

**WORKFORCE INVESTMENT ACT
EQUAL OPPORTUNITY AND NONDISCRIMINATION POLICY AND
COMPLAINT PROCESSING PROCEDURES OVERVIEW**

Who may file a complaint

Any person who believes that either 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, national origin, age, disability, political affiliation or belief and; for beneficiaries citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIA Title I financially assisted program or activity, may file a complaint. Complaints filed by the complainant or his/her authorized representative must be filed in writing and must contain the complainants and respondents name and address, date of occurrence, a description of the allegations with enough detail to establish WIA Title I funding jurisdiction over the complaint, whether or not the complaint was timely filed, apparent merit, and if true, whether the allegations would violate any of the nondiscrimination and equal opportunity provisions of WIA, and the complainant or his/her authorized representatives signature.

Where to file

Complaints may be filed with **Denise Pilgrim, the Equal Opportunity Officer for the local area (LWIA EO Officer), NYC Department of Youth and Community Development**, 156 William Street, Room 266, New York, New York 10038, or directly with the Director, Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-4123, Washington, D.C. 20210. For complaints related to programs administered directly by the New York State Department of Labor, either the NYSDOL Equal Opportunity Liaison (EO Liaison) at the One-Stop Center, or **Interim NYS WIA EO Officer: Margaret Sheehan-Nolan, the New York State Department of Labor**, Division of Equal Opportunity Development, State Campus, Building 12, Room 540, Albany, New York 12240.

When to file

Generally, a complaint must be filed within 180 days of the alleged discrimination. However, for good cause shown, the Director of the Civil Rights Center may extend the filing time. Complainants who file with an EO Officer must wait until a written Notice of Final Action is received or until 90 days has passed (whichever is sooner) before filing with CRC. The Director of CRC, for good cause shown, may extend the filing time beyond 180 days.

Information that the complaint must contain

All complaints must be in writing, and must contain the following:

- The complainant's name and address or another means of contact;
- The identity of the respondent, including the individual/entity alleged to be responsible for the discrimination;
- A description of the allegations in sufficient detail to determine whether or not the complaint is within the jurisdiction of the EO Officer, whether or not the complaint was timely filed, has apparent merit, and if true, whether the allegations would violate the non-discrimination and equal opportunity provisions of WIA.
- The complaint must be signed by the complainant or his/her authorized representative.

If it is determined that the EO Officer does not have jurisdiction over a complaint, the complainant will be notified of the lack of jurisdiction. The notification will include a reason(s) for the determination and notice that he/she has a right to file the complaint with CRC within 30 days from the date on which the jurisdiction notice is received.

If it is determined that the EO Officer has joint jurisdiction of the complaint, the complaint will be forwarded to the appropriate equal opportunity officer and the complainant will be notified that the complaint was received and forwarded for processing in accordance with the complaint procedures established by the recipient having joint jurisdiction.

All parties to the complaint are entitled to representation of their own choosing and at their own expense.

Upon receipt by the EO Officer, Complaints are assigned a case number, recorded on the complaint log and forwarded to the appropriate Equal Opportunity Officer. All complaints are handled and maintained as strictly confidential.

Retaliation/Intimidation/Reprisal

No person shall be discharged, intimidated, retaliated against, threatened, coerced or otherwise discriminated against for having filed a complaint, furnished information to, assisted or participated in any manner in investigation, review, hearing or any other activity related to the administration of, or exercise of authority under, or privileges secured by, 29 CFR Part 37.

Discrimination Complaint Processing Procedural Steps

Step I - The Opportunity to File a Complaint

All complaints must be in writing. Any person who believes that either he or she, or any specific class of individuals, or authorized representative, hereafter referred to as the complainant, who believes he or she has been discriminated against, must submit the allegations in writing to the equal opportunity officer. The Equal Opportunity Officer will, within five (5) days of receipt of the complaint, send an acknowledgment letter to the complainant and advise him/her of their right to be represented in the complaint process

Step II - The Opportunity for an Informal Resolution Conference

The Equal Opportunity Officer may meet with the complainant or his/her authorized representative, within fifteen (15) days from the date of receipt of the written allegations, to conduct a preliminary investigation and to discuss the circumstances underlying the allegations, and attempt to informally resolve the issue(s). If the complaint cannot be resolved informally, the Equal Opportunity Officer will within fifteen (15) days of receipt of the complaint advise the complainant of a list of the issues raised in the complaint and a statement whether the issue will be accepted for investigation or rejected by the EO Officer; if rejected, the reason for the rejection. If any portion of a complaint is accepted, the EO Officer will further advise the complainant of his or her right to seek resolution through mediation or to continue with a formal investigation and be advised of their right to have representation during the complaint process.

