

 <p>A proud partner of the AmericanJobCenter® network</p>		POLICY # 1
Title:	Equal Opportunity Policy	
Program:	Workforce Innovation and Opportunity Act	
Effective:	July 1, 2023	
Revision #:	5	Original policy date: June 26, 2015

Purpose: Establish the Equal Opportunity Policy of the WDBMOV for services offered through Title I of the Workforce Innovation and Opportunity Act.

References: Section 188 of the Workforce Innovation and Opportunity Act (WIOA) at 29 U.S.C. § 3248, as implemented by 29 C.F.R. §§ 38.69-38.79.

Background: Section 188 of the Workforce Innovation and Opportunity Act (WIOA), and the implementing regulations at 29 CRF Part 38, 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 as outlined in the Governor’s Nondiscrimination Plan. 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.

Policy: The Workforce Development Board Mid-Ohio Valley endorses and promotes equal opportunity in all its endeavors. Assurances have been given to WorkForce WV that all services and benefits will be provided without regard to race, color, sex, religion, national origin, age, disability, political affiliation or belief and for beneficiaries only, citizenship, or participation in, in admission or access to, opportunity or treatment in, or employment in the administration of or in connection with any Workforce Innovation and Opportunity Act Title I financially assisted program or activity.

Input will be solicited from individuals with disabilities in the planning and implementation of Workforce Innovation and Opportunity Act activities in the Region 4 Workforce Development Area.

Complaints alleging discrimination will be processed through procedures (attached) adopted by WorkForce WV. The complaint procedures must be published in employee handbooks or orientation material, customer intake and/or orientation material, Strategic Plans, and posted on the WDB-MOV website. This material will be made available in Spanish, and alternate formats for individuals with disabilities.

All recruitment brochures and other materials which are ordinarily distributed to the public to describe programs funded under WIOA must certify equal opportunity by using the following wording: ***“Equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.”***

Action: The American Job Center (AJC) shall inform individuals applying for or receiving services under Title I of the Workforce Innovation and Opportunity Act of their rights under this policy. All recipients and sub-recipients of Workforce Innovation and Opportunity Act funds through Region 4 shall be required to verify compliance with this policy. Failure to follow this policy shall result in disapproval of funds.

Expiration Date: This policy shall remain in effect until revised or canceled by the Workforce Development Board Mid-Ohio Valley.

The EO Officer will review contractor/sub-recipients for EO assurances including but not limited to:

Compliance with the nondiscrimination and equal opportunity provisions of the following laws:

- Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States 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, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I financially assisted program or activity;
- Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;
- Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.
- And as a grant applicant / recipient of WIOA Title I financial assistance, it will comply with 29 CFR part 38 and all other regulations implementing the laws listed above.

Monitoring and compliance apply to the operation of the WIOA Title I financially assisted program or activity, and to all agreements made to carry out WIOA Title I-financially assisted programs or activities.

Miranda Lough, Program Specialist, WDB-MOV, has been named the EO officer for the Workforce Development Board Mid-Ohio Valley. Complaints alleging discrimination may be filed with her office 600 18th St. Box #3, Parkersburg, WV 26101 Phone: 681-588-0418, or one of the following:

William Sochko, State Level EO Officer
WorkForce WV
1900 Kanawha Blvd., E
40 Commerce Dr. Suite 200
Westover, WV 26501
(304) 989-0283
WorkForceEO@wv.gov

or

U.S. Department of Labor
Civil Rights Center
200 Constitution Avenue
Room N-4123
Washington, D.C. 20210
(202) 693-6502
TTY: (202) 693-6515 or electronically at
<http://www.dol.gov/CRC>

All EO complaints in Region 4 will be forwarded to the State EO Officer for processing. Any contact the Region 4 EO Officer has with the Complainant should be by phone or email if not in person.

Expiration Date: Effective until rescinded or modified by the Workforce Development Board Mid-Ohio Valley.

Attachment 1

Equal Opportunity Discrimination Complaint Policy and Procedures Workforce Innovation and Opportunity Act

PURPOSE:

WorkForce WV provides this issuance as guidance on the WIOA Section 188 Discrimination Complaint Procedures.

