



CENTRAL OKLAHOMA WORKFORCE INNOVATION BOARD

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COWIB Procedure for Receiving, Processing, and Resolving Discrimination Complaints

Pursuant to OWDI #13-2017 Change 2 and OWDI #01-2018

Approved and Published: February, 2005

Revised and Approved: March, 2018

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PURPOSE: The purpose of this procedure is to implement a process for handling discrimination complaints that may be filed by individuals or entities who believe they have been discriminated against in violation of the Workforce Innovation and Opportunity Act.

The Central Oklahoma Workforce Innovation Board (COWIB) is the policy and guidance board for the Workforce Oklahoma system in Central Oklahoma. We are business leaders with a goal to establish a highly skilled, productive workforce in our 9-county area.

COWIB is an Equal Opportunity Employer/ Program. Auxiliary aids and services are available upon request to individuals with disabilities. This was financed in whole or in part by fund from the US Dept. of Labor as administered by the Oklahoma Office of Workforce Development.

<http://www.cowib.org/>



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Purpose

The purpose of this procedure is to implement a process for handling discrimination complaints that may be filed by individuals or entities who believe they have been discriminated against in violation of the Workforce Innovation and Opportunity Act.

For additional information on the “nondiscrimination” requirements of the Workforce Innovation and Opportunity Act, please see the Code of Federal Regulations, 29 CFR Part 38.

Authority

The authority for this policy is derived from the following:

- WIOA Section 188;
- The WIOA Final Rule at 29 CFR Part 38;
- OWDI 13-2017, Nondiscrimination and Equal Opportunity Policy Change 2; and
- OWDI 01-2018, WIOA Section 188 Discrimination Complaint Procedures
- The State of Oklahoma Nondiscrimination Plan.

Background

This procedure helps to implement the Nondiscrimination and Equal Opportunity Policy of the Central Oklahoma Workforce Innovation Board (COWIB). OWDI 01-2018, is the state guidance covering WIOA Section 188 Discrimination Complaint Procedures Governing WIOA Activities and Oklahoma Works (One-Stop) Center Activities. OWDI 13-2017, Nondiscrimination and Equal Opportunity Policy, Change 2 provides further guidance from the state in an attempt to add clarity and assist LWDB’s shape their policies.

In response to federal and state guidance, COWIB has completed the following:

- Developed and published procedures (including alternative dispute resolution) for resolving allegations within the LWDA for noncompliance with applicable nondiscrimination and equal opportunity provisions.
- Developed and published procedures for resolving allegations against service providers and subrecipients / subgrantees for noncompliance with applicable nondiscrimination and equal opportunity provisions. The service providers must then follow those procedures.
- Established a logging system to record discrimination complaints.

Definitions

Complaint. An allegation of a violation of the nondiscrimination and equal opportunity provisions.

Complainant. An individual or entity who files a complaint of discrimination.

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CRC. “CRC” means the Civil Rights Center, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor.

COWIB. Central Oklahoma Workforce Innovation Board. COWIB serves as the local workforce development board in the Central Oklahoma area.

EO Officer. As used in the Procedure, this term refers to the Equal Opportunity Officer of the Central Oklahoma Workforce Investment Board.

LWDA. Local Workforce Development Area. In Central Oklahoma, the LWDA encompasses nine counties: Canadian, Cleveland, Hughes, Lincoln, Logan, Okfuskee, Oklahoma, Pottawatomie, and Seminole.

LWDA Grant Recipient. As defined in 29 CFR §38.4(ii), the term “LWDA Grant Recipient” means the entity that receives WIOA Title I financial assistance for a local area directly from the Governor and disburses those funds for workforce development activities.

In Central Oklahoma, the LWDA Grant Recipient is the COWIB acting as the Fiscal Agent for the Board of Chief Elected Officials.

One-Stop Delivery System. The COWIB’s One-Stop Delivery System is described in the Memorandum of Understanding between the COWIB and its One-Stop Partners. Section 121(a) of the Workforce Innovation and Opportunity Act provides that, “The local board for a local area, with the agreement of the chief elected official for the local area, shall... develop and enter into the memorandum of understanding... with one-stop partners.” The One-Stop Delivery System is also described in the Local Plan for the Central Oklahoma workforce area.

One-Stop Operator. The term “one-stop operator” means one or more entities designated or certified under section 121(d) of the Workforce Innovation and Opportunity Act (WIOA).

Recipient. As defined in 29 CFR §38.4(zz), the term “recipient” means an entity to which financial assistance under Title I of WIOA 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).

