

POLICY

CATEGORY:	Board Administration	No:	1.0.112.01
TITLE:	Discrimination Complaint Procedure		
SUPERSEDES:	1.0.112.00 dated December 16, 2011		
EFFECTIVE:	October 31, 2014		
BOARD APPROVAL:	October 30, 2014		
DATE OF LAST REVIEW:	October 30, 2014		

I. PURPOSE:

To provide information on the complaint processing procedures as required under 29 CFR §37.76 for individuals who allege unlawful discrimination under the *Workforce Investment Act of 1998, §188*. Nondiscrimination.

II. DEFINITIONS:

Board – Coastal Bend Workforce Development Board

Forms of Prohibited Discrimination under the Workforce Investment Act, §188 – Based on race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in any WIA Title I program or activity. Retaliation for opposing unlawful discrimination is also prohibited. Specific, prohibited actions related to these forms of discrimination are listed in 29 CFR. § 37.30.

Equal Opportunity (EO) Officer – Administers Equal Employment Opportunity (EEO) policies and procedures in accordance with applicable laws.

Contracted Service Provider (Contractor) – Responsible for the delivery of workforce services in accordance with applicable laws, rules, Board policy and the terms and conditions of the contract.

United States Commission on Civil Rights (CRC) – An independent federal agency that addresses civil rights issues and discrimination complaints.

III. POLICY STATEMENT:

Any person who believes the Board or a recipient who receives federal financial assistance from or through the Board has subjected he or she or any specific class of individuals to unlawful discrimination may file a complaint of discrimination.

IV. PROCEDURES:

All recipients of WIA Title I funds and Workforce Career Center partners must effectively communicate that they do not discriminate on any of the prohibited grounds. Notice must be given to all subrecipients, applicants for and participants in programs and services, applicants for employment, employees and members of the public. The notice must contain instructions as to specific discriminatory actions that are prohibited as well as instructions on complaint procedures.

Who May File

A complaint of discrimination may be filed by any person, or through a representative, who believes that either he or she, or any specific class of individuals has been or is being subjected to discrimination prohibited by WIA or a policy, program, activity, a TWC employee or a recipient that receives federal funding through the Texas Workforce Commission (TWC). This includes applicants and/or participants applying for or receiving aid, benefits, services, or training; employees, applicants for employment, and contractors. .

Where to File

The choice of where to file a complaint of discrimination is left to the complainant. The EO Officer or trained staff will explain the differences and answer any questions regarding the various options. In general, under WIA §188 nondiscrimination and equal opportunity provisions, complaints may be filed at the federal, state, or local level. A complainant may file a complaint at the local or state level by completing and submitting a Discrimination Complaint Form (EO-13 or EO-13S) available from the local level EO Officer or trained staff. The complainant may file a complaint at the federal level with the CRC by submitting a completed Complaint Information Form available at <http://www.dol.gov/oasam/programs/crs/EO.htm>. Complaints may also be filed with other federal agency contractors according to each agency's discrimination complaint process.

Nothing in this policy is intended to prevent a complainant from pursuing a remedy authorized under another federal, state, or local law.

When to File

In most cases, a complaint of discrimination must be filed within 180 *calendar* days of the alleged act of discrimination. Filing means a written complaint must be *received* before the expiration of the 180-day period. Complaints received more than 180 days following the act of alleged discrimination cannot be processed and will be returned to the complainant with a notice of options for filing with either a federal or state enforcement agency.

Retaliation is Prohibited

A complainant has a right to file a complaint of discrimination, have an inquiry conducted, have a witness participate in the process and obtain a determination as to whether or not discrimination has occurred. A respondent is prohibited by law from retaliating against an individual because he or she has either:

- Opposed an unlawful discriminatory employment practice;
- Opposed an unlawful discriminatory non-employment practice; or
- Made a complaint, testified, assisted or participated in an inquiry.

Any person who feels a respondent has violated this prohibition may file a complaint alleging retaliation. Retaliation is a separate complaint and a respondent can be found responsible for retaliation and could be subject to sanctions and penalties pursuant to 40TAC§800, *Subchapter E* and WIA§188(b) even if there is no finding of discrimination on the underlying complaint.

