

Attachment F

LOCAL EQUAL OPPORTUNITY COMPLAINTS PROCESS AND TIMEFRAMES

- An Equal Opportunity Complaint must be filed within **180 days** of the alleged act(s) of discrimination. The complaint must be filed at either the local level or with the United States Department of Labor (USDOL) Civil Rights Center (CRC) in Washington, D.C.
- If a customer alerts a career center of his/her intent to file a discrimination complaint, steps should be taken to connect the complainant with the designated local EO Officer (his or her name should appear on the Complaint / EO poster or flier). If the local Complaint / EO Officer (CO/EO) is not available immediately, the designated EO back-up shall be contacted.
- In all possible instances, the designated local EO should personally meet with the complainant(s) in an area of the agency's offices that ensures confidentiality. The purpose of this preliminary interview is to:
 - ✓ determine the complainant's name, address and means of contact;
 - ✓ determine the basis of the complaint;
 - ✓ develop a detailed description of the allegation(s);
 - ✓ determine the date of the most recent alleged event of discrimination; and
 - ✓ identify the proper respondent.
- Career centers may choose to gather the complainant's information on USDOL- CRC Complaint Information Form (CIF) and Privacy Act Consent Forms (see Attachments I/J).
- Once the information is gathered, the document must be signed and dated by the complainant. The signed/dated Consent Form should indicate whether the complainant allows the EO to disclose the complainant's identity, if necessary to investigate his or her complaint.
- The EO should ask the complainant whether he/she would like the complaint handled locally or referred to the USDOL-CRC in Washington, D.C. The complainant's decision should be indicated on the signed Consent form.
- The EO should stress to the complainant that a local resolution would likely be reached more quickly and that the complainant's right to file again with the USDOL would still be available should the resolution at the local office be unsatisfactory.
- If the complainant elects to have his/her complaint resolved at the local level, the EO must request that the customer allow one (1) day for preparation of a written letter to either acknowledge receipt of the complaint or to provide a notice of Lack of Jurisdiction. If this is not possible, the complainant should be asked to wait in the public reception area while the EO examines the complainant's statement and a response is prepared. **Note: When mailing letters to complainants, always send them "return receipt requested." When providing similar written responses in person, secure a signed receipt.**

Attachment F

- The EO must review the information provided and determine if he/she has jurisdiction (see Attachment A2).
- Once determined, the EO must declare in writing that he/she either has jurisdiction over the complaint or does not have jurisdiction based on one or more of the following reasons:
 - ✓ The basis for the complaint is not covered by the prohibitions set forth in 29 CFR Part 37.
 - ✓ The complaint was not filed with the prescribed timeframes within **180 days** of the date that the discriminatory act(s) allegedly occurred.
 - ✓ The complaint is against an agency, employer, organization, program, or individual within an entity that is not a recipient of WIOA Title I financial assistance as defined in 29 CFR Part 37.4.
- If it is determined that the EO does not have jurisdiction, he/she should provide the complainant with the address and phone number of the appropriate agency with jurisdiction.
- If it is determined that the career center does not have jurisdiction in the particular matter, a notice citing one or more of the above reasons shall immediately be provided in writing. The written notice must include the specific phrase “lack of jurisdiction” in describing why the career center is not the appropriate entity to resolve the complaint. If the notice is mailed to the complainant, send “return receipt requested”. The notice should also inform the complainant that he/she has 30 days from the date of receipt to file a complaint to the CRC. The *original* signed complaint should be included with the notice. A *copy* of the complaint should be maintained on file with the career center.
- If the discrimination complaint is within the EO’s jurisdiction, an acknowledgement letter must be prepared. The acknowledgement letter should contain the following:
 - ✓ Notice of complaint receipt.
 - ✓ Assignment of a distinct complaint number (e.g. xxxx-01-01, first complaint, year).
 - ✓ Restatement of the issues raised in the complaint.
 - ✓ Notice of which issues have been accepted.
 - ✓ Explanation, if necessary of issues that will not be investigated.
 - ✓ A notice that the complainant has a right to representation by any individual he/she chooses during the complaint process with the specification that if an attorney is chosen to represent the complainant, all legal fees are the sole responsibility of the complainant.
 - ✓ A notice that a preliminary period of fact-finding or investigation will occur and may take approximately **15 business days** to complete. (Preliminary fact-finding describes the issues raised by the complainant and the respondent.)
 - ✓ A choice of “Alternate Dispute Resolution” (ADR) as an appropriate option for informal resolution.

ADR includes “mediation” as a way of resolving the issues or differences between the parties to the complaint. The ADR objective and process should be briefly explained in the letter. The choice to use ADR rests with the complainant and such a choice to use ADR should be communicated to the EO by the complainant as quickly as possible.

Attachment F

Upon receiving notice of the complainant's decision to pursue ADR, the EO must immediately notify the Commonwealth:

Director of Diversity and Equal Opportunity
Executive Office of Labor and Workforce
Development
19 Staniford Street, Fifth Floor
Boston, MA 02114

Office of the Director
Department of Career Services
and Charles F. Hurley Building
19 Staniford Street, First Floor
Boston, MA 02114

ADR should not be considered as an appropriate mechanism for resolution when the complaint:

- is of a high profile nature;
 - involves legal issues;
 - involves the potential for setting a policy precedent; and/or
 - impacts other members of a protected group.
- ✓ If the complainant is dissatisfied with the resolution of the complaint at the State or local level, the complainant may file a new complaint with CRC within **30 days** of the date on which the Notice of Final Action was received. **Please Note: The Appeal of a Local EO determination is not covered under this Policy and handled solely by the CRC.**
 - ✓ If the State or Local Area fails to issue the Notice within 90 days of the date on which the complaint was filed, the complainant may file a new complaint with CRC within 30 days of the expiration of the 90-day period (in other words, within 120 days of the date on which the original complaint was filed).
- The EO complaint process including fact-finding, ADR, settlement agreement, and “Notice of Final Action” must be completed within 90 days of the date that the complaint was filed at the local level.
 - The respondent to the complaint must also be notified that a complaint alleging discrimination has been filed and is being processed. The respondent must be provided a summary or copy of the complaint and given written notice that any form of retaliation or intimidation is against the law. The respondent must also be notified if ADR has been offered to the complainant as a means of informal resolution.
 - Copies of all correspondence related to EO complaints must be sent to **both**:

Director of Diversity and Equal Opportunity
Executive Office of Labor and Workforce
Development
19 Staniford Street, Fifth Floor
Boston, MA 02114

Office of the Director
Charles F. Hurley Building
and Department of Career Services
19 Staniford Street, First Floor
Boston, MA 02114