REFERENCES:

These policies and procedures govern discrimination complaint investigations arising under Section 188 of the Workforce Innovation and Opportunity Act (WIOA) at 29 U.S.C. § 3248, as implemented by 29 C.F.R. §§ 38.69-38.79. The policies and procedures are issued in compliance with:

- WIOA Section 188, which prohibits discrimination against all individuals in the United States 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, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I-financially assisted program or activity;
- Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., as amended, which prohibits discrimination on the bases of race, color and national origin;
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq., as amended, which prohibits discrimination against qualified individuals with disabilities;
- The Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq., as amended, which prohibits discrimination on the basis of age; and
- Title IX of the Education Amendments of 1972, 29 U.S.C. § 1681 et seq., as amended, which prohibits discrimination on the basis of sex in educational programs.

DEFINITIONS:

Beneficiary – Individual or individuals intended by Congress to receive 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 monetary forms, 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 the negotiation of issues is 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 issuance is intended to ensure that WorkForce West Virginia, 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 the WIOA, and the implementing regulations at 29 CFR Part 38, prohibits discrimination because of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions, gender identity, and transgender status), national origin (including limited English proficiency), age, disability or political affiliation or belief, citizenship status, 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 discrimination complaint policies and procedures (already established by the state-level Equal Opportunity Officer) and ensuring compliance with those procedures. 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, along with a copy of the "Equal Opportunity is the Law" notice.

The Discrimination Complaint Package may be made available in alternative formats on request of a person who is blind or has low vision by WorkForce WV. Moreover, all complaint notices, procedures, and forms must contain a "Babel" notice pursuant to 29 C.F.R. § 38.9(g)(3), which provides:

Recipients must include a "Babel notice," indicating in appropriate languages that language assistance is available, in all communications of vital information, such as hard copy letters or decisions or those communications posted on websites.

BABEL NOTICE (29 C.F.R. § 38.9(g)(3)): This document contains vital information. If English is not your preferred language, please let any WorkForce WV employee know of your needs or contact your local or state WIOA EO Officers:

EO Officer Information:

Region 1

Melinda Reagon
200 New River Town Center
Beckley, WV 25801
(304) 253-3611

Region 2

Raymond Warden
2699 Park Avenue, Suite 210
PO Box 9009
Huntington, WV 25704
(304) 508-2696

Region 3

Summer Johnston
426 Leon Sullivan Way
Charleston, WV 25301
(304) 344-5760

Region 4

Miranda Lough
600 18th St. Box #3
Parkersburg, WV 26101
(681)-588-0418

Region 5

Erinn Kittle
1245 Warwood Avenue
Wheeling, WV 26003
(304) 231-1170

Region 6

Amy Hall
17 Middletown Road
White Hall, WV 26554
(304) 368-9530

Region 7

Stacy Swick
151 Robert C. Byrd Industrial Park
Rd., St. 2 26003
Moorefield, WV 26836
(304) 530-5258

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 38, 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 (including pregnancy, childbirth, or related medical conditions, gender identity, and transgender status), national origin (including limited English proficiency), 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 or retaliation. Please note, complaints can be accepted by an employee in a WorkForce West Virginia American Job Center, or the EO Officer of a local Workforce Development Board. The employee or local WDB EO Officer 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 38, and for resolving jurisdictional issues, if any. Complaints may be submitted, in writing, to:

William Sochko, State Level WIOA EO
Officer
WORKFORCE WV
40 Commerce Dr. Suite 200
Westover, WV 26501
Charleston, WV 25305
(304) 989-0283
WorkForceEO@wv.gov

OR

Naomi M. Barry-Pérez, Director
Civil Rights Center (CRC)
U.S. Department of Labor
200 Constitution Avenue, NW, Rm. N-4123
Washington, D.C. 20210
(202) 693-6502
TTY (202) 693-6515 or electronically at
www.dol.gov/CRC

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 (WFWV CIF), which may be obtained from the WorkForce West Virginia Equal Opportunity Office, or local Workforce Development Boards. Complaint information is also available on the WorkForce West Virginia website at <https://workforcewv.org/about-us/equal-opportunity/complaint-procedures>.

Federal – An initial complaint filed directly with CRC must be filed within 180 days of the alleged discrimination. CRC may extend the filing time for good cause. Complainants are encouraged to file by completing CRC's Complaint Information Form (CIF) and Privacy Act Consent Form, which are available at the link below:

- [Complaint Information Form](#)

If the CIF and Privacy Act Consent Form are not submitted initially, CRC will send them to the complainant to be completed, signed, and returned. CRC will not process a complaint without these forms.