Complaints under Programs other than WIA

A complaint of discrimination under programs *other than WIA Title 1* programs administered by contractor partners in the Workforce Career Centers are subject to the equal opportunity and

nondiscrimination provisions of WIA§188. Contractor partners can include entities that carry out programs or activities related to Child Care, Employment Services (ES), Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T), Temporary Assistance for Needy Families (TANF) Choices, Trade Adjustment Assistance (TAA), Unemployment Insurance (UI), and Wagner Peyser 7(b). Complainants may have the option of filing a program or employment-related complaint with the local EO Officer, TWC, or with CRC under WIA nondiscrimination provisions, or filing with the non-WIA program funding agency. If the complaint is employment related, the complainant may also file with the TWC Civil Rights Division or the U.S. Equal Employment Opportunity Commission (EEOC). See Table I for a listing by agencies and their corresponding jurisdiction over the prohibited discriminatory practices and Table II for information on how to contact them.

Discrimination in employment or program services may be filed with the EO Officer or trained staff, TWC, or with CRC using the WIA discrimination complaint procedures outlined in this policy. Discrimination complaints related to other funding sources may be filed as follows:

- **Child Care and TANF Choices:** Instructions for filing with the U.S. Department of Health and Human Services can be found at: <http://www.hhs.gov/ocr/civilrights/complaints>.
- **SNAP E&T:** Instructions for filing with the U.S. Department of Agriculture can be found at: http://www.ascr.usda.gov/complaint_filing_program.html.
- **Migrant and Seasonal Farm workers:** Refer complaints to the Texas Monitor Advocate Officer. (See Table II for address).

Discrimination in employment practices and/or wage-related complaints against employers not subject to the nondiscrimination and equal opportunity provision of WIA may be referred to the appropriate authority as follows:

- **Wage Related:** Wage related complaints can be found at: <http://www.twc.state.tx.us/ui/lablaw/lablaw.html>.
- **Employment Practices:** Complaints alleging discrimination in employment practices may be referred to the TWC Civil Rights Division or the nearest EEOC district office.

Complaints Not Based on Discrimination

The Board and its contracted service providers should have a written policy on complaint resolution for complaints not based on discrimination as set forth in 20 C.F.R. §667.600. Complaints, other than those based on discrimination, such as those based on program or customer service issues must be processed in accordance with local policies and procedures.

Every attempt should be made to resolve complaints at the Workforce Career Center level; however, if this is not possible, the complaint must be referred to the Board level for resolution. If the complaint cannot be resolved at the Board level, the complaint must be referred to the TWC ombudsman. See Table II for the ombudsman's mailing address.

V. RELATED POLICY INFORMATION:

Workforce Investment Act (WIA), Section 188 and Code of Federal Regulations (C.F.R.), 29 C.F.R. 37.

WD Letter 18-07, issued 03/01/2007, and entitled "Discrimination Complaint Procedures"

VI. RESPONSIBILITIES:

President/CEO – Responsible for the Board’s adherence to all applicable laws and rules with respect to this policy.

EO Officer – Responsible for ensuring Board and contractors are trained to comply with this policy; coordinating the recipient’s obligations and compliance activities under the nondiscrimination and equal opportunity provisions of WIA; and providing oversight and monitoring of adherence and compliance with this policy.

Contractors – Must ensure staff is apprised of and complies with the requirements of this policy.

VII. FORMS AND INSTRUCTIONS:

- Initial Written Notice – Within jurisdiction
- Initial Written Notice – Not within jurisdiction – Failure to meet 14-day deadline
- Initial Written Notice – Not within jurisdiction- Referral to another agency
- Referral Letter
- Notice of Final Action
- Discrimination Complaint Form (EO-13 or EO-13S)
- Table I – Prohibited Discrimination under Regulations of Selected Programs Available to TWC, Local Workforce Investment Boards, One-stop Operators and Contracted Service Providers.
- Table II – Contact Information for Discrimination Complaints (State and Federal Agencies)

VIII. DISTRIBUTION:

Board of Directors Board Staff Contracted Service Provider Staff

IX. SIGNATURES:

Reviewed by EO Officer

Date

President/CEO

Date