

WorkSource Pierce

Discrimination Complaint Processing Handbook

Issued June 11, 2021

EQUAL OPPORTUNITY - EQUAL ACCESS

WorkForce Central is an equal opportunity employer/program.

Auxiliary aids and services are available upon request for individuals with disabilities. Washington Relay Service – 711.

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INTRODUCTION

The WorkSource Pierce Discrimination Complaint Processing Handbook establishes minimum requirements and gives procedural guidance to WorkForce Central, its subrecipients of the Workforce Innovation and Opportunity Act (WIOA) Title I grant funds, service providers and partners within the WorkSource Pierce One Stop system, regarding the development, maintenance, and implementation of local-level discrimination complaint processing procedures. The content of this handbook is equivalent to WorkForce Central's Discrimination Complaint Process Policy. Both the Discrimination Complaint Process Policy and this Handbook are located on WorkForce Central's website at <https://workforce-central.org/about/policies/>.

All grant recipients and program providers under Title I of WIOA are responsible for complying with the discrimination complaint procedures at [29 CFR Part 38](#), and as outlined in this handbook.

The discrimination complaint procedures and tools in this handbook serve as templates for WorkForce Central to adopt or modify. These templates represent the minimum state and federal requirements and should not be modified to remove minimum state and federal requirements.

Note: *Program complaints* that do not allege violations of nondiscrimination laws will be processed under WorkForce Central's WorkSource Pierce Program Concern and Complaint Resolution Policy, located on [WorkForce Central's website](#) (hyperlink).

References

- [WIOA Section 188](#)
- [29 CFR Part 38](#)
- Title [VI](#) & [VII](#) of the Civil Rights Act of 1964
- [Title IX of the Education Amendments of 1972](#)
- [Age Discrimination Act of 1975](#)
- [Age Discrimination in Employment Act of 1967](#)
- Section [501](#), [503](#), [504](#) of Rehabilitation Act of 1973
- [Americans with Disabilities Act of 1990, as amended](#)
- [Revised Code of Washington \(RCW\) 49.60](#)
- [Washington State Nondiscrimination Plan](#)
- ESD Policy and Procedure 0013 - Discrimination Complaint Processing
- ESD Policy 1017-WorkSource System Discrimination Complaint Processing Policy & Handbook

DISCRIMINATION COMPLAINT PROCESSING PROCEDURES

Filing a Discrimination Complaint

Any person or the person's representative who believes that any of the following circumstances exist may file a written complaint:

- 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, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, or for any beneficiary of, applicant to, or participant in programs financially assisted under Title I of WIOA, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.
- Either the person, or any specific class of individuals, has been or is being retaliated against as described in [29 CFR Part 38.19](#).

Discrimination complaints filed under WIOA must be written and filed within **180 calendar days** of the date of the alleged discrimination or retaliation.

The Washington Law Against Discrimination, [RCW 49.60](#), prohibits discrimination in employment and public accommodations on these additional bases: citizenship or immigration status, families with children, marital status, sexual orientation, honorably discharged veteran or military status, and the use of a trained guide dog or service animal by a person with a disability. Discrimination complaints filed on these grounds will be processed based on state law and without any references to the United States Department of Labor (USDOL) Civil Rights Center (CRC). The complainant may also file a discrimination complaint with the [Washington State Human Rights Commission](#). Discrimination complaints filed under Washington State law must be filed within **six (6) months** of the date of the alleged discrimination or retaliation.

Any person or their representative wishing to file a discrimination complaint must be given the option to file it with the WorkForce Central EO Officer, the State-Level EO Officer or with the Director of the USDOL CRC. If the complainant elects to file with both CRC and the WorkForce Central EO Officer, or State-Level EO Officer, the complainant must be informed that the WorkForce Central EO Officer or State-Level EO Officer has **90 calendar days** to process the discrimination complaint and that CRC will not investigate the complaint until the **90 calendar-day** period has expired.

