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### **EO Compliant Processing Procedures**

#### Complaint filing.

- (a) Any person, a person's representative, or specific class of individuals who believe that any of the following circumstances exist may file a written complaint:
  - (1) A person, or any specific class of individuals, has been or is being discriminated against on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, citizenship status, or participation in any WIOA Title I-financially assisted program or activity as prohibited by WIOA or this part.
  - (2) Either the person, or any specific class of individuals, has been or is being retaliated against as described in 29 C.F.R § 38.19.
- (b) A person, the person's representative, or specific class of individuals may file a complaint with either the recipient's EO Officer (or the person the recipient has designated for this purpose) or the Director. Complaints filed with the Director should be sent to the address listed in the notice or filed electronically as described in the notice in 29 C.F.R § 38.35.
- (c) Generally, a complaint must be filed with 180 days of the alleged discrimination or retaliation. However, for good cause shown, the Director may extend the filing time. The time period for filing is for administrative convenience, and does not create a defense for the respondent.

#### Required Contents of Complaint.

Each complaint must be filed in writing, either electronically or in hard copy, and must contain the following information:

- (a) The complainant's name, mailing address, and if available, email address (for another means of contacting the complainant).
- (b) The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination).
- (c) A description of the complainant's allegations: This description must include enough detail to allow the Director or the recipient, as applicable, to decide whether;
  - (1) The Civil Rights Center (CRC) or the Workplace Investment Board (WIB), as applicable, had jurisdiction over the complaint;
  - (2) The complaint was filed in time; and
  - (3) The complaint has apparent merit; in other words, whether the complainant's allegations, if true, would indicate noncompliance with any of the nondiscrimination and equal opportunity provisions of WIOA or this part.

- (d) The written or electronic signature of the complainant or the written or electronic signature of the complainant's representative.
- (e) A complainant may file a complaint by completing and submitting CRC's Complaint information and Privacy Act Consent Forms, which may be obtained either from the recipient's EO Officer or from CRC. The forms are available electronically on CRC's Web site, and in hard copy via postal mail upon request. The latter requests may be sent to CRC at the address listed in the notice.

#### Right to Representation.

Both the complainant and the respondent have the right to be represented by an attorney or other individual of their choice.

#### Complaint Processing Procedures.

- (a) Pursuant to this procedure adopted and published for processing complaints will issue a written notice of Final Action on Complaints within 90 days of the date on which the complaint is filed.
- (b) At a minimum, WIB's procedures include the following elements:
  - (1) Initially, WIB will provide written notice to the complainant with the following information:
    - (i) An Acknowledgement that WIB has received the complaint; and
    - (ii) Notice that the complainant has the right to be represented in the complaint process;
    - (iii) Notice of rights contained in 29 C.F.R § 38.35; and
    - (iv) Notice that the complainant has the right to request and receive, at no cost, auxiliary aids and services, language assistance services, and that this notice will be translated into the non-English languages as required in 29 C.F.R. §§ 38.4(h) and (l), 38.34 and 38.36.
  - (2) A written statement of the issue(s), will be provided to the complainant, which includes the following information:
    - (i) A list of the issues raised in the complaint; and
    - (ii) For each such issue, a statement whether the recipient will accept the issue for investigation or reject the issue and the reasons for each rejection.
  - (3) A period for fact-finding or investigation of the circumstances underlying the complaint.
  - (4) A period during which the recipient attempts to resolve the complaint. The methods available to resolve the complaint must include alternate dispute resolution (ADR), as described in paragraph (c) of this section.
  - (5) A written Notice of Final Action will be provided to the complainant within 90 days of the date on which the complaint was filed, that contains the following information:
    - (i) For each issue raised in the complaint, a statement of either:
      - (a) The recipient's decision on the issue and an explanation of the reasons underlying the decision or
      - (b) A description of the way the parties resolved the issue; and
    - (ii) Notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is received if the complainant is dissatisfied with the recipient's final action on the complaint.

- (c) WIB has adopted procedures for alternative dispute resolution (ADR), which procedures provide that:
- (1) The complainant may attempt ADR at any time after the complainant has filed a written complaint with the recipient, but before a Notice of Final Action has been issued.
  - (2) The choice whether to use ADR or the customary process rests with the complainant.
  - (3) A party to any agreement reached under ADR may notify the Director in the event the agreement is breached. In such circumstances, the following rules will apply:
    - (i) The non-breaching party may notify with the Director within 30 days of the date on which the non-breaching party learns of the alleged breach; and
    - (ii) The Director must evaluate the circumstances to determine whether the agreement has been breached. If the Director determines that the agreement has been breached, the complaint will be reinstated and processed in accordance with the recipient's procedures.
  - (4) If the parties do not reach an agreement under ADR, the complainant may file a complaint with the Director as described in 29 C.F.R. § 38.69 through 38.71.

#### Responsibility for Developing and Publishing Complaint Processing Procedures for Service Providers.

The Governor or the LWDA grant recipient as provided in the State's Nondiscrimination Plan, must develop and publish, on behalf of its service providers, the complaint processing procedures required in 29 C.F.R § 38.72. The service providers must then follow those procedures.

#### Recipient's obligations when it determines that it has no jurisdiction over a complaint.

If the WIB determines that it does not have jurisdiction over a complaint, it will notify the complainant, in writing within five business days of making such determination. This Notice of Lack of Jurisdiction must include:

- (a) A statement of the reasons for that determination; and
- (b) Notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the complainant receives the Notice.

#### If the Complainant is Dissatisfied After Receiving a Notice of Final Action.

If the recipient issues its Notice of Final Action before the 90-day period ends, but the complainant is dissatisfied with the recipient's decision on the complaint, the complainant or the complainant's representative may file a complaint with the Director within 30 days after the date on which the complainant receives the Notice.

#### If a Recipient Fails to Issue a Notice of Final Action Within 90 Days After the Complainant was Filed.

If, by the end of 90 days from the date on which the complainant filed the complaint, the recipient has failed to issue a notice of Final Action, the complainant or the complainant's representative may file a complaint with the Director within 30 days of the expiration of the 90-day period, in other words, the complaint must be filed with the Director within 120 days of the date on which the complaint was filed with the recipient.

Approved: 09/12/2022