This term excludes any ultimate beneficiary of the WIOA Title I-financially assisted program or activity.

In instances in which a Governor operates a program or activity, either directly or through a State agency, using discretionary funds apportioned to the Governor under WIOA Title I (rather than disbursing the funds to another recipient), the Governor is also a recipient.

In addition, for purposes of this part, one-stop partners, as defined in section 121(b) of WIOA, are treated as “recipients,” and are subject to the nondiscrimination and equal opportunity requirements of this part, to the extent that they participate in the one-stop delivery system.

“Recipient” includes, but is not limited to:

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- State-level agencies that administer, or are financed in whole or in part with, WIOA Title I funds;
- State Workforce Agencies;
- State and Local Workforce Development Boards;
- LWDA grant recipients;
- One-stop operators;
- Service providers, including eligible training providers;
- On-the-Job Training (OJT) employers;
- Job Corps contractors and center operators;
- Job Corps national training contractors;
- Outreach and admissions agencies, including Job Corps contractors that perform these functions;
- Placement agencies, including Job Corps contractors that perform these functions;
- Other National Program recipients.

Respondent. This term refers to the individual or entity against whom the complaint is filed. As an example, under this Procedure, a complaint may be filed against a Service Provider, a One-Stop Partner (in limited instances), or against a COWIB employee or board member.

Service Provider. The term “Service Provider” is defined in §38.4(ggg) of 29 CFR Part 38. The definition is given as follows:

- (1) Any operator of, or provider of aid, benefits, services, or training to:
 - (i) Any program or activity that receives WIOA Title I financial assistance from or through any State or LWDA grant recipient; or
 - (ii) Any participant through that participant’s Individual Training Account (ITA); or
- (2) Any entity that is selected and/or certified as an eligible provider of training services to participants.

As used in this Procedure, for example, the term “Service Provider” includes:

- The COWIB’s One-Stop Operator;
- A Youth Provider (eligible provider of youth workforce investment activities, as described in WIOA Section 123);
- Eligible providers of Career Services (to the extent that the One-Stop Operator does not provide the career services described in section 134(c)(2) of WIOA); and
- Eligible Providers of Training Services (as described in WIOA Section 123).

State-Level EO Officer. This term refers to the individual who has been designated by the Governor and who is responsible for State Program-wide coordination of compliance with the equal opportunity and nondiscrimination requirements in WIOA. The State-Level EO Officer has been identified as:

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State Programs. As defined in §38.4(kkk), the term “State Programs” means programs that are financially assisted in whole or in part under Title I of WIOA in which either:

- The Governor and/or State receives and disburses the grant to or through LWDA grant recipients; or
- The Governor retains the grant funds and operates the programs, either directly or through a State agency.
- “State Programs” also includes State Workforce Agencies, State Employment Service agencies, and/or State unemployment compensation agencies.

By this definition, the term “State Programs” includes:

- WIOA Title I Programs operated by the Oklahoma Office of Workforce Development;
- WIOA Title I Programs operated through COWIB and other LWDA grant recipients; and
- Programs operated by the Oklahoma Employment Security Commission.

The COWIB Procedure for Receiving, Processing, and Resolving Discrimination Complaints – Described in Q&A Format

This section includes the following items:

- A.1 What is a Discriminatory Act?
- A.2 Who may file a discrimination complaint?
- A.3 Where should the complaint be filed?
- A.4 What is the role of the COWIB’s Equal Opportunity Officer?
- A.5 What is the time limit for filing a complaint?
- A.6 What are the required contents of a written complaint?
- A.7 Are there any forms that a complainant may use to file a complaint?
- A.8 Is there a right of representation in the complaint process?
- A.9 When a complaint is filed, who will the EO Officer notify?
- A.10 Will the confidentiality of the complainant be respected?
- A.11 Will the confidentiality of witnesses be respected?
- A.12 Are there protections against intimidation and retaliation?
- A.13 Does the EO Officer accept every complaint for resolution?
- A.14 What happens if a complaint does not contain enough information?
- A.15 If the EO Officer determines that the COWIB has no jurisdiction over a complaint, what will happen then?
- A.16 Are there any circumstances in which the EO Officer will send a complaint to another authority?
- A.17 Where the complaint alleges unlawful discrimination by the COWIB’s EO Officer and/or Chief Executive Officer, are there any special procedures to resolve the complaint in an objective and unbiased fashion?
- A.18 What must the EO Officer do if he or she determines that a complaint will not be accepted?