Step III - The Opportunity for Mediation or Investigation

If the Complainant is dissatisfied with the attempted informal resolution, he/she must so inform the Equal Opportunity Officer within ten (10) days of receipt of the written acknowledgement containing the statement of issues and indicate whether or not he or she wishes to elect the mediation option. If no response is received, the Equal Opportunity Officer will continue to investigate the complaint.

If the complainant selects the mediation option, an impartial mediator will be appointed. The mediation will be conducted within sixty (60) days from the date of such election. Written notification of the mediation conference will be sent to parties involved by the impartial decision-maker within ten (10) days of the date of mediation. The notice will state the date, time and place of the mediation, the specific issues to be heard and that the mediation is voluntary and confidential. Each party, (complainant/respondent) has the right to representation by an attorney or other individual of his/her own choice, at his/her own expense.

If the parties reach agreement on some or all of the issues presented, the mediator will assist the parties in drafting an agreement to be submitted for resolution of such issues. If any or all issues remain unresolved at the end of mediation, the mediator will send a notice of failure to reach agreement to the Equal Opportunity Officer within sixty (60) days of the complainant's election for mediation.

Step IV - The Investigation : Fact Finding Procedure:

After the EO Officer has determined that the discrimination complaint is within his or her jurisdiction, the State EO Officer/staff should promptly conduct an investigation.

A complaint investigation or fact-finding includes the following elements:

- Interview the Complainant to gather facts.
- Ask the Complainant for the names, addresses and phone numbers of people who are knowledgeable about the situation. The State EO Officer/staff should contact the potential witnesses to request interviews.
- Collect any evidence that the complainant has to support their allegation(s).
- State the resolution sought by the complainant.
- Assure the Complainant that only those who have a “need to know” will be told anything. Who must be told is decided on a case by case basis and generally includes managers, supervisors, and witnesses, to the extent necessary to obtain information.
- The investigator should make certain strategic decisions as to which witnesses to interview for which purpose.
 1. First, individuals should be interviewed who have first hand knowledge.
 2. Second, individuals should be interviewed who were directly involved in the situation that the complainant has alleged occurred.
 3. Thirdly, individuals who have second hand knowledge should be interviewed later if deemed necessary by the investigator
- Optional: Ask the witnesses to sign and date the notes of the interviews at the time of the interviews or, in the alternative, prepare statements based on your interview notes and ask the witnesses to sign and date the prepared statement.
- In your interview with the complainant you may wish to obtain a signed statement from the complainant that he/she received important documents that the recipient asserts they gave the complainant, such as disciplinary warnings, requests for documents or notification of deadlines.
- Optional: Ask the complainant to sign and date the notes of the interview at the time of the interview or, in the alternative, prepare a statement based on your interview notes and ask the complainant to sign and date the prepared statement.
- Interview the Respondent to gather facts.
- Ask the Respondent for the names, addresses and phone numbers of people who are knowledgeable about the situation. The State EO Officer/staff should contact the potential witnesses to request interviews.
- Optional: Ask the respondent to sign and date the notes of the interview at the time of the interview or, in the alternative, prepare a statement based on your interview notes and ask the respondent to sign and date the prepared statement.
- Reviewing documents, reports, correspondence, personnel records and policies/procedures related to activities which gave rise to the allegation of discrimination.
- If additional allegations are made during the investigation, or other pertinent information is discovered, you should inform the Respondent and give him/her a chance to respond, following the format of the original investigation.
- A witness will make statements based not upon what he/she knows, but upon what he/she heard. Such hearsay information is not “evidence”, since its credibility depends upon another person or source. However, it may have relevance to the investigation. Therefore, hearsay evidence should not be eliminated, but should be used if appropriate to lead you to sources that will allow you to use the information as evidence.

- Prepare an investigatory report that includes statement of basis of complaint, specific allegations, respondent(s) response and witness statements, findings of fact, rationale and conclusion (probable cause or no probable cause that respondent may have discriminated) and appeal rights.
- Any additional information essential to understanding of the specific matter of the case or environment in which it occurred.
- The respondent's position statement including their account of the facts and the respondent's agreement or disagreement with each of the complainant allegations.
- The Respondent can produce documentation for review in their defense.
- Maintain a complaint file and complaint log with reference number.

All Notices of Final Action must be reviewed by the State EO Officer to insure a thorough investigation and decision is supported by the findings of fact.

A Notice of Final Action will be issued by the Equal Opportunity Officer within ninety (90) days of the filing of the complaint. The written Notice must 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), notice of recourse as provided below.

Step V - Notice of Recourse

If the resolution offered to the complainant or his/her representative is not satisfactory to the complainant, the complainant or his/her representative may, within 30 days of the date on which the Notice of Final Action is issued, file a complaint with the Director of Civil Rights Center (CRC). The Director of CRC may extend the thirty-day time limit for good cause shown.