Complaints and Privacy Act Consent Forms may be submitted to CRC in the following ways:

- Sent by postal mail to:

Director
Civil Rights Center
ATTENTION: Office of External Enforcement
U.S. Department of Labor
200 Constitution Ave NW
Room N-4123
Washington, DC 20210

- Faxed to 202-693-6505, ATTENTION: Office of External Enforcement (limit of 15 pages)
- Emailed to CRCEXternalComplaints@dol.gov

Required Contents of Complaint. (29 CFR§38.70)

No verbal communication may be accepted for processing as a discrimination complaint. Any individual attempting to do so must be notified that only written, and signed, complaints may be accepted for processing. Each complaint must be filed in writing, either electronically or in hard copy, and must contain the following information:

- The complainant's name, mailing address, and, if available, email address (or another means of contacting the complainant).
- The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination).
- 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:
 - CRC or the recipient, as applicable, has jurisdiction over the complaint;
 - The complaint was filed in time; and
 - 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.
- The written or electronic signature of the complainant or the written or electronic signature of the complainant's representative.

Due to the signatory and identity requirements, anonymous communications (verbal or written) shall not be considered a discrimination complaint.

Right to Representation (CFR 29§38.71)

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

State-Level Complaint Processing Procedure

As stated previously, a complainant must file a complaint within 180 days of the act of alleged discrimination to be accepted as timely. Once received, the State-Level EO Officer will date stamp the signed Discrimination

Complaint Form to establish the timeliness of the complaint. At this point, the complaint will be assigned a unique identifier for the purpose of tracking the complaint throughout the rest of the process. This designation will follow the sequence of calendar year + Title I Program + sequential number in which the complaint was received. For example, if a complaint arrived from a participant in the WIOA Dislocated Worker program and it was the fifth complaint received in the calendar year of 2019, the designation for this case would be 2019-WIOADW-5.

Next, jurisdiction must be determined to ensure proper handling of the complaint. The complaint must meet all requirements for content, allege a prohibited basis of discrimination, set forth an adverse action, and identify a respondent that qualifies as a “recipient” under 29 CFR §38.4(zz).

If it is determined that WorkForce WV **DOES NOT** have jurisdiction over a complaint, the complainant will be notified in writing within 5 business days of the determination. This Notice of Lack of Jurisdiction will include a statement of the reasons for such determination and a notice that 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.

If it is determined that WorkForce WV **DOES** have jurisdiction over the matter, the EO Office will provide written notice to the complainant within 10 working days containing the following:

1. Initial, written notice that contains:
 - An acknowledgement that the complaint has been received.
 - Notice that the complainant has the right to be represented in the complaint process.
 - A copy of the “Equal Opportunity Is the Law” Notice.
 - 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 non-English languages as required.
2. A written statement of the issue(s) and, for each issue, a statement on whether the issue will be accepted or rejected and the reasons for each determination.
3. Notice of the period of fact finding or investigation of the underlying circumstances of the complaint, which may take around 20 working days.
4. Information regarding Mediation (the Alternative Dispute Resolution method chosen by WorkForce WV), and the Election Form, will be provided. If the complainant chooses to mediate, they must inform the WorkForce WV EO Officer within 5 days of receiving this written notice.
5. Notice of Investigatory Use of Personal Information and Consent Forms.
6. Information regarding the Notice of Final Action.

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.

Mediation Process

Alternative Dispute Resolution (ADR) may be attempted any time after a written complaint has been filed with the recipient, but before the Notice of Final Action has been issued. 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:

- If mediation is elected, the WorkForce West Virginia EO Officer will notify the mediator within two (2) business days of receipt of the Mediation Election Form. The session will begin no later than fifteen (15) business days after the mediator is notified.
- Parties will receive notice of time and location where the mediation session will be conducted.
- Two (2) business 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 fifteen (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.
- If mediation is successful, a description of the resolution will be provided. A copy of the settlement agreement will be provided to the complainant and respondent within fifteen (15) days from the conclusion of the mediation session and the agreement will contain the following:
 - Signatures of the mediator, complainant, and respondent.
 - Description of the settlement of the issue(s).
 - 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.

Breach of Agreement

A party to any agreement reached under ADR may file a complaint with the Civil Rights Center in the event the agreement is breached. The non-breaching party may notify the Director of the Civil Rights Center within 30 days of the date on which the non-breaching party learns of the alleged breach. 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.

Notice of Final Action

A written Notice of Final Action, shall be provided to the complainant within 90 days of the date on which the complaint was filed, that contains the following information:

- For each issue raised in the complaint, a statement of either the decision on the issue(s) and an explanation of the underlying reasons or a description of the way the parties resolved the issue(s).
- 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.