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- A.19 What must the EO Officer do if he or she determines that a complaint will be accepted?
- A.20 If a complaint is accepted for processing, how much time is allowed to process the complaint?
- A.21 Who may contact COWIB about a complaint?
- A.22 How will the complaint be resolved?
- A.23 Notice of Final Action
- A.24 If, before the 90-day period has expired, the COWIB issues a Notice of Final Action with which the complainant is dissatisfied, is there an appeal process?
- A.25 What happens if the COWIB fails to issue a Notice of Final Action within 90 days of the date on which a complaint was filed?

A.1 What is a Discriminatory Act?

The Workforce Innovation and Opportunity Act (WIOA) provides that no individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.

Examples of discriminatory acts specifically prohibited are given in these sections of the Final Rule:

- 38.6 Specific discriminatory actions prohibited on bases other than disability.
- 38.7 Discrimination prohibited based on sex.
- 38.8 Discrimination prohibited based on pregnancy.
- 38.9 Discrimination prohibited based on national origin, including limited English proficiency.
- 38.10 Harassment prohibited.
- 38.11 Discrimination prohibited based on citizenship status.
- 38.12 Discrimination prohibited based on disability. Additionally, the following sections of the Final Rule describe requirements for the fair and equal treatment of individuals with disabilities:
- 38.13 Accessibility requirements.
- 38.14 Reasonable accommodations and reasonable modifications for individuals with disabilities.
- 38.15 Communications with individuals with disabilities.
- 38.16 Service animals.
- 38.17 Mobility aids and devices.

NOTE: See the Final Rule at 29 CFR Part 38 for a complete list of program requirements and prohibited actions.

A.2 Who may file a discrimination complaint?

Any person who believes that s/he or any person or any specific class of individuals has been or is being subject to discrimination prohibited by the nondiscrimination and equal opportunity provisions of WIOA may personally file a written complaint or file a written complaint through a representative.

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A complainant may be:

- A WIOA program participant;
- An applicant for services;
- A “Reportable Individual” (as that term is used in the WIOA Final Joint Regulations, § 677.150(b));
- Applicants for employment and employees;
- Unions or professional organizations that hold collective bargaining or professional agreements with the recipient;
- Subrecipients that receive WIOA Title I funds from the recipient; and
- Members of the public, including those with impaired vision or hearing.

As stated in 29 CFR §38.69 (“Complaint filing”):

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

- (1) 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, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, citizenship status, or participation in any WIOA Title I financially assisted program or activity as prohibited by WIOA or this part.*
- (2) Either the person, or any specific class of individuals, has been or is being retaliated against as described in § 38.19.*

A.3 Where should the complaint be filed?

Pursuant to OWDI 01-2017, “All discrimination complaints involving denial of access to, or participation in programs and activities delivered by or through a “recipient” as defined at 29 C.F.R. § 38.4(zz) must be filed with the EO Officer for LWDB, Oklahoma Employment Security Commission Unemployment Insurance (UI) EO Officer, State EO Officer at the Oklahoma Office of Workforce Development, or the U.S. Department of Labor Civil Rights Center. Authority over each Office is as follows:”

The following office or officer...	Has authority over a complaint when...
U.S. Department of Labor’s Civil Rights Center	90 calendar days has passed from the date of receipt of a WIOA Section 188 discrimination complaint.
Oklahoma Office of Workforce Development State EO Officer	Either upon (1) recusal or unavailability of the first-line EO Officer; or (2) at any time the State EO Officer determines it is appropriate to assume jurisdiction of a discrimination complaint investigation.
Oklahoma Employment Security Commission Unemployment Insurance EO Officer	All complaints alleging discrimination in UI policies, practices, procedures, or determinations, including failure to provide language interpretation or

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	translation services for limited English proficient persons, or auxiliary aids and services for individuals with disabilities. For complaints alleging an adverse UI determination in violation of WIOA Section 188, all UI appeals must be exhausted prior to assuming jurisdiction of the complaint.
EO Officer for the Local Workforce Development Board	All non-UI complaints alleging discrimination under WIOA Section 188 and arising in the LWDB service area, e.g. complaints arising from services provided in an Oklahoma Works Center.

As provided in the State of Oklahoma Nondiscrimination Plan 2017-2019, Element One – Attachment 2, a complaint may be filed with any of the following entities:

- The COWIB’s Equal Opportunity Officer;
- The State-Level EO Officer; or
- The Civil Rights Center of the U.S. Department of Labor.

