



A proud partner of the AmericanJobCenter network

Equal Opportunity Discrimination Complaint Policy and Procedures Workforce Innovation and Opportunity Act Region 1 Workforce Development Board

GENERAL PROVISIONS

Section 188 of the Workforce Innovation and Opportunity Act (WIOA), and the implementing regulations at 29 CFR Part 37, prohibits discrimination because of race, color, religion, sex, national origin, age, disability or political affiliation or belief, in both participation and employment. The WIOA nondiscrimination regulations prohibit discrimination in all aspects of the administration, management, and operation of WIOA programs and activities. The State of West Virginia has adopted the following procedures for processing complaints alleging violations of the nondiscrimination and equal opportunity provisions in a WIOA Title I-financially assisted program or activity.

DEFINITIONS

Beneficiary – Individual or individuals intended by Congress to receive (and benefit from) aid, benefits, services, or training from a recipient of Federal financial assistance under a program or activity established by Federal statute.

CRC – U.S. Department of Labor / Office of Assistant Secretary for Administration and Management / *Civil Rights Center*.

Complainant – Individual filing discrimination complaint based on race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, on the basis of either citizenship as a lawfully admitted immigrant authorized to work in the United States, or participation in a WIOA Title I financially assistance program or activity.

Federal Financial Assistance – Refers to more than just dollars and cents. It can include nonmonetary forms of assistance, such as the provision of personnel at the grantmaking/recipient agency's expense, or the grant or donation of property, among other things.

Mediation – A process of alternative dispute resolution whereby negotiation of issues are facilitated by a neutral party. It is a voluntary and confidential process, and can result in a binding agreement.

Recipient – Any entity that receives financial assistance under WIOA Title I, either directly from the US Department of Labor or through the Governor or another recipient. American Job Center Partners are considered recipients to the extent that they participate in the one-stop delivery system.

Respondent – A grant applicant or recipient against whom a complaint has been filed under the nondiscrimination and equal opportunity provisions of WIOA.

BACKGROUND

This policy is intended to ensure that the Workforce Development Boards (WDBs) and other grant recipients/program providers implement complaint policies and procedures in compliance with guidelines provided by the Director, Civil Rights Center, U.S. Department of Labor (CRC), regarding the nondiscrimination/equal opportunity provisions of Title I of the Workforce Innovation and Opportunity Act (WIOA).

Section 188 of Title I of WIOA prohibits discrimination on the basis of: race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, on the basis of either citizenship as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I financially assisted program or activity. Each Workforce Development Area has designated a Local Equal Opportunity Officer who is responsible for adopting and publishing policies and complaint procedures, and ensuring compliance. A recipient/program provider must provide initial and continued notice that it does not discriminate on any prohibited ground. A copy of the "Equal Opportunity is the Law" notice is provided to each participant and made a part of each participant's file per the regulations. If a complaint is filed, a copy of this Equal Opportunity (EO) Discrimination Complaint Processing Policy and Procedures is to be provided to the complainant.

POLICY AND PROCEDURE

Discrimination Complaint and Filing

All grant recipients/program providers under Title I of WIOA are responsible for complying with the discrimination complaint procedures consistent with 29 CFR Part 37, as outlined in this policy: Any person who believes that he or she, or any specific class of individuals, has been or is being subjected to discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in WIOA Title I, has the right to file a complaint within one hundred and eighty (180) calendar days of the alleged discrimination. The filing period may be extended for good cause in some limited circumstances. However, only the Director of CRC may extend the filing time.

Receipt of Complaint

A complainant must file a complaint within 180 days of the alleged act(s) of discrimination. If the complainant elects to file with an employee in a WorkForce West Virginia American Job Center, that employee will immediately accept the complaint and forward the complaint to the WorkForce West Virginia EO Officer. The complainant may file with WorkForce West Virginia or the Department of Labor, Director, Civil Rights Center (Federal). Filing a complaint with WorkForce West Virginia does not affect a complainant's right to file a complaint with the Civil Rights Center if he or she is not satisfied with the resolution provided by WorkForce West

Virginia. The WorkForce West Virginia EO Officer is responsible for determining if the complaint is covered by 29 CFR Part 37, and for resolving jurisdictional issues, if any. Complaints may be submitted to:

STATE

Vickie Elkins, EO Officer
WorkForce West Virginia
Equal Opportunity Office
112 California Avenue
Charleston, WV 25305
Phone: (304) 558-1600
TDD: (304) 558-1549

FEDERAL

Naomi M. Berry-Perez, Director
U.S. Department of Labor
Civil Rights Center (CRC)
200 Constitution Avenue
Room N-4123
Washington, DC 20210
Phone: (202) 693-6502
TDD: (202) 693-6515

