
**Western Arkansas Workforce Development Area
Policies and Procedures**

TITLE	Discrimination Complaint & Grievance Policy
NUMBER	P0005-23
TYPE	Policy – Programmatic (Section 188 of WIOA, 29 CFR Part 38)
APPROVING AUTHORITY	Western Arkansas Workforce Development Board
EFFECTIVE DATE	12/12/23
NEW/REPLACED	Replaced P0001-23

Summary:

This policy establishes the procedures for accepting and processing discrimination complaints filed by applicants for participation, employment, or funding or by any participant or employee of any WIOA Title I funded entity against any entity receiving financial assistance under WIOA. This policy and procedure govern discrimination complaint investigations arising under Section 188 of the Workforce Innovation and Opportunity Act. This document contains vital information. If English is not your preferred language, please let a staff member know. Reasonable efforts will be made to ensure the information contained herein is understood by affected participants and other individuals, including youth and those who are limited English speakers. Babel notices will be provided and displayed in prominent places alongside this policy.

Section 188 of the Workforce Innovation and Opportunity Act, and the implementing regulation 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.

Policy:

This policy and the procedures issued hereunder apply to applicants for funding, participation, or employment or to participants or employees of any WIOA-funded entity (hereinafter "covered individual") who wish to file discrimination complaints against any entity within the Western Arkansas Workforce Development Area (WAWDA) receiving financial assistance under WIOA.

The policy of the Western Arkansas Workforce Development Board (WAWDB) is to assure nondiscrimination and equal opportunity in the operation and administration of all programs, services, and activities funded in whole or in part with federal funds. The Equal Opportunity Officer is designated as the responsible individual for affecting compliance with this policy. Any individual who believes that he/she has been discriminated against has the right to file a complaint within 180 days of the alleged discriminatory act(s) in accordance with the procedures described below.

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Procedure:

Under 29 CFR 38.69 complaint filing, an individual has the option of filing a complaint either with the recipient of WIOA Title I funds, the ADWS Equal Opportunity Manager or directly with the Civil Rights Center (CRC)

1. Should the complainant opt to file with the recipient, the recipient shall process the complaint within sixty (60) days of receiving the complaint.

Recipient is defined for equal opportunity purposes as any entity to which federal financial assistance under a WIOA Title I funded program is extended, either directly through the Governor or through another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIOA funded program or activity and the Governor. Recipient includes but is not limited to Arkansas Division of Workforce Services, State-level agencies that administer WIOA funds, grant recipients and service providers, as well as National Program recipients.

Within 60 days, the recipient shall offer a resolution of the complaint to the complainant. If by the end of 60 days, the recipient has not completed the processing of the complaint or has failed to notify the complainant of the resolution, the complainant or his/her representative may, within 30 days of the expiration of the 60-day period or upon notification of resolution, file with CRC .

2. Should the complainant opt to file directly with CRC , recipient staff shall assist the complainant (if requested) in completing the Complaint Information Form for those individuals not requesting assistance, but needing forms, addresses, etc., recipient staff shall provide the necessary Complaint Information Form.

NOTE: Complainants will be notified by the recipient that filing time for all complaints initiated more than 180 days from the date of the alleged discrimination may be extended for good cause by the director of CRC.

Complaint and Investigation

1. Upon receipt of a complaint or information alleging discrimination, the EO Officer of the entity receiving WIOA Title I funds shall:
 - a. Promptly log and initiate a review or investigation of the complaint.
 - b. Provide notice to all parties of the specific charges.
 - c. Inform both parties of their right to representation.
 - d. Inform the complaint of the right to request Alternative Dispute Resolution (ADR) at the complainant's choice.
 - e. Inform both parties of right to present evidence.
 - f. Inform both parties of their right to rebut evidence presented by others.
 - g. Provide for a decision made strictly on the documented evidence.

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2. The name of the complainant shall be kept confidential, to the extent possible when consent has been provided for the release of complainant's identity, disclosure should be under the conditions which will promote continued receipt of confidential information.
3. No person, organization or agency may discharge or in any manner retaliate against any person because that person has filed a complaint, instituted any proceeding related to the Act, testified, or is about to testify, in any proceeding or investigation, or has provided information or assisted in an investigation.
4. The funded entity's EO Officer shall review the complaint for accuracy and completeness. From the date of receipt, the EO Officer has 30 days to attempt to resolve the complaint.