Contact information for each entity:

COWIB Equal Opportunity Officer—

Central Oklahoma Workforce Investment Board

Attention: Ashley Sellers

3813 N. Santa Fe, Suite 135

Oklahoma City, OK 73118

Phone ... (405) 622-2026, x302

TDD/TTY ...(800) 722-0353

Email ... ashleysellers@cowib.org

State WIOA EO Officer—

Lindsey Workman

State EO Officer

Oklahoma Office of Workforce Development

900 N. Portland Avenue

Oklahoma City, OK 73107

Phone: (405) 945-9184

Email: lindsey.workman@okstate.edu

Oklahoma Employment Security Commission Unemployment Insurance/Wagner-Peyser—

Emma Woodford

Civil Rights Administrator/ADA/EO/EAP

P.O. Box 52003

COWIB Procedure for Receiving, Processing, and Resolving Discrimination Complaints

Oklahoma City, OK 73152-2003

Phone: (405) 557-7255

Email: emma.woodford@oesc.state.ok.us

U.S. Department of Labor—

Naomi M. Barry-Perez

Director, Civil Rights Center (CRC)

U.S. Department of Labor

200 Constitution Avenue NW, Room N-4123

Washington, DC 20210

Telephone ... (202) 693-6500

TTY/TDD ... (202) 693-6516

Or electronically as directed on the CRC website ... www.dol.gov/crc .

If you file your complaint with COWIB, you must wait either until COWIB issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center.

For a complete description of the Civil Rights Center's procedure for processing complaints, see the Code of Federal Regulations, 29 CFR 38.69 through 29 CFR 38.115.

A.4 What is the role of the COWIB's Equal Opportunity Officer?

The COWIB has designated the above-named individual as its Equal Opportunity Officer. (See item A.3., above). The duties of an Equal Opportunity Officer are described in the federal regulations at 29 CFR Part 38.31. The EO Officer's responsibilities include, but are not limited to—

- (a) Serving as a COWIB's liaison with the State WIOA EO Officer and the Civil Rights Center;
- (b) Monitoring and investigating the recipient's activities, and the activities of the entities that receive WIOA Title I-financial assistance from the recipient, to make sure that the recipient and its subrecipients are not violating their nondiscrimination and equal opportunity obligations under WIOA Title I, which includes monitoring the collection of data to ensure compliance with the nondiscrimination and equal opportunity requirements of WIOA;
- (c) Reviewing the recipient's written policies to make sure that those policies are nondiscriminatory;
- (d) Developing and publishing the recipient's procedures for processing discrimination complaints under §§ 38.72 through 38.73, including tracking the discrimination complaints filed against the recipient, developing procedures for investigating and resolving discrimination complaints filed against the recipient, making sure that those procedures are followed, and making available to the public, in appropriate languages and formats, the procedures for filing a complaint;
- (e) Providing assistance, as needed, to any beneficiary, potential beneficiary, or eligible service provider filing a discrimination complaint under these procedures, including but not limited to individuals who are limited English proficient, and individuals with disabilities;

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- (f) Conducting outreach and education about equal opportunity and nondiscrimination requirements consistent with § 38.40 and how an individual may file a complaint consistent with § 38.69; and
- (g) Undergoing training (at the recipient's expense) to maintain competency of the EO Officer and staff, as required by the Director of the CRC.

As required by 29 CFR 38.30, the COWIB's Equal Opportunity Officer is a senior-level employee of the COWIB. The COWIB's EO Officer is not permitted to have other responsibilities or activities that create a conflict, or the appearance of a conflict, with the responsibilities of an Equal Opportunity Officer.

To help carry out these duties, the COWIB's EO Officer may rely on assistance from the COWIB's One-Stop Operator, Service Providers, One-Stop Partners, and other recipients (as the term "recipient" is defined in Item C of these Procedures).

In particular, the COWIB's One-Stop Operator shall assist the COWIB's EO Officer in the following ways:

- Providing information to participants, applicants, employees, etc., regarding the COWIB's Procedure for Processing Discrimination Complaints;
- Designating an individual to act as an Equal Opportunity Specialist, whose duties shall include reporting to the COWIB's EO Office on equal opportunity matters -- including promoting compliance with WIOA Section 188;
- Providing initial and continuing notice to participants, applicants, employees, etc., that the COWIB's One-Stop Delivery System does not discriminate on any prohibited ground;
- Reviewing all communications and notices published by the One-Stop Operator to assure compliance with the "Notice and Communication" requirements of § 38.34 through § 38.40.
- Providing staff training, technical assistance, and support to assure compliance with the "Data and Information Collection and Maintenance" requirements of § 38.41 through § 38.45.
- Promptly notifying the COWIB's Equal Opportunity Officer regarding any actual or potential complaint of a discriminatory act;
- Assisting the COWIB's EO with the implementation of any required corrective actions;
- Etc.