Failure to Provide Notice of Final Action or Process Complaint

If, for any reason, WorkForce WV fails to provide a Notice of Final Action or completely process a complaint within 90 days from the filing date, a complainant (or their representative) may file a complaint with the Civil Rights Center. This complaint must be filed within 30 days of the expiration of the 90-day time limit.

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; or making 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.

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;

William Sochko, State Level WIOA EO Officer
WORKFORCE WV
40 Commerce Dr. Suite 200
Westover, WV 26501
Charleston, WV 25305
(304) 989-0283
WorkForceEO@wv.gov

OR

Naomi M. Barry-Perez, Director
Civil Rights Center (CRC)
U.S. Department of Labor
200 Constitution Avenue, NW, Rm. N-4123
Washington, DC 20210
(202) 693-6502
TTY (202) 693-6515 or electronically at
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

Melinda Reagon
200 New River Town Center
Beckley, WV 25801
(304) 253-3611

Region 2

Raymond Warden
2699 Park Avenue, Suite 210
PO Box 9009
Huntington, WV 25704
(304) 508-2696

Region 3

Summer Johnston
426 Leon Sullivan Way
Charleston, WV 25301
(304) 344-5760

Region 4

Miranda Lough
600 18th St. Box #3
Parkersburg, WV 26101
(681)-588-0418

Region 5

Erinn Kittle
1245 Warwood Avenue
Wheeling, WV 26003
(304) 231-1170

Region 6

Amy Hall
17 Middletown Road
White Hall, WV 26554
(304) 368-9530

Region 7

Stacy Swick
151 Robert C. Byrd Industrial Park Rd.,
St. 2 26003
Moorefield, WV 26836
(304) 530-5258

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 THE FOLLOWING CONSENT FORM.

CONSENT FORM

I have read the Notice about Investigatory Uses of Personal Information. 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.

_____ **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.

_____ **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

WORKFORCE WEST VIRGINIA

ALTERNATIVE DISPUTE RESOLUTION / MEDIATION PROCEDURES WORKFORCE INNOVATION AND OPPORTUNITY ACT

Discrimination complaints filed under the Workforce Innovation and Opportunity Act (WIOA) of 2014 shall include the option of Alternative Dispute Resolution (ADR) or mediation services as an alternative to resolve complaints. The ADR process involves the intervention of a neutral and impartial third party to help the parties clarify issues, identify underlying causes, and arrive at an agreed-upon resolution. The process is designed to resolve the dispute before parties get involved in the formal complaint process.

1. Discrimination complaints submitted under the Workforce Innovation and Opportunity Act must be filed within 180 days of the alleged discrimination. All requests for ADR under WIOA will be processed through the WFWV's Equal Opportunity (EO) Office.
2. The EO Officer will provide complainant rights under applicable federal and state statutes and guidelines, including the mediation process. The EO Officer also provides the mediation information to the complainant, notifies the respondent, and obtains necessary signature(s) to begin the process. The complainant must return the Mediation Election form to the WFWV EO Office indicating his/her choice of whether to use mediation within five (5) days.
3. The EO Officer will notify the ADR mediator of complainant's wish to use the mediation process and forward to the mediator the complainant's Mediation Election form.
4. After reviewing the background material pertinent to the complaint, the ADR session will begin no later than 15 calendar days after the mediator is assigned the matter. *The mediation process will not exceed 30 days, including case preparation, 2-day mediation session, preparation and distribution of settlement agreement.* The 30-day time limit commences upon receipt of the Mediation Election form by the mediator.
5. The ADR mediator then notifies all parties, in writing, of the date, time and location for the mediation. In most instances, mediation sessions will be held in the complainant's city of residence or employment and *will not exceed two (2) days*. Respondents will be advised that only those persons with the authority to approve/disapprove settlement provisions will be permitted to attend mediation sessions, unless agreed upon by parties to the complaint.

