



Montgomery County Workforce Development Board

Complaint Processing Procedures

APPROVAL DATE: October 22nd, 2021

EFFECTIVE DATE: October 22nd, 2021

REFERENCES: 29 CFR Part §38.69 through §38.85, §38.54

PURPOSE: The Montgomery County Local Workforce Development Board, MontcoWorks, has developed and is implementing the following procedures for processing complaints alleging violations of the nondiscrimination and equal opportunity provisions in Section 188 of the WIOA and its regulations, 29 CFR Part 38.

BACKGROUND: Section 188 of WIOA prohibits discrimination based on race, color, religion, sex, national origin, age, disability, political affiliation or belief in both participation and employment; and against any beneficiary of programs financially assisted under Title I of WIOA on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIOA Title I-financially assisted program or activity. The nondiscrimination regulations of WIOA prohibited discrimination in all aspects of the administration, management and operation of WIOA Title I financially assisted programs or activities.

DEFINITIONS: MontcoWorks is adopting the following procedures for processing complaints alleging violations of the equal opportunity and nondiscrimination provisions of WIOA Title I assisted programs and/or activities. All recipients of WIOA Title I financially assisted programs or activities will be required to comply with this procedure as provided. For purposes of WIOA, the term recipient is defined, to include the Governor, as well as:

- (1) State level agencies that administer, or are financed in whole or in part, with WIOA Title I funds;
- (2) State Workforce Agencies;
- (3) State and Local Workforce Development Boards;
- (4) LWDA Grant recipients;
- (5) One-Stop Operators;
- (6) Service providers, including eligible training providers;
- (7) On-the-Job Training (OJT) employers;
- (8) Job Corps Contractors and Center Operators, excluding the operators of federally operated Job Corps Centers;
- (9) Job Corps national training contractors;
- (10) Outreach and admissions agencies, including Job Corps contractors that perform these functions;
- (11) Placement agencies, including Job Corps contractors that perform these functions; and



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(12) Other National Program recipients; and

(13) One Stop Partners, to the extent that they participate in the One Stop system.

Complaints may be filed by:

- Applicants/registrants for aid, benefits, services or training
- Eligible applicants/registrants or Participants
- Employees or Applicants for employment
- Service providers (the organization involved is one, which may be attributed a racial, national origin or other characteristic entitled to protection under WIOA).
- Eligible service providers.

PROCEDURES: Complaint forms for filing allegations of discrimination at the local, state and federal levels can be obtained from the EO Liaison in the PA CareerLink® Montgomery County, the Local WIOA EO Officer, the Commonwealth of Pennsylvania, Department of Labor and Industry, Office of Equal Opportunity, or directly from CRC. Complaints must be filed within 180 days from the date of the alleged occurrence of discrimination. Complaints filed after the 180-day period will be forwarded to the Commonwealth of Pennsylvania, Department of Labor and Industry, Office of Equal Opportunity, or the CRC. The Director of CRC and the Director of the OEO, for good cause shown, may extend the filing time beyond 180 days. Individuals, specific classes of individuals, or authorized representatives may file complaints/allegations of discrimination regarding PA CareerLink® Montgomery County issues with the Equal Opportunity Liaison in the PA CareerLink® Montgomery County who forwards them directly to the State Equal Opportunity Officer. Individuals, specific classes of individuals, or authorized representatives may file complaints/allegations of discrimination about LWDA programs or services with the Local Workforce Development Area's Equal Opportunity Officer, or directly with the State Equal Opportunity Officer. Complainants are also made aware of their right to file allegations directly with the USDOL Civil Rights Center (CRC).

NOTE: Complaints/allegations do not have to be submitted on the prescribed complaint form to be considered valid complaints or allegations. Discrimination complaints may be submitted to: Local Workforce Development Area Equal Opportunity Officer or Director, Office of Equal Opportunity Department of Labor & Industry Room 1402, Labor & Industry Building 651 Boas St Harrisburg, PA 17121 Toll Free 1-800-622-5422 TDD/TTY 1-800-654-5984 or PA Relay 711 or 39 Director, Civil Rights Center U.S. Department of Labor 200 Constitution Avenue, NW Room N-4123 Washington, DC 20210 (202) 219-7026 TDD (202) 219-7003

Complaints filed by the complainant or his/her authorized representative must be filed in writing and must contain the complainant's and respondent's name and address, date alleged incident of discrimination occurred, a description of the allegations with enough detail to allow a determination by the Equal Opportunity Officer for MontcoWorks, the Civil Rights Center (CRC) or the Department of Labor & Industry, about jurisdiction over the complaint, whether or not the complaint was filed in a timely manner, apparent merit, and, if true, whether the allegations would violate any of the



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nondiscrimination and equal opportunity provisions of WIOA, and the complainant's or his/her authorized representative's signature.

Procedures for Complaint Processing at the Local Workforce Development Area Equal Opportunity Officer Level.

Upon notification of a discrimination complaint, the LWDA EO Officer must inform the complainant of their right to file a complaint and have it investigated at the local, state or federal level. All complaints filed with the LWDA Equal Opportunity Officer must be immediately reported to the EO Officer in L&I. If the complainant elects to attempt resolution at the local level, the LWDA EO Officer, based on consultation with the State OEO, will conduct fact-finding/investigation at the local level in consonance with procedures outlined in the WIOA.