NOTE: Pursuant to § 38.33, the One-Stop Operator (as a service provider) is not required to designate an Equal Opportunity Officer:

§ 38.33 Service provider Equal Opportunity Officer obligations.

Service providers, as defined in § 38.4(ggg), are not required to designate an EO Officer. The obligation for ensuring service provider compliance with the nondiscrimination and equal opportunity provisions of WIOA and this part rests with the Governor or LWDA grant recipient, as specified in the State's Nondiscrimination Plan

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Even so, COWIB will require that the One-Stop Operator provide assistance to the COWIB's Equal Opportunity Officer as described above.

A.5 What is the time limit for filing a complaint?

A complaint must be filed with the COWIB's EO Officer within 180 days of the alleged discrimination or retaliation.

The same 180 day time period exists for complaints filed with the Civil Rights Center (CRC). However, as provided in 29 CFR § 38.69(c), the Director of CRC may extend the filing time "for good cause shown."

A.6 What are the required contents of a written complaint?

Each complaint must be filed in writing, either electronically or in hard copy, and must contain the following information:

- (a) The complainant's name, mailing address, and, if available, email address (or another means of contacting the complainant).
- (b) The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination).
- (c) A description of the complainant's allegations. This description must include enough detail to allow the COWIB's EO Officer, the State-Level EO Officer, or CRC -- as applicable -- to decide whether:
 - (1) COWIB has jurisdiction over the complaint;
 - (2) The complaint was filed in time; and
 - (3) The complaint has apparent merit; in other words, whether the complainant's allegations, if true, would indicate noncompliance with any of the nondiscrimination and equal opportunity provisions of WIOA or this part.
- (d) The written or electronic signature of the complainant or the written or electronic signature of the complainant's representative.

A.7 Are there any forms that a complainant may use to file a complaint?

Yes. A complainant may file a complaint by completing and submitting the WIOA Equal Opportunity and Nondiscrimination Complaint Form which may be found here:

<https://oklahomaworks.gov/wp-content/uploads/2017/10/OWDI-13-2017-Change-1-Attachment-EO-Nondiscrimination-Complaint-Form.docx>

As provided in OWDI 01-2018:

"Per 29 C.F.R §38.70, an individual is not required to utilize the Nondiscrimination Complaint Form when filing a discrimination complaint; rather, the EO Officer shall receive any signed, written communication alleging an adverse action on a prohibited basis (e.g. race, color, national origin, disability, religion, gender, age) against a "recipient" as defined at 29 C.F.R. §38.4(zz)"

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“As with the filing of the Nondiscrimination Complaint Form, the EO Officer must determine whether all jurisdictional requirements are met prior to initiating an investigation. Depending on the method of filing the communication (e.g., email, fax, mail), the EO Officer shall follow the same procedures as are applicable to the filing of the Nondiscrimination Complaint Form. And, the individual must sign the Consent Form accompanying the “Notice of Investigatory Uses of Personal Information” (See Attached)

If the complainant chooses to file a complaint with the Civil Rights Center, then the form(s) specified by the CRC should be used. See the CRC website, here:

<https://www.dol.gov/oasam/programs/crc/external-enforc-complaints.htm>

A.8 Is there a right of representation in the complaint process?

Yes. Both the complainant and the respondent have the right to be represented by an attorney or other individual of their choice.

A.9 When a complaint is filed, who will the EO Officer notify?

When a complaint is filed with the COWIB, the EO Officer will date stamp it and write a message (letter or email) to the person confirming the receipt of the complaint. This message will be an initial, written notice to the complainant, and -- as required by §38.72(b)(1) -- it will contain the following information:

- An acknowledgment that the recipient has received the complaint; and
- Notice that the complainant has the right to be represented in the complaint process;
- Notice of rights contained in 29 CFR §38.35; and
- 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 nonEnglish languages as required in §§ 38.4(h) and (i), 38.34, and 38.36.

Additionally, the EO Officer will immediately notify the State-Level EO Officer, the Chairperson of the COWIB, and the Chairperson of the COWIB’s Board of Local Elected Officials.

A.10 Will the confidentiality of the complainant be respected?