Customers with disabilities must be provided, upon request and at no cost to them, appropriate accommodations, auxiliary aids, and services to file their complaint. Customers who are limited English proficient (LEP) must be provided, upon request and at no cost to them, language assistance services, including oral interpretation and/or written translation to file their complaint.

Discrimination complaints received at the WorkSource Pierce One-Stop Center, affiliate, or connection site, or with a service provider will be forwarded to the WorkForce Central EO Officer.

Following is contact information for the WorkForce Central EO Officer, State-Level EO Officer, and the USDOL CRC:

| Local EO Officer | State-Level EO Officer | The Director, Civil Rights Center (CRC) |
|---|---|---|
| WorkForce Central 3640 S. Cedar Street, Ste E. Tacoma, WA 98409 | Employment Security Department (ESD) P.O. Box 9046 Olympia, WA 98507-9046 | U.S. Department of Labor 200 Constitution Avenue NW Room N-4123 Washington, DC 20210 |

A discrimination complaint may be filed electronically or in hard copy using the WorkSource Discrimination Complaint Form ([English](#) and [Spanish](#)), or the complaint may be written out in a different format.

Each complaint must contain the following information:

- Complainant's name, mailing address, and, if available, email address or other means of contacting the complainant.
- Identification of individual(s) or entity(ies) responsible for the alleged discrimination.
- A description of the complainant's allegations, which must include enough detail to determine:
 - Jurisdiction over the complaint,
 - If the complaint was filed timely (**within 180 calendar days of the date of the last incident**), and
 - Apparent merit of the complaint (whether the complainant's allegations, if true, would indicate noncompliance with any of the nondiscrimination and equal opportunity provisions of WIOA).
- Complainant's written or electronic signature or the written or electronic signature of the complainant's representative.

WorkSource Pierce system staff or their representative may file a discrimination complaint with the WorkForce Central EO Officer, the State-Level EO Officer, the CRC, their organization's equal opportunity (EO)/equal employment opportunity (EEO) contact, or their union if they are represented.

WorkSource Pierce system staff also have the right to file a discrimination complaint with the [U.S. Equal Employment Opportunity Commission \(EEOC\)](#). EEOC enforces federal laws that prohibit discrimination in employment on the basis of race, color, national origin, sex (including pregnancy, gender identity, and sexual orientation), religion, age (40 or above), and disability or genetic information. EEOC jurisdiction covers violations of Title VII of the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967 and Title I of the Americans with Disabilities Act of 1990, as amended.

Discrimination complaints filed with the EEOC must be written and filed within **300 days** of the date of the alleged discrimination or retaliation.

Washington State Human Rights Commission (HRC)

HRC enforces state law that prohibits discrimination in employment and places of public accommodation based on race, creed, color, national origin, citizenship or immigration status, families with children, sex, sexual orientation, gender identity, marital status, age, disability, the use of a trained guide dog or service animal by a person with a disability, and honorably discharged veteran or military status. HRC's jurisdiction is the Washington State Law Against Discrimination – [RCW 49.60](#).

Discrimination complaints filed with the HRC must be written and filed within **six (6) months** of the date of the alleged discrimination or retaliation.

No individual, organization or agency may refuse service, discharge, intimidate, threaten, coerce, discriminate or retaliate in any manner against any person because that person has filed a discrimination complaint, opposed a practice prohibited by nondiscrimination laws, instituted any proceeding related to a discrimination complaint, testified or is about to testify in any proceeding or investigation related to a discrimination complaint, or has provided information or assisted in an investigation.

Receiving a Discrimination Complaint

If the complainant elects to file a discrimination complaint with an employee in the WorkSource Pierce system, that employee must accept the discrimination complaint and immediately forward it to the WorkForce Central EO Officer.

The WorkForce Central EO Officer is responsible for providing local intake services for discrimination complaints to determine if the complaint is covered by [29 CFR Part 38](#) and for resolving jurisdictional issues, if any.