Forms Used to File Complaint

State- An individual may file a complaint at the state level by completing and submitting the WorkForce West Virginia Discrimination Complaint Form which may be obtained from any local Workforce Development Board, WorkForce West Virginia American Job Center, or the WorkForce West Virginia Equal Opportunity Officer. The choice whether to use mediation or the customary investigative process rests with the complainant. The Mediation process is outlined in the section, "Mediation", discussed later in this policy. *(EDITOR NOTE: access to form and procedures will be incorporated on the WFWV website that is currently being updated)*

Federal – An individual may file a complaint by completing and submitting the Civil Rights Center's Complaint Information and Privacy Act Consent Forms, which may be obtained from the WorkForce West Virginia Equal Opportunity Office, or from the U.S. Department of Labor's Civil Rights Center website at <http://www.dol.gov/oasam/programs/crc/external-enforc-complaints.htm>.

The complaint document must contain the following information: Complainant's name and address, or other means by which the complainant can be contacted; Identification of individual(s) or organization(s) responsible for the alleged discrimination; and a description of the complainant's allegations, which must include enough details to determine:

- Recipient's jurisdiction of the complaint.
- If the complaint was filed timely (within 180 days).
- Specific prohibited bases of the alleged discrimination (i.e., race, sex, etc.).
- Apparent merit of the complaint.
- Complainant's or authorized representative's signature.

Right to Representation – Both the complainant and respondent have the right to be represented by an attorney or other individual of their choice. The complainant will be offered the option to participate in mediation, or follow the customary state level complaint process. Any person electing to file at the state level shall allow WorkForce West Virginia 90 days (from the date of receipt) of complaint to process the complaint.

If it is determined that the recipient does not have jurisdiction over a complaint, the complainant will be notified in writing by the EO Officer of WorkForce West Virginia of one or more of the following reasons:

- The basis for the complaint is not covered by the prohibitions set forth by 29 CFR Part 37.
- The complaint was not filed within the prescribed 180 days of the alleged violation.
- The complaint is against an entity that is not a recipient of WIOA Title I financial assistance as defined under 29 CFR Part 37.

If the recipient does have jurisdiction, the WorkForce West Virginia EO Officer will provide written notice to the complainant within 10 working days from the date of receipt of complaint. The written notice will contain the following:

- 1) Acknowledgment that the complaint has been received, and that the Respondent was been notified that a complaint has been filed.
- 2) Notice that complainant has the right to be represented in complaint process.
- 3) A written statement of the issue(s) provided by the complainant, including a statement as to whether the recipient will accept or reject the issues, and the reasons for rejection.
- 4) A period of fact finding or investigation of the circumstances underlying the complaint, which may take about 20 working days.
- 5) A brochure explaining the mediation process will be attached. The option to mediate rests with the complainant. The complainant will be requested to notify the WorkForce West Virginia EO Officer within 5 days of receipt of the written notice if he/she wishes to participate in mediation. If the complainant elects mediation, the process outlined below, captioned "Mediation", shall be followed.
- 6) Respondent will be notified that a complaint alleging discrimination has been filed and is being processed. A summary of the complaint and a notice that retaliation is against the law will be provided to respondent. The respondent will be also be notified if mediation has been chosen by the complainant as a means of resolution.

- 7) If, at the end of the 90 days, WorkForce West Virginia has not completed its fact finding or investigation, or failed to issue a Notice of Final Action, the complainant or his/her representative may, within 30 days of the expiration of the 90 days period, file a complaint with the Civil Rights Center.
- 8) Notice that if the Notice of Final Action is issued during the 90-day period, and the complainant is dissatisfied with the decision, the complainant has a right to file a complaint with the Civil Rights Center, within 30 days of the date on which the complainant receives the Notice of Final Action.

Mediation

The choice whether to use mediation or the customary investigative process rests with the complainant. If the complainant chooses mediation the respondent will be notified. WorkForce West Virginia mediation procedures are as follows:

- 1) If mediation is elected, the WorkForce West Virginia EO Officer will notify the mediator within 2 days of the receipt of the Mediation Election Form. The session will begin no later than 15 calendar days after the mediator is notified.
- 2) Parties will receive notice of where and when the mediation will be conducted.
- 3) Two (2) calendar days will be allowed for the mediation session to achieve a resolution. If the parties do not reach an agreement within the two-day mediation session, a notice will be issued within 15 calendar days from the end of the two-day mediation session, outlining the facts or circumstances relevant to the attempt to settle the issues. Notice will be given that the complaint has been referred for investigation.
- 4) If mediation was used successfully, a description of the resolution will be provided. A copy of the Settlement Agreement will be provided to the complainant and respondent within 15 days from the conclusion of the mediation session and the agreement will contain the following:

Signatures of mediator, complainant and respondent.

