual through informal discussions known as the “interactive process” whereby the individual is provided the opportunity to articulate their needs and the SC Works Centers is able to determine how best to meet those needs. The process of identifying and providing a reasonable accommodation should be done as quickly as possible to avoid delaying access to services.

Each SC Works Center is required to prominently display signage, “Notice of Reasonable Accommodations and Assistive Technology Available upon request” Signage shall be placed in the front entrance areas, resources rooms and at the desk for all staff, services providers and partners in the SC Works Centers.

The proper steps to follow in processing requests for reasonable accommodation are:

1. Customers should notify the front desk staff of the request.
2. Front desk staff will complete the attached state form and notify the appropriate partner/program supervisor of the request.
3. The form should also be given to the SC Works Center Operator or designated staff to ensure follow-up of accommodation request.

The appropriate financial staff should be contacted and included in the accommodation request.

SC Works Lowcountry Operator/Staff may ask someone for medical documentation when the disability and/or need for reasonable accommodation is not obvious.

- Reasonable documentation establishes the person has an actual, current disability, and the disability necessitates a reasonable accommodation. SC Works Trident Operetor/Staff may require the documentation comes from an appropriate healthcare provider or rehabilitation professional.

**Lowcountry Workforce Director**

Michael V. Butler

Date 1/1/2012