Upon receipt of a discrimination complaint, the WorkForce Central EO Officer must log the complaint and, if necessary, confer with the State-Level EO Officer prior to determining jurisdiction over the matter. If the WorkForce Central EO Officer determines that another entity has jurisdiction, they must promptly refer the discrimination complaint to that entity and the WorkForce Central EO Officer will notify the complainant, in writing, within ten business days and include the reasons for the determination. This Notice of Lack of Jurisdiction must advise complainants that they have a right to file a complaint with the Director of the CRC within **30 calendar days** of the date on which the complainant received the notice.

Distinguishing Between Program and Discrimination Complaints

If a complainant alleges that they were mistreated in service delivery because of a prohibited factor such as race, national origin, sex, etc., and they also allege they were denied admittance to a program because of a non-prohibited factor such as their income level, these are handled as a separate discrimination complaint and a program complaint. If the complainant had alleged that both were due to prohibited factors, it would be a single discrimination complaint. The discrimination complaint would be processed under the procedures outlined in this handbook while the program complaint would be processed under WorkSource Pierce Program Concern & Complaint Resolution Policy and Handbook available on [WorkForce Central's Policy Library](#).

If desired, the discrimination complaint Notice of Final Action and the program complaint determination letter may be sent in the same letter but must be separate subjects. The Notice of Final Action should be signed by the WorkForce Central Chief Executive Officer since WorkForce Central and the Governor are jointly and individually liable for all violations of the nondiscrimination and equal opportunity provisions of [29 CFR Part 38](#).

If a discrimination complaint is filed that contains allegations against individuals, WorkSource Pierce centers, etc. that are in more than one local workforce development area, the WorkForce Central EO Officer may collaborate with their counterpart in the other local workforce development area or with the State-Level EO Officer to process the complaint.

Processing a Discrimination Complaint

Within **10 business days** of receipt of the discrimination complaint, the WorkForce Central EO Officer must issue an initial written Notice of Receipt to complainants that contains the following information:

- Acknowledgement of receipt of the discrimination complaint.
- Notice that the complainant has the right to be represented in the discrimination complaint process.
- Notice of rights contained in [29 CFR Part 38.35](#). Attached is a sample 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 the notice at [29 CFR Part 38.35](#) will be translated into the appropriate non-English language as required in [29 CFR Part 38.34](#), [29 CFR Part 38.36](#), and [29 CFR Part 38.9](#).

- A list of each issue raised in the discrimination complaint and, for each issue, a statement that the issue is accepted for investigation or is not accepted. The reason(s) must be provided for rejection.
- The complainant must be given an invitation to participate in alternative dispute resolution. For more information, see [Alternative Dispute Resolution \(ADR\) Process](#) below.

Immediately after issuance of the Notice of Receipt, the WorkForce Central EO Officer must either begin the investigation of the discrimination complaint or arrange to have an investigation conducted by an individual trained in conducting discrimination complaint investigations.

The total time allowed for processing the discrimination complaint is **90 calendar days** from the date on which the complaint was filed. Extensions are not allowed. This timeframe includes **60 calendar days** at the local level and **30 calendar days** for review at the state level, if needed.

If the complainant elects to file with both CRC and the WorkForce Central EO Officer, the complainant must be informed that the WorkForce Central EO Officer has **90 calendar days** to process the discrimination complaint and that CRC will not investigate the complaint until the **90 calendar-day** period has expired.

Alternative Dispute Resolution (ADR) Process

The WorkForce Central EO Officer will include an invitation to alternative dispute resolution with the *Notice of Receipt*. Complainants may request ADR at any time after they have filed a written complaint, but before they have received a [Notice of Final Action](#). If the complainant chooses to participate in ADR, they or their designee must respond in writing and it must be dated, signed by the complainant, and include the relief sought.

Upon receiving a request for ADR, the WorkForce Central EO Officer will immediately forward it to the State-Level EO Officer. The State-Level EO Officer will coordinate with the WorkForce Central EO Officer on ADR processes.