6. At the beginning of the mediation session, the mediator will discuss the ground rules of the process: no interrupting while others speak; no name-calling; no threatening behavior; no electronic record of the session; parties are to treat everyone with respect and courtesy. At any time during the session, the mediator may remind parties of the ground rules in order to maintain order.
7. If parties are represented, they shall be advised that the parties are expected to speak on their own behalf. If representatives wish to confer with or advise the parties, they may do so during break time or during conferences when the parties are separated.
8. Parties will be advised that the mediator may determine that a separate conference or “caucus” will help the process. The caucus is useful in instances where tempers flare or when parties reach an impasse and need to confer privately with the mediator in order to continue.
9. Starting with the complainant, both parties will have the opportunity to give an opening statement to explain their positions without interruption from the other party. Parties will be limited to 15 minutes for opening statements. The mediator will advise both parties that they will have an opportunity to respond to all areas of disagreement. Parties will also be advised that they may take notes if they wish to do so.
10. Some parties are uncomfortable with being direct in describing his/her complaint. In these cases, the mediator will ask open-ended questions that require a full explanation and promote discussion.
11. After both parties have issued their opening statements, the mediator will recap the identified issues or concerns of both parties and ask for verification of the facts contained in the opening statements.
12. The mediator will ask direct questions, if necessary, and encourage the parties to begin to talk directly to one another in a non-threatening manner. The mediator will intervene only if there appears to be an imbalance of power between the two parties or if the atmosphere is becoming hostile.
13. The mediator will point-out similar goals of the parties where possible. Parties will identify possible solutions or alternative solutions. The mediator may make suggestions to the parties to stimulate creative resolutions.
14. No party to the mediation will be coerced or forced into an agreement. All must enter into the settlement voluntarily.

15. If it appears no settlement can be reached, parties will be advised that the complaint will be turned over to the WFWV EO Officer for initiation of the formal complaint process. Parties will be reminded at this time that they may not retaliate against each other based on the mediation or for filing the complaint, and that neither party may talk about the contents of the mediation session. The mediator will issue a written notice outlining the facts or circumstances relevant to the attempt to settle the matter. The Notice will be issued with fifteen (15) calendar days from the conclusion of the mediation session.
16. If the parties agree to a settlement, they will be asked by the mediator to assist in putting the resolution into writing. The mediator will describe the settlement of the issues and the future responsibilities of each party. Settlement agreements must be specific, *NOT* general or vague. Parties will be reminded that the process is confidential, and the terms of the agreement must also be confidential.
17. The mediator will prepare and issue the settlement agreement within fifteen (15) calendar days from the date of the resolution. The written settlement agreement shall describe the settlement of the issues and future responsibilities of both parties. The agreement will also outline the complainant's right to file a complaint with the Department of Labor, Civil Rights Center (CRC) should the agreement be breached. The settlement agreement must be signed by the complainant and respondent and their representatives, the mediator, and the WFWV EO Officer.
18. The WFWV EO Officer will review the settlement agreement on behalf of the WorkForce West Virginia and will receive the original agreement from the mediator once it is finalized. The mediator will provide copies of the settlement agreement to the complainant and respondent.
19. The WFWV EO Officer will monitor the results of the settlement agreement to determine if the parties are complying with the terms and conducts follow-up with the complainant. The WFWV EO Officer maintains each complainant case file.

MEDIATION ELECTION FORM

Complainant

Address

City, State, Zip

Contact Telephone Number

Facility/Organization (Respondent)

I have been advised that I have the option to take my complaint through the Alternative Dispute Resolution (ADR) process to attempt a resolution for my claim(s) of discrimination. Based on the information provided to me, I can select only one (1) of the following two (2) options listed below to continue the processing of my complaint of discrimination.

(initials) Continue with the discrimination complaint process.

OR

(initials) Participate in WorkForce West Virginia's Alternative Dispute Resolution process.

Signature of Complainant/Representative

Date

WORKFORCE WEST VIRGINIA
COMPLAINT INFORMATION FORM (CIF)

Section 188 of the Workforce Innovation and Opportunity Act, and the implementing regulations at 29 CFR Part 38, prohibits discrimination because of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions, gender identity, and transgender status), 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. If you feel that you have been discriminated against on any of these bases, please read this form carefully and answer each question as completely as possible.

PLEASE TYPE OR PRINT EACH ANSWER. IF ADDITIONAL SPACE IS NEEDED (for any reason), ADDITIONAL SHEETS MAY BE ATTACHED TO THIS DOCUMENT.

1. Are you the complainant or the complainant's representative? Please check the correct box.

☐ Complainant ☐ Representative

2. Please give all contact information below. If you are the complainant's representative, enter contact information for the complainant and yourself. Please note, all other questions should be answered as if the complainant themselves were answering.

Complainant's Name

Street Address

City

State

Zip Code

Telephone Number

E-mail Address

Representative's Name

Street Address

City

State

Zip Code

Telephone Number

E-mail Address

3. This complaint refers to something that happened to (Check the appropriate box)

☐ Only myself ☐ Myself and others ☐ Others, but not myself

4. Please give the information below regarding the person, agency, business, or organization who perpetrated the alleged act of discrimination.