Who May File

Any person may file who believes that he/she or any specific class or group of individuals has been or is being subjected to 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 may file a complaint. The complaint must be in writing and filed by the complainant or by an authorized representative.

Where to File

The complainant may file a complaint with the recipient of WIOA funds or the Civil Rights Center listed below .

When to File

A complaint must be filed within 180 days of any alleged discrimination. Only the Director of the CRC , for good cause shown, may extend the filing time.

Contents of a Complaint

Each complaint shall be in writing and shall:

1. Be signed by the complainant or his/her authorized representative.
2. Contain the complainant's name and address (or specify another means of contacting him/her);
3. Identify the respondent; or
4. Describe the complainant's allegations in sufficient detail to allow the recipient to determine whether the complaint:
 - falls under the recipient's jurisdiction.
 - was timely filed, and
 - has apparent merit.

Right to Representation

The recipient's complaint-handling process should provide for

- notice to all parties of the specific charges and responses of those involved.

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- the right of both parties to representation,
- the right of each party to present evidence
- the right of each party to rebut evidence presented by others, and
- a decision made strictly on the documented evidence.

Election of Recipient Level

Coverage and Provision: This policy sets forth a three-level system, which allows any person or organization to file complaint at either the local level with the One Stop Delivery System EO Officer; the State EO Officer, or federal Director of the CRC.

If the complainant elects to file with CRC rather than with the recipient, the recipient can assist the complainant in filling out CRC's complaint information form and forward it to CRC.

If the complainant elects to file a complaint at the local level one stop, the one stop EO Officer shall review the complaint for accuracy and completeness and send a copy to the State EO Officer. From the date of receipt, the EO Officer has 30 days to attempt to resolve the complaint.

All complaints alleging discrimination shall remain with the sub recipient for a period not to exceed 30 days. During this period, the sub recipient shall make every effort to resolve the complaint. Should the sub recipient fail to conciliate the complaint, the EO Officer shall forward the complaint to the State EO Officer by the end of the thirtieth day after receipt of filing the complaint. The State will investigate in accordance with State WIOA policy. The State will render a decision within 30 days.

If the complainant elects the federal process, the state Agency will immediately forward the complaint to the CRC.

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. The WAWDA mediation procedures are as follows:

- If mediation is elected, the WAWDA 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.

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- 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.

Notification of No Jurisdiction

The recipient shall notify the complainant in writing immediately upon determining that it does not have jurisdiction over a complaint that alleges a violation of the nondiscrimination and equal opportunity provisions of WIOA.

NON-CRIMINAL COMPLAINT PROCEDURES

Who May File a Non-Criminal Complaint and When to File:

Any person or organization alleging a violation of the Act, regulations, grant agreement or other agreement regarding the administration of WIOA Programs may file a non-criminal complaint. A complaint must be filed within 90 days (180 days if it is a discrimination complaint) of alleged violation with the following agency:

Dennis Williamson
Director of Workforce Development
WAPDD, Inc./WAWDB
1109 S 16th Street, Fort Smith, AR 72901

Any person or organization alleging a violation of the nondiscrimination and equal opportunity provisions of WIOA Section 188 29 CFR Part 38, or the One Stop Delivery System may file a non-criminal complaint. The complaint must be filed with the following agency:

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Felicia Thomison
WIOA Title I EO Officer
WAPDD, Inc.
Office phone (479) 785-2651
Email address fthomison@wapdd.org
1109 S 16th Street, Fort Smith, AR 72901

How to File a Non-Criminal Complaint:

Each Complaint must be in writing and signed by the complainant or his/her representative with electronic signature capture available. The complainant's name and address must be included, or another means of contact specified.

Each complaint must include a statement disclosing whether any proceedings involving the complaint have been commenced or concluded before any federal, state, or local authority, and if so, the date of the commencement or conclusion; the name and address of the authority and the style of the case; and the provisions of the Act, regulations, grant, or other agreements under the Act believed to have been violated.

Upon receipt of a grievance, the appropriate respondent representative shall send acknowledgement of receipt of the grievance to all parties by certified mail, return receipt requested. The acknowledgment resolution and the grievance shall outline the steps to be taken to resolve the matter, notify all parties of the right to request a hearing, advise of attempt to reach an informal resolution, and provide a synopsis of issues to be decided.