Description of the settlement of the issues.

Future responsibilities of both parties.

Notice of rights, to both complainant and respondent, that if either party to the agreement breaches the agreement, then the non-breaching party may file a complaint with the CRC within 30 days of the learning the agreement was breached.

- 5) If the parties do not reach an agreement under mediation, the complaint will be referred for investigation.

Breach of Settlement Agreement

A party to any agreement reached under mediation may file a complaint with the Civil Rights Center in the event the agreement is breached.

The non-breaching party may file a complaint with the Civil Rights Center within 30 days of the date on which the non-breaching party learns of the alleged breach.

If the Civil Rights Center determines that the respondent has breached the agreement, the complainant may file a complaint with the Civil Rights Center based upon his or her original allegations and the Civil Rights Center will waive the time deadline for filing such a complaint.

Notice of Final Action

The complainant shall allow WorkForce West Virginia 90 days from the date the complaint was received to process the complaint and issue a written Notice of Final Action. The complainant and respondent will be notified of the decision. The following will be covered in the notice:

- 1) An explanation of each issue that was accepted for investigation and the resolution.
- 2) The respondent will be notified if action needs to be taken, what that action is, and when that action needs to be completed.
- 3) If the Notice of Final Action is issued during the 90-day period, and the complainant is dissatisfied with the decision, the complainant, or his or her representative, has a right to file a complaint with the Civil Rights Center within 30 days of the date on which the complainant receives the Notice of Final Action. Only the Director of the Civil Rights Center may extend the 30-day time limit for good cause shown. The complainant has the burden of proving, to the Director, Civil Rights Center, that the time limit should be extended.
- 4) If, at the end of the 90 days, WorkForce West Virginia has not completed its processing of the complaint or failed to issue a Notice of Final Action, WorkForce West Virginia will notify the complainant, or his or her representative, that the processing of their complaint is not completed. WorkForce West Virginia will advise the complainant of their right to file with the CRC within 30 days of the expiration of the 90-day period. In other words the complaint must be filed with the Civil Rights Center within 120 days of the date on which WorkForce West Virginia received the complaint.

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 (WIOA), on the basis of the beneficiary's citizenship status or participation in any WIOA 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 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.

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;

Vickie Elkins, EO Officer
WorkForce West Virginia (Recipient)
112 California Avenue
Charleston, West Virginia 25305
(304) 558-1600
TDD (304) 558-1549 OR
West Virginia Relay 7-1-1
<http://workforcewv.org/about-us/equal-opportunity/>

or

Naomi M. Berry-Perez, Director
Civil Rights Center (CRC)
U.S. Department of Labor
200 Constitution Avenue, NW
Room N-4123
Washington, DC 20210
(202) 693-6502
TTY (202) 693-6515
<http://www.dol.gov/CRC>

If you file your complaint with the recipient, you must wait until either the recipient issues a written Notice of Final Action or until 90 days have passed (whichever is sooner), before filing with the CRC (see address above).

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 may file a complaint with the CRC before receiving that Notice. 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 the recipient).

If the recipient 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 the CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

Local Workforce Development Board EO Officer Information:

Region 1

Barbara Dawes, EO Officer
200 New River Town Center
Beckley, WV 25801
Telephone: (304) 253-3611

Region 4

Gail Holleron, EO Officer
531 Market Street
Parkersburg, WV 26101
Telephone: (304) 422-4993

Region 7

Stacy Swick, EO Officer
151 Robert C. Byrd Industrial Park Rd.
Suite 2
Moorefield, WV 26836
Telephone: (304) 530-5258

Region 2

Melissa Bias, EO Officer
PO Box 9009
Huntington, WV 25704
Telephone: (304) 429-5900

Region 5

Erinn Kittle, EO Officer
1245 Warwood Avenue
Wheeling, WV 26003
Telephone: (304) 231-1170

Region 3

Amy Farley, EO Officer
405 Capitol Street, Suite 506
Charleston, WV 25337
Telephone: (304) 344-5760

Region 6

Amy Hall, EO Officer
17 Middletown Road
White Hall, WV 26554
Telephone: (304) 368-9530

Auxiliary aids and services are available upon request to individuals with disabilities
An Equal Opportunity Program/Employer

STATE OF WEST VIRGINIA

NOTICE ABOUT INVESTIGATORY USES OF PERSONAL INFORMATION

Two Federal laws govern personal information submitted to Federal agencies, including the Civil Rights Center (CRC): the Privacy Act of 1974 (5 U.S.C. 552), and the Freedom of Information Act (5 U.S.C. 552), or "FOIA." Please read this description of how these laws apply to information connected with your complaint. After reading this notice, please sign and return the consent agreement printed on the back of this notice, along with your complaint form.