Name of Agency, Organization, or Business

Telephone Number

Street or Mailing Address

Name of Individual(s) who committed the alleged acts of discrimination

Job Title

E-mail or Phone

5. What Title I Program (or related program) was involved in the alleged discriminatory acts?

- ☐ WIOA
- ☐ Unemployment Insurance
- ☐ Employment or Job Services
- ☐ TAA Programs
- ☐ American Job Center
- ☐ SCSEP
- ☐ Indian/Native American Programs
- ☐ Migrant Seasonal Farmer Workers
- ☐ Vocational Rehabilitation
- ☐ Other
- ☐ Don't Know

6. What do you believe was the basis (reason) for the alleged discrimination? (Please check all that apply and answer any follow-up questions associated with that box)

☐ **National Origin**

Are you Hispanic or Latino? ☐ Yes ☐ No

What is your National Origin? _____

Because of Limited English Proficiency ☐ Yes ☐ No

What is your native or preferred language? _____

☐ **Race**

What is your race? (choose all that apply)

☐ White or Caucasian

☐ Black or African American

☐ American Indian or Alaska Native

☐ Native Hawaiian or Other Pacific Islander

☐ Asian

☐ Other:

☐ **Color**

What is your color? _____

☐ **Sex**

What is your sex? _____

☐ **Pregnancy Status**

☐ **Sexual Orientation**

What is your sexual orientation? _____

☐ **Gender Identity**

What is your gender identity? _____

☐ **Age**

What is your date of birth?

☐ **Disability**

☐ I have a disability (active or inactive).

What is your disability?

☐ I have a record of disability.

What was your past disability?

☐ I do not have a disability, or did not disclose a disability, but the organization or program treats me as if I have a disability.

☐ **Citizenship**

What is your status?

☐ **Religion**

What is your religion?

☐ **Political Affiliation or Beliefs**

☐ **Participation in a Title I Program that receives Federal Financial Assistance**

☐ **I was Retaliated Against due to a discrimination complaint or participation in the investigatory process of someone else's complaint.**

- 7. For each of the bases selected above, please explain what transpired, how you (or others) were harmed by what happened (impact), and how or why you think what happened was due to the basis. If you do not explain why you selected a basis, we may reject that part of your complaint.**

If other persons or groups were treated differently than you (or others are facing the discriminatory acts), please describe who was treated differently, how the treatment was different, and what impact this treatment had on you or others. Please be specific and brief and give the names and contact information for any persons involved, if possible.

8. On what date(s) did the alleged discrimination take place?

Date of first occurrence? _____

Date of most recent occurrence? _____

9. Please list below any persons (witnesses, co-workers, supervisors, or others that were not already named) whom we should contact for information regarding your complaint. Attach additional pages if needed.

Person's Name

Relationship to case (Witness, etc.)

Telephone Number

Alternate Number or E-mail

Person's Name

Relationship to case (Witness, etc.)

Telephone Number

Alternate Number or E-mail

10. What remedies are you seeking?

11. Where and when did you file your first written complaint, if this is not the first.

Name of Specific Agency and Office (e.g., DOL – Civil Rights Center)

Street or Mailing Address

City

State

Zip Code

Name of Contact

Telephone or E-mail Address

Date Complaint Filed

Docket or Case Number

Complaint Status

12. Was there a final written decision regarding your complaint from this agency?

☐ Yes ☐ No

If "Yes", when was the decision rendered?

Please sign and date this form in the space provided below. It is also required that you read and sign the Consent Form attached to the "State of West Virginia Notice About Investigatory Uses of Personal Information" notice. WorkForce WV cannot process your complaint unless both of these forms are completed, signed, and submitted in a timely manner.

Signature of Complainant or Representative

Date

Please Note: If you elect to file your complaint with WorkForce WV, you must wait until the agency issues a decision, or until 90 days have passed, whichever transpires first, before filing with the U.S. Department of Labor, Civil Rights Center. If WorkForce WV has not provided a written decision after this time, you need not wait for a decision and can file with the Civil Rights Center anytime within 30 days after the 90-day period expires. You may also file with the CRC if you are dissatisfied with the resolution of your complaint. Such complaints must also be filed within 30 days of the date you received notice of resolution.

WorkForce West Virginia is an Equal Opportunity Employer/Program. Auxiliary Aids and Services are available upon request to individuals with disabilities.