Administrative Investigation:

If a hearing is not requested, the appropriate official shall conduct an administrative fact-finding investigation. The investigation shall include opportunities for all parties to submit an in-depth position statement, including documentary supportive data and/or records, access to a review of appropriate official records, interview of principal parties, and an opportunity for all parties to offer rebuttal to information received, and written decision. Written decisions, resulting either from a hearing or an administrative fact-finding investigation, shall be issued within 60 days of the date the respondent representative received the complaint.

Written decisions shall be sent by certified mail, return receipt requested, and must contain the following: a statement assuring all steps included in the grievance procedure have been adhered to in accordance with provisions of the Act, remedies being offered, if appropriate; summary; and advisement of the right to appeal the decision, by request, for review and/or hearing by the state, as appropriate.

Hearing Procedures:

The following hearing procedures shall apply to grievances at local level. The administrative hearing shall be informal. Technical rules of evidence shall not apply to hearings conducted pursuant to these procedures. Hearsay evidence shall be admissible at the discretion of the

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hearing officer. Hearings shall be held at a time and place determined by the hearing officers, upon reasonable notice to the parties and the witnesses in selecting a place for the hearing.

The party requesting the hearing shall have the burden of establishing the facts and the entitlement to relief requested. The hearing procedures shall include written notice of the date, time, and place of the hearing; the manner in which it will be conducted and the issues to be decided; opportunity to be represented by an attorney or other representative of the complainant's choice; opportunity to bring witnesses and documentary evidence.

The appropriate respondent representative shall cooperate in making available any persons under their control or employ to testify if these persons are requested to testify by the complainant to release requested documents relevant to the issue; allow opportunity to question any witness of parties; ensure the rights to an impartial hearing examiner; keep a verbatim record of the proceeding; and issue a written decision by the hearing examiner.

This system provides that a hearing shall be conducted within 60 days of receipt of a grievance if requested by the grievant.

The remedies that may be imposed for a violation for any requirement may include suspension or termination of payments under WIOA Title I; prohibition of placement of a participant with an employer that has violated any requirement under WIOA Title I; where applicable, reinstatement of other relevant terms, conditions, and privileges of employment; and where appropriate other equitable relief.

If the grievant does not receive a decision at the local level within 60 days or receives a decision which is unsatisfactory, the grievant has a right to request a review of his or her grievance by the state. Appeals must follow the Grievance and Appeals Procedure of the State of Arkansas available at any Arkansas Workforce center or at the Arkansas Division of Workforce Services website at [https://dws.arkansas.gov/wp-content/uploads/Arkansas Griev Comp and Appeal Procedures for WIOA Title I Activities 6.1 Change 2 .pdf](https://dws.arkansas.gov/wp-content/uploads/Arkansas_Griev_Comp_and_Appeal_Procedures_for_WIOA_Title_I_Activities_6.1_Change_2.pdf).

Certain grievances and complaints may be filed directly with the State or with the U.S. Department of Labor. Information concerning these circumstances is also available in the Arkansas Grievance, Complaint, and Appeal Procedures for WIOA Title I Activities.

Notification of No Jurisdiction:

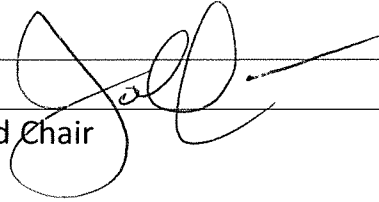
The recipient of the complaint shall notify the complainant in writing immediately upon determining that it does not have the jurisdiction over a complaint that alleges a violation of the non-discrimination equal opportunity provision of WIOA. Complaints of discrimination will be managed in accordance with WIOA 188 and the Department of Labor's nondiscrimination regulations implementing that section.

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Questions about or complaints alleging violation of the nondiscrimination provisions of WIOA 188 may be mailed to the Director, Civil Rights Center, U.S. Department of Labor, Room N4123, 200 Constitution Avenue, NW, Washington, DC 20210. Nothing in this procedure precludes a grievant or complainant from pursuing a remedy authorized under another Federal, State, or local law.

Approval Signature:

John Craig, Board Chair

A handwritten signature in black ink, appearing to read 'John Craig', is written over a horizontal line. The signature is stylized and cursive.