The name of the complainant will only be released to the extent necessary to investigate and fairly determine the issues raised in the complaint. The individual or entity against whom the complaint is filed will receive a copy of the complaint during the course of the investigation or alternative dispute resolution process in order to allow the individual or entity the opportunity to respond to the allegation(s).

A.11 Will the confidentiality of witnesses be respected?

The identity of any individual who furnishes information to, or assist in, an investigation of a complaint or a compliance review will only be released to the extent necessary to investigate and fairly determine the issues raised in the complaint.

A.12 Are there protections against intimidation and retaliation?

Yes. Pursuant to 29 CFR 38.19:

§ 38.19 Intimidation and retaliation prohibited.

- (a) *A recipient must not discharge, intimidate, retaliate, threaten, coerce or discriminate against any individual because the individual has:*
- (1) *Filed a complaint alleging a violation of Section 188 of WIOA or this part;*
 - (2) *Opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of WIOA or this part;*
 - (3) *Furnished information to, or assisted or participated in any manner in, an investigation, review, hearing, or any other activity related to any of the following:*
 - (i) *Administration of the nondiscrimination and equal opportunity provisions of WIOA or this part;*
 - (ii) *Exercise of authority under those provisions; or*
 - (iii) *Exercise of privilege secured by those provisions; or*
 - (4) *Otherwise exercised any rights and privileges under the nondiscrimination and equal opportunity provisions of WIOA or this part.*
- (b) *The sanctions and penalties contained in Section 188(b) of WIOA or this part may be imposed against any recipient that engages in any such retaliation or intimidation, or fails to take appropriate steps to prevent such activity.*

A.13 Does the EO Officer accept every complaint for resolution?

No. The EO Officer must determine whether the COWIB will accept a particular complaint for resolution. For example, a complaint need not be accepted if:

- It has not been timely filed;
- The COWIB has no jurisdiction over the complaint; or
- The COWIB has previously decided the matter.

A.14 What happens if a complaint does not contain enough information?

- If a complaint does not contain enough information, the EO Officer will try to get the needed information from the complainant.
- The EO Officer may close the complainant's file, without prejudice, if:
 - The EO Officer makes reasonable efforts to try to find the complainant, but is unable to reach him or her; or
 - The complainant does not provide the needed information to the EO Officer within the time specified in the request for more information.
- If the EO Officer closes the complainant's file, s/he must send written notice to the complainant's last known address.

A.15 If the EO Officer determines that the COWIB has no jurisdiction over a complaint, what will happen then?

If the EO Officer determines that the COWIB does not have jurisdiction over a complaint, s/he will notify the complainant, in writing, immediately. Pursuant to 29 CFR §38.74, this Notice of Lack of Jurisdiction will include:

- A statement of the reasons for that determination, and
- Notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the complainant receives the Notice.

The notice will be sent to the complainant's last known address, email address (or another known method of contacting the complainant in writing). A copy of the notice will be sent to the Chairperson of the COWIB, the Chairperson of the COWIB's Board of Chief Elected Officials, and the State-Level EO Officer.

A.16 Are there any circumstances in which the EO Officer will send a complaint to another authority?

A.16.A. Yes. If the complaint is against the COWIB's EO Officer or Chief Executive Officer, then the complaint will be referred to the State-Level EO Officer or the Civil Rights Center for investigation and resolution -- as described in Item D(17), below.

A.16.B. Yes. If a complaint alleges discrimination on the basis of age, the EO Officer shall inform the complainant that, if the complaint is filed with the U.S. Department of Labor's Civil Rights Center, it will be referred to the FMCS for attempted mediation. The complainant may also elect to have the complaint investigated by the EO Officer. In that case, they would have the opportunity to engage in information or formal mediation.

Where the EO Officer makes a referral under this section, he or she will notify the complainant in writing about the referral.

A.17 Where the complaint alleges unlawful discrimination by the COWIB's EO Officer and/or Chief Executive Officer, are there any special procedures to resolve the complaint in an objective and unbiased fashion?

Yes. In the event the complaint is against the COWIB's EO Officer or Chief Executive Officer, then the complaint should be filed with the State-Level EO Officer or the Civil Rights Center:

State WIOA EO Officer—

Lindsey Workman
State EO Officer
Oklahoma Office of Workforce Development
900 N. Portland Avenue Oklahoma City, OK 73107
Phone: (405) 945-9184

COWIB Procedure for Receiving, Processing, and Resolving Discrimination Complaints

Email: lindsey.workman@okstate.edu

U.S. Department of Labor—

Director, Civil Rights Center (CRC)

U.S. Department of Labor

200 Constitution Avenue NW, Room N-4123

Washington, DC 20210

Telephone ... (202) 219-6118

TTY/TDD ... (800) 326-2577

A complaint may be delivered electronically to the CRC as directed on their website ... www.dol.gov/crc.