If possible, the ADR process should be completed within **30 calendar days** of receipt of the discrimination complaint. This will assist in keeping within the **90 calendar-day** timeframe of the written *Notice of Final Action* if ADR is not successful.

If resolution is reached under ADR, the agreement will be in writing. A copy of the signed agreement will be sent to the State-Level EO Officer.

If an agreement is reached under ADR but a party to the agreement believes the agreement has been breached, the non-breaching party may file a complaint with the CRC within **30 calendar days** of the date on which the non-breaching party learns of the alleged breach.

If the parties do not reach resolution under ADR, the WorkForce Central EO Officer will continue with the investigation, or the complainant may file a complaint with the CRC.

Notice of Final Action

A written *Notice of Final Action (NOFA)* will be provided to the complainant within **90 calendar days** of the date the discrimination complaint was filed. The NOFA will contain:

- For each issue raised in the complaint, a statement of either:
 - The recipient's decision on the issue and an explanation of the reasons underlying the decision, or

- A description of the way the parties resolved the issue, and
- Notice that the complainant has a right to file a complaint with CRC within **30 calendar days** of the date on which the NOFA is received if the complainant is dissatisfied with the recipient's final action on the complaint.

Corrective Action

If discrimination is found through the process of a complaint investigation, the respondent will be requested to voluntarily comply with corrective action(s) or a conciliation agreement to implement remedial action. If voluntary compliance efforts fail, sanctions may be considered. Prior to sanctions being applied, procedural due process will be provided.

Confidentiality

The WorkForce Central EO Officer is required to keep the following information confidential to the maximum extent possible, consistent with applicable law and fair determination of the discrimination complaint:

- The fact that the discrimination complaint has been filed.
- The identity of the complainant(s).
- The identity of individual respondent(s) to the allegations.
- The identity of any person(s) who furnished information relative to, or assisting in, a complaint investigation.

Recordkeeping

A log of discrimination complaints filed with the recipient must be maintained by the WorkForce Central EO Officer for logging, tracking, and reporting. If a Program Complaint Coordinator receives a discrimination complaint, they will log it and then forward the discrimination complaint to the WorkForce Central EO Officer and/or the State-Level EO Officer:

The discrimination complaint log must include:

- The name and address of the complainant.
- The basis of the discrimination complaint.
- A description of the complaint.
- The date the complaint was filed.
- The disposition and date.
- Any other pertinent information.

Access to the discrimination complaint log must be limited to the WorkForce Central EO Officer, the Program Complaint Coordinator, and individuals authorized to conduct EO monitoring.

All records (including email and hard copy) regarding discrimination complaints and actions taken on discrimination complaints must be maintained for a period of not less than three years from the date of final action related to resolution of the complaint.

The State-Level EO Officer will review discrimination complaint data on a routine basis. Should deficiencies be noted in the implementation of these discrimination complaint procedures by WorkForce Central, the

State-Level EO Officer will collaborate with the WorkForce Central EO Officer to review the information and provide technical assistance in the discrimination complaint process, alternative dispute resolution, and/or investigation. Discrimination complaint data will be available for review by USDOL CRC upon request.

Definitions

Civil Rights Center (CRC) – The CRC is the federal enforcement agency with the United States Department of Labor (USDOL), with jurisdiction over discrimination complaints alleging violations of WIOA, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, and similar laws that pertain to recipients of USDOL financial assistance.

Discrimination Complaint – Discrimination complaints are complaints alleging a violation of law(s) that prohibit discrimination against any individual or any specific class of individuals 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 for any beneficiary of, applicant to, or participant in programs financially assisted under Title I of WIOA, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity. Discrimination complaints filed under WIOA must be filed within **180 calendar days** of the alleged discrimination or retaliation.

Washington State law also prohibits discrimination in employment and public accommodation on the following bases: citizenship or immigration status, families with children, marital status, sexual orientation, honorably discharged veteran or military status, and the use of a trained guide dog or service animal by a person with a disability. Discrimination complaints filed under Washington State law must be filed within **six (6) months** of the date of the alleged discrimination or retaliation.

