



Title: Equal Opportunity (EO)	Related Forms: Yes
Effective Date: 1/27/2017	Revised Date: 10/26/2020

Purpose:

The Western Virginia Workforce Development Board (WVWDB) as a recipient of federal funds, is obligated to comply with the nondiscrimination and equal-opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination on the basis of race, color, religion, gender, national origin, age, disability, political affiliation or belief and, for beneficiaries only, citizenship, as well as any other classes protected by federal law, and participation in WIOA programs.

References:

- COMMONWEALTH OF VIRGINIA, Virginia Community College System Workforce Investment Act (WIA) Policy Number: 00-10
- Civil Rights Act of 1991
- Civil Rights Act of 1964
- Age Discrimination in Employment Act
- Americans with Disabilities Act of 1990
- Age Discrimination Act of 1975
- Rehabilitation Act of 1973
- Title IX Education Amendments Act of 1972
- Workforce Innovation and Opportunity Act
- Title IX Education Amendments Act of 1972
- State’s Methods of Administration (MOA)
- DOL Civil Rights Center and state policy directives
- Immigration Reform and Control Act of 1986
- Equal Pay Act
- VWL # 15-05 WIOA Discrimination Complaint Process
- VWL # 16-09 WIOA Program Grievance and Complaint Processing

Policy:

It is the policy of the WVWDB to provide equal opportunity to all employees and applicants for employment as well as participants in or recipients of any WVWDB program or activity. The Board will ensure recruitment and hiring of staff is done in a manner as to reflect the available workforce in the local and regional areas without regard to protected statuses. It is against the law for this recipient of Federal financial assistance to discriminate on the following bases: 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, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual’s citizenship status or participation in any WIOA Title I–financially assisted program or activity.



Any person who believes he or she has been subjected to discrimination based on race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship, or participation in WIOA, has the right to file a complaint within 180 days of the alleged discrimination.

WIOA-funded programs and activities will allow for physical as well as program accessibility to individuals with disabilities, programs will be provided in the most integrated environment appropriate to individuals with disabilities, and that communications with individuals with disabilities will be as effective as communications with others.

Procedure:

The WYWDB has designated the Director as their Equal Opportunity (EO) Officer, who will be responsible for adopting and publishing complaint procedures and ensuring that they are followed. The EO Officer is also responsible for ensuring publication of the name, title, address, telephone number and TDD number of the EO Officer or other individuals responsible for receiving complaints. The local staff of the One Stop Operator will act as an EO liaison. The EO Officer can be contacted at the Board's office at 4419 Pheasant Ridge Road Suite 301 Roanoke, VA 24014 or via telephone at 540-562-8442. If the EO Officer is unavailable to receive complaints, the Operations Director will be the alternative contact.

The WYWDB, Virginia Career Works Centers, Program Operators and Training Providers shall include in orientations to employees and/or participants a discussion of their rights under the nondiscrimination and equal opportunity provisions and the right to file a complaint of discrimination with either the local workforce investment board (LWIB)/Civil Rights Commission (CRC)/ U.S. Department of Labor (DOL) for customers and vendors or the WYWDB EO Officer/U.S. Equal Employment Opportunity Commission (EEOC) for employees and applicants. The EO Officer has the responsibility of communicating the available options of where to file complaints to complainants. Communication of policy shall be documented on a notification instrument for employees and applicants/participants and retained in individuals' files as well as a copy provided to new employees upon employment. Potential vendors should be notified of this policy by statements in contracts and MOUs. The WYWDB shall ensure audio access to Equal Opportunity information for individuals with visual disabilities, as well as persons who have difficulty reading and/or comprehending written materials. Additionally, "Equal Opportunity Is the Law" posters will be posted at all WYWDB facilities. These posters contain a nondiscrimination and EO statement as well as information about filing a complaint. Where a significant portion of eligible population may need service or information in a language other than English or Spanish, the WYWDB shall provide the initial notice and other material in the needed language to the extent possible.

Customers and vendors may file discrimination complaints with the WYWDB EO Officer or with the Director, Civil Rights Center, U. S. Department of Labor. Retaliatory action shall not be taken