In the event COWIB receives any complaints against its EO Officer or Chief Executive Official, these shall be referred to the CRC for investigation and resolution.

A.18 What must the EO Officer do if he or she determines that a complaint will not be accepted?

If a complaint will not be accepted, the EO Officer must notify the complainant, in writing, about that fact, and provide the complainant his/her reasons for making that determination.

The notice will be sent to the complainant's last known address, email address (or another known method of contacting the complainant in writing). A copy of the notice will be sent to the Chairperson of the COWIB, the Chairperson of the COWIB's Board of Chief Elected Officials, and the State-Level EO Officer.

A.19 What must the EO Officer do if he or she determines that a complaint will be accepted?

If the EO Officer accepts the complaint for resolution, he or she will notify the complainant, the respondent, and the State-Level EO Officer. The notice will be sent to the complainant's last known address, email address (or another known method of contacting the complainant in writing). A copy of the notice will be sent to the Chairperson of the COWIB as well as the Chairperson of the COWIB's Board of Chief Elected Officials.

The notice will include a reminder about the prohibition against retaliation and intimidation set forth in Item D(12) of this Procedure.

Pursuant to 29 CFR §38.72, the notice will provide a written statement of the issues that have been accepted, including the following information:

- (i) A list of the issues raised in the complaint for which COWIB has accepted jurisdiction; 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.

COWIB Procedure for Receiving, Processing, and Resolving Discrimination Complaints

For each issue accepted for investigation by COWIB, the complainant will be offered a choice of methods to resolve the complaint. Two choices will be offered:

- A customary fact-finding or investigation of the complaint, followed by a written decision (“Notice of Final Action”) made by the EO Officer; or
- Alternative Dispute Resolution.

As described in OWDI 01-2018:

“The EO Officer shall make every effort to expeditiously resolve the complaint without the need for an investigation. Informal mediation of the complaint occurs between the EO Officer and parties to a complaint. This form of mediation is particularly useful with regard to denial of access to apply for, or participate in, a program or activity. The choice whether to use ADR rests with the complainant.

“An Alternative Dispute Resolution (ADR)

“Formal mediation occurs between a third-party neutral (not the EO Officer conducting the investigation), and the parties to the complaint. The EO Officer does not participate in, or attend, the mediation. All parties must agree to formal mediation voluntarily, and they must execute a “Consent to Mediate” form. (See Attachment)

“Conciliation

“Resolution of a complaint through formal or informal mediation shall be recorded in a written agreement, which is signed by the parties (See Attachment). The written agreement shall be maintained with the record of the complaint for a period of not less than three (3) years from the date of final action related to resolution of the complaint or compliance review. 29 C.F.R. § 38.43. The conciliation agreement shall be finalized in writing within 90 days of the receipt of a complaint, if the parties resolve the matter through mediation or other alternative dispute resolution.”

For more information about the COWIB’s methods for resolving nondiscrimination complaints, see Item D(22), below.

A.20 If a complaint is accepted for processing, how much time is allowed to process the complaint?

The COWIB will issue a written Notice of Final Action on discrimination complaints within 90 days of the date on which the complaint is filed.

A.21 Who may contact the COWIB about a complaint?

Both the complainant and the respondent, or their authorized representatives, may contact the COWIB for information about the complaint. The EO Officer will determine what information, if any, about the complaint will be released.

A.22 How will the complaint be resolved?

A.22.A The complainant has the option of resolving his or her complaint through a fact-finding / investigation process or through an alternative dispute resolution (ADR) process.

If the complainant chooses the fact finding / investigation process, COWIB will conduct a full review of the matter, including giving the complainant and the respondent the opportunity to respond to all the evidence presented. Once this evidence has been gathered, COWIB will issue a written decision in which each issue accepted for review is addressed. The decision will be sent to the complainant and respondent via postal mail or email, as appropriate.

During this resolution process, pursuant to OWDI 13-2017, Change 2, COWIB's EO Officer shall assure that all parties involved are given due process. These due process elements include the following:

- A notice to all parties of the specific charges;
- A notice to all parties of the responses to the allegations;
- The right of both parties to representation;
- The right of each party to present evidence, and to question others who present evidence; and

A.22.B A decision made strictly on the evidence on the record.