Recipient – Recipient means an entity to which financial assistance under WIOA Title I is extended, directly from the U.S. Department of Labor or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding any ultimate beneficiary of the WIOA Title I-financially assisted program or activity.

In addition, WorkSource Pierce system partners are treated as recipients to the extent that they participate in the WorkSource Pierce system. As a result, all partners in the WorkSource Pierce system are subject to the nondiscrimination and equal opportunity requirements of [29 CFR Part 38](#).

Service provider – Service provider means any operator of or provider of aid, benefits, services, or training to:

- Any program or activity that receives WIOA Title I financial assistance from or through any state or LWDB grant recipient, or
- Any participant through that participant's Individual Training Account (ITA).

Service provider may also be defined as any entity that is selected and/or certified as an eligible provider of training services to participants.

State-Level Equal Opportunity (EO) Officer – The individual designated by the Governor as the State-Level Equal Opportunity Officer, who reports directly to the Governor, or the Governor's designee, and is responsible for state program-wide coordination of compliance with the nondiscrimination and equal opportunity requirements in WIOA.

WorkForce Central Equal Opportunity (EO) Officer – The individual designated by WorkForce Central to serve as the local EO Officer responsible for administration of WorkForce Central's subrecipients and service providers' discrimination complaint processing as outlined in this policy and procedure, and for

monitoring subrecipient and service providers' compliance with the nondiscrimination and equal opportunity requirements in WIOA.

DOWNLOADABLE EXAMPLE TOOLS

- [Equal Opportunity is the Law Notice](#)
 - **Note:** The Equal Opportunity is the Law Notice is available in several other languages on the [CRC website](#).
- [WorkSource Discrimination Complaint Form – English](#)
- [WorkSource Discrimination Complaint Form - Spanish](#)

DISCRIMINATION COMPLAINT PROCESS QUESTIONS AND ANSWERS

- **What should I do if a customer indicates they want to file a discrimination complaint?**

If a customer says they feel discriminated against or feels they were treated poorly because of a protected characteristic (race, gender, age, etc.), first give the customer their rights to file a discrimination complaint with the WorkForce Central EO Officer, the State-Level EO Officer, and the USDOL CRC. After giving the customer their rights, continue to provide service to the customer.

- **What should I do if a customer indicates they want to file a program complaint?**

If a customer says they want to file a program complaint about violations of a law, regulations or policy connected to Wagner-Peyser, WIOA, or Trade Adjustment Act (TAA) programs, but they do not allege discrimination, give the customer their rights to file a program complaint with the local Program Complaint Coordinator (see WorkSource Pierce Program Concern and Complaint Resolution Policy, available on [WorkForce Central's Policy Library](#)).

- **Where can I find the Equal Opportunity is the Law complaint poster?**

Equal Opportunity is the Law posters informing customers of their rights to file a discrimination complaint with the WorkForce Central EO Officer, the State-Level EO Officer, and the USDOL CRC are posted in every WorkSource center and on [Employment Security Department's website](#). A sample Equal Opportunity is the Law Notice is attached to this handbook. The Equal Opportunity is the Law Notice is available in several other languages on the [CRC website](#).

- **How can a customer file a discrimination complaint?**

A customer may file a discrimination complaint by submitting a locally approved complaint form that is filled out and signed or by submitting a signed letter or email with enough information to initiate fact-finding. This handbook contains additional information regarding what must be included on complaint forms, including an example of a form that can be implemented.

- **May WorkForce Central develop a local discrimination policy and process that applies to all WorkSource sites located in its area?**

Yes. It is not required for each site to maintain separate discrimination complaint policies or procedures. The complaint procedures and tools in this handbook can serve as templates for WorkForce Central to adopt or modify. These templates represent the minimum state and federal requirements and should not be modified to remove minimum state and federal requirements.