The LWDA Equal Opportunity Officer shall meet with the complainant or his/her authorized representative within ten (10) business days from the date of receipt of the written allegations.

(A) Within 10 days of that meeting the The MontcoWorks EOO must provide:

(1) Initial, written notice to the complainant that contains the following information

- (i) An acknowledgment that the recipient 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 the Equal Opportunity Notice
- (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.

(2) A written statement of the issue(s), provided to the complainant, that 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. to conduct a fact finding or investigation of the circumstances underlying the allegations and attempt to informally resolve the issue(s).

(4) A period during which the recipient attempts to resolve the complaint. The methods available to resolve the complaint must include alternative dispute resolution (ADR), as described in paragraph (c) of this section.

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



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- (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.

(2) The procedures the recipient adopts must provide for alternative dispute resolution (ADR). The recipient's ADR procedures must 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.

The MontcoWorks EO Officer's findings will be submitted in writing to the complainant not later than ten (10) business days following the fact-finding/investigation. The written notification shall include notice of the complainant's right to request a formal investigation by the EO Officer at the state level if a satisfactory resolution is not accomplished at the local level.

If the Complainant is dissatisfied with the attempted informal resolution, he/she must inform the LWDA EO Officer and the EO Officer at the State level within five (5) business days of receipt of the unsatisfactory decision and request a formal investigation by the State Equal Opportunity Office.

All complaints filed at the local level must be documented on the WIOA/LWDA local complaint log that is submitted to the State Equal Opportunity Office on a quarterly basis.

Procedures for Complaint Processing at the Local Workforce Development Area State Equal Opportunity Officer Level.

Acceptance of Complaint If it is determined that the OEO has jurisdiction over the complaint/allegation filed, within ten (10) days of receipt, the Equal Opportunity Officer will send an acknowledgment of receipt of the letter to the complainant and advise him/her of the following: (1) Their right to be represented in the complaint process; (2) A list of the issues raised in the complaint; (3) A statement of whether the issue will be accepted for investigation or rejected by the OEO; if rejected, the reason for the rejection; and, (4) The right to seek resolution through the Mediation/Alternate Dispute Resolution (ADR) process.

NOTE: If the complainant elects resolution through ADR, the complaint will be forwarded to a Mediator. The Respondent will be notified that a complaint alleging discrimination has been filed and is being processed. He/she will also be advised if the complainant elects mediation as the means of resolution. Otherwise, the Equal Opportunity Officer will meet with the complainant and/or his/her authorized



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representative and the respondent, within 15 days from the date of receipt of the written allegations, to initiate a fact finding or investigation of the circumstances underlying the allegations, and attempt to informally resolve the issue(s). If the complaint is resolved informally, the resolution will be documented and maintained in the OEO files.

If the Complainant is dissatisfied with the attempted informal resolution or prefers a formal investigation, an investigator will be assigned to the case. The investigator will interview the complainant, respondent and witnesses for both parties as identified by the parties. After the investigation, a Notice of Final Determination will be issued.

The Notice of Final Determination will be strictly based on the evidence obtained during the investigation. The notice will be issued within 90 days of filing the complaint. The written notice will include, for each issue raised, a decision on the issue(s), an explanation of the reasons underlying the decision, or a description of the way the parties resolved the issue(s) and notification of recourse. If by the end of the 90 days, the OEO has not completed processing the complaint or fails to issue a notice of Final Determination, the complainant or his/her representative may, within 30 days of the expiration of the 90-day period, file a complaint with the Director, Civil Rights Center (CRC) who may extend the 30-day period for good cause shown. If the Notice of Final Determination is issued during the 90-day period and the Complainant is dissatisfied with the decision, the complainant is advised of his/her right to file a complaint with the CRC within 30 days of the date on which the complainant received the Notice of Final Determination.

Non-Acceptance of Complaint

If a complaint is not within the jurisdiction of the OEO or CRC, is not timely filed, or does not have apparent merit, the complainant will be immediately notified in writing stating the reason for the lack of jurisdiction, i.e., α the basis for the complaint is not covered by the prohibitions set forth by 29 CFR Part 38; α the complaint was not filed within the prescribed 180-day time-frame or; α the complaint is against an entity that is not a recipient of WIOA Title I financial assistance as defined by 29 CFR Part 38.

If the complaint is not within the jurisdiction of OEO or the Civil Rights Center, but within the jurisdiction of another federal grant making agency, the complaint will be returned to the complainant, stating the reason(s) for the lack of jurisdiction. The complainant will be advised of the appropriate agency that handles the complaint. If a complaint alleges discrimination by an entity that operates a program or activity financially assisted by a federal grant agency other than DOL but participates as a partner in a PA CareerLink®, the following will apply: α If the complaint alleges discrimination on a basis prohibited by Section 188 or Civil Rights laws, the OEO and the grant-making agency will have dual jurisdiction over the complaint. α If the complaint alleges discrimination on a basis that is prohibited by Section 188 of WIOA but not by any Civil Rights laws enforced by the federal grant-maker, the complaint will be referred to CRC who has sole jurisdiction over the complaint.