If the complainant chooses the alternative dispute resolution (ADR) method, the EO Officer or an impartial third party will act to encourage and facilitate the resolution of a dispute without prescribing what it should be.

A.22.B.1 Open Option. 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.

A.22.B.2 Complainant's Choice. The choice whether to use ADR or the customary process rests with the complainant.

A.22.B.3 Written Settlement Agreement. The final resolution of the complaint will be set forth in a written settlement agreement. The written settlement agreement will be sent to the complainant and respondent by postal mail or email (as appropriate), and a copy will be sent to the State-Level EO Officer.

A.22.B.4 Breach of Agreement. A party to any agreement reached under ADR may notify the Director of the Civil Rights Center in the event the agreement is breached. In such circumstances, the following rules will apply:

- The non-breaching party may file a complaint with the CRC within 30 days of the date on which the non-breaching party learns of the alleged breach.

- The CRC must evaluate the circumstances to determine whether the agreement has been breached. If the CRC determines that the agreement has been breached, the complainant may file a complaint with the CRC based upon his or her original allegation(s), and the CRC will waive the time deadline for filing such a complaint.

A.22.B.5 Failure to Agree. If the parties do not reach an agreement under ADR, the complainant may file a complaint with the CRC as described in §§ 38.69 through 38.71.

A.23 Notice of Final Action

At the conclusion of the COWIB's complaint resolution process, the EO Officer will issue a written decision ("Notice of Final Action") in which each issue accepted for review is addressed. The decision will be sent to the complainant and respondent, and a copy of the decision will be sent to the StateLevel EO Officer.

The Notice of Final Action will contain the following information:

- (a) For each issue raised in the complaint, a statement of either:
 - (1) The recipient's decision on the issue and an explanation of the reasons underlying the decision, or
 - (2) A description of the way the parties resolved the issue; and
- (b) 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 issued if the complainant is dissatisfied with the recipient's final action on the complaint.

The Notice of Final Action will be provided within 90 days of the date on which the complaint was filed.

A.24 If, before the 90-day period has expired, the COWIB issues a Notice of Final Action with which the complainant is dissatisfied, is there an appeal process?

If, during the 90-day period, the COWIB issues a Notice of Final Action, but the complainant is dissatisfied with the recipient's decision on the complaint, the complainant or his / her representative may file a complaint with the Director of CRC within 30 days after the date on which the complainant receives the Notice.

A.25 What happens if the COWIB fails to issue a Notice of Final Action within 90 days of the date on which a complaint was filed?

If, by the end of 90 days from the date on which the complainant filed the complaint, the recipient has failed to issue a Notice of Final Action, the complainant or his/her representative may file a complaint with the Director of CRC within 30 days of the expiration of the 90-day period. In other words, the complaint must be filed with the Director of CRC within 120 days of the date on which the complaint was filed with the recipient.

Notification of Complaints / Lawsuits

COWIB will promptly notify the State-Level EO Officer and CRC when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in a WIOA Title I-financially assisted program or activity. This notification will include:

- (1) The names of the parties to the action or lawsuit;
- (2) The forum in which each case was filed; and
- (3) The relevant case numbers.

The requirements for this notice are set forth in 29 CFR Section 38.42 and OWDI 13-2017, Change 2.

Complaint Log

The COWIB's EO Officer will maintain, and submit to CRC upon request, a log of complaints filed with the recipient that allege discrimination on the basis(es) of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIOA Title I-financially assisted program or activity. The log will include: The name and address of the complainant; the basis of the complaint; a description of the complaint; the date the complaint was filed; the disposition and date of disposition of the complaint; and other pertinent information. Information that could lead to identification of a particular individual as having filed a complaint will be kept confidential.

COWIB's EO Officer will submit complaint reports on a quarterly basis to the State EO Officer. This record-keeping requirement is describe in 29 CFR Section 38.41 and OWDI 13-2017, Change 2.

Retention of Records

Per 29 CFR § 38.43, COWIB will maintain records regarding complaints and actions taken thereunder for a period of not less than three years from the date of resolution.

Equal Opportunity and Nondiscrimination Statement

All Recipients, and Sub-recipients / Sub-grantees must comply with WIOA's Equal Opportunity and Nondiscrimination provisions which prohibit discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title-I financially assisted program or activity.

Addenda / Revisions

The COWIB Chief Executive Officer is authorized to issue additional instructions, guidance, forms, etc., to further implement these procedures.

Questions about these procedures may be directed to the COWIB's Policy Analyst at (405) 622-2026.