THE PRIVACY ACT protects individuals from misuse of personal information held by the Federal Government. The law applies to records that are kept and can be located by the individual's name, social security number, or other personal identification system. Anyone who submits information to WorkForce West Virginia in connection with a discrimination complaint should know the following:

- WorkForce West Virginia has been authorized to investigate complaints of discrimination on the basis of race, color, national origin, age, and handicap, and in some programs on the basis of sex, religion, citizenship, and political affiliation or belief, in programs that receive Federal funds through the Department of Labor. WorkForce West Virginia is also authorized to conduct reviews of federally funded programs to assess their compliance with civil rights laws.
- Authorized personnel within the agency analyze information that WorkForce West Virginia collects. This information may include personnel or program participant records, and other personal information. WorkForce West Virginia staff may need to reveal some of the personal information to individuals outside the office in order to verify facts related to the complaint, or to discover new facts which will help WorkForce West Virginia to determine whether the law has been violated. Such information could include, for example, the physical condition or age of a complainant. WorkForce West Virginia may also have to reveal personal information to a person who submits a request for disclosure authorized by the Freedom of Information Act.
- Information submitted to WorkForce West Virginia may also be revealed to personnel outside of WorkForce West Virginia because it is necessary in order to complete enforcement proceedings against a program that WorkForce West Virginia finds to have violated the law or regulations. Such information could include, for example, the name, income, age, marital status or physical condition of the complainant.
- Any personal information you provide may be used only for the specific purpose for which it was requested. WorkForce West Virginia requests personal information only for the purpose of carrying out authorized activities to enforce, and determine compliance with, civil rights laws and regulations. WorkForce West Virginia will not release personal information to any person or organization unless the person who submitted the information gives written consent, or unless release is required by the Freedom of Information Act.

No law requires that a complainant reveal personal information to WorkForce West Virginia, and no action will be taken against a person who denies a request for personal information. However, if WorkForce West Virginia cannot obtain the information needed to fully investigate the allegations in the complaint, the case may be closed.

- Any person may ask for, and receive, copies of all personal materials WorkForce West Virginia keeps in his or her file for investigatory use.

AS A POLICY, WORKFORCE WEST VIRGINIA DOES NOT REVEAL NAMES AND OTHER IDENTIFYING INFORMATION ABOUT INDIVIDUALS, UNLESS IT IS NECESSARY TO COMPLETE INVESTIGATION OR ENFORCEMENT ACTIVITIES AGAINST A PROGRAM WHICH HAS VIOLATED THE LAW. WorkForce West Virginia never reveals to the program under investigation the identity of the person who filed the complaint, unless the complainant first gave written permission to do so.

THE FREEDOM OF INFORMATION ACT (FOIA) gives the public maximum access to Federal Government files and records. Persons can request, and receive, information from many types of records kept by the Government – not just materials that apply to them personally. WorkForce West Virginia must honor most requests for information submitted under FOIA, but there are exceptions:

- WorkForce West Virginia is usually not required to release information during an investigation or an enforcement proceeding if that release would limit WorkForce West Virginia's ability to do its job effectively; and
- WorkForce West Virginia can refuse to disclose information if release would result in a "clearly unwarranted invasion" of a person's privacy.

PLEASE READ AND SIGN SECTION A OR SECTION B OF THE CONSENT FORM.

CONSENT FORM

I have read the Notice about Investigatory Uses of Personal Information, printed on the front of this form. I understand the following provisions of the Privacy Act and Freedom of Information Act, which apply to personal information I reveal to WorkForce West Virginia in connection with my complaint:

In the course of investigating my complaint, WorkForce West Virginia may have to reveal my identity to staff of the program, named in my complaint, in order to obtain facts and evidence regarding my complaint:

I do not have to reveal any personal information to WorkForce West Virginia, but WorkForce West Virginia may close my complaint if I refuse to reveal information needed to fully investigate my complaint;

I may request and receive a copy of any personal information WorkForce West Virginia keeps in my complaint file for investigatory uses; and

Under certain conditions, WorkForce West Virginia may be required by the Freedom of Information Act to reveal to others personal information I have provided in connection with my complaint.

SECTION A

_____ YES, WORKFORCE WEST VIRGINIA MAY DISCLOSE MY IDENTITY IF NECESSARY TO INVESTIGATE MY COMPLAINT. I have read and understand the notice, and I consent for WORKFORCE WEST VIRGINIA to process my complaint.

Name (Please print)

Signature

Date

SECTION B

_____ NO, WORKFORCE WEST VIRGINIA MAY NOT DISCLOSE MY IDENTITY, EVEN IF NECESSARY TO PROCESS MY COMPLAINT. I have read and understand the notice, and I do not consent for WorkForce West Virginia to disclose my identity during investigation of my complaint. I request that WorkForce West Virginia process my complaint, however, I understand that WorkForce West Virginia may cancel my complaint if it cannot fully investigate without disclosing my identity.

Name (Please print)

Signature

Date

Mediation as an Alternative Dispute Resolution Process

WorkForce West Virginia has been designated by the Governor of West Virginia as the agency to comply with Section 188 of the Workforce Innovation and Opportunity Act (WIOA) and its implementing regulations. In carrying out these duties WorkForce West Virginia conducts both compliance reviews and discrimination complaint investigations.

Mediation is an informal process that is offered as an alternative to the traditional investigative or litigation process. Mediation is a voluntary, strictly confidential, non-adversarial dispute resolution process or conference that allows people who have a dispute to come together to talk and decide for themselves how to end their dispute. The sessions are not tape-recorded or transcribed. Notes taken during the mediation are discarded. Mediation gives the parties the opportunity to discuss the issues raised in the allegation(s), clear up the misunderstandings, determine the underlying interests or concerns, find agreements and to reach a resolution. The decision to mediate is completely voluntary for the complainant. The mediator does not take sides or make decisions for people, but assists the parties in agreeing on a mutually acceptable resolution.

Mediation Election Form

I have read the information on the role of WorkForce West Virginia in the State of West Virginia equal opportunity and complaint resolution process under the Workforce Innovation and Opportunity Act (WIOA) – including the offer of Mediation as an alternative to the formal complaint investigation procedure.

Based on the information provided to me, I have voluntarily and freely made the following election with regard to Mediation.

_____ YES, I elect to avail myself of the mediation option of complaint resolution. I agree to participate in the mediation efforts led by WorkForce West Virginia EO Office and to attempt to settle the issues in dispute between the respondent and me.

_____ NO, I elect not to use mediation as an alternative method of dispute resolution, and request that the formal complaint investigation process begin as soon as this form is received in WorkForce West Virginia EO Office.

Complainant Name (Please print)

Signature

Date

Please complete the above and return it within five (5) days to:

**Vickie Elkins, EO Officer
WorkForce West Virginia
112 California Avenue
Charleston, WV 25305
304-558-1600**

**WORKFORCE WEST VIRGINIA
DISCRIMINATION COMPLAINT FORM**

Individuals eligible for, receiving services from or benefiting from programs funded by or through WorkForce West Virginia protected by various laws, regulations, rules and policies against unlawful discrimination on the basis of race, color, religion, disability, political affiliation, age, sex, and national origin.

1. Name and address of complainant _____

2. Name and address of respondent _____

Telephone Number _____

Telephone Number _____

3. Name, Address and Telephone Number of Agency/Service Provider/Employer

Name: _____ Telephone Number _____

Address: _____

4. Which of the following best describes why you believe you were discriminated against.

<input type="checkbox"/> Age	<input type="checkbox"/> Race	<input type="checkbox"/> Disability	<input type="checkbox"/> Political Affiliation	<input type="checkbox"/> Citizenship
<input type="checkbox"/> Sex	<input type="checkbox"/> Color	<input type="checkbox"/> Religion	<input type="checkbox"/> National Origin	<input type="checkbox"/> Retaliation

5. This complaint is concerns an incident or action that happened to (please check the appropriate box)

Only me Other people and me Other people, but not me

5. To the best of your knowledge which program was involved?

Unemployment Compensation Workforce Innovation and Opportunity Act

Employment Service Wagner-Peyser Other _____

6. On what date(s) did the alleged discrimination take place? _____ If there is continuing discrimination, please indicate the date(s) of the most recent act(s). _____

(NOTE: Department of Labor regulations require that complaints of discrimination must be filed with 180 days of the alleged discrimination)

7. Explain, as briefly and clearly as you can, what happened, how you negatively affected or treated differently than other persons, and why you believe it is because of the basis you checked. (If necessary, attach additional sheets) Also attach any written documentation pertaining to this matter.

8. Why do you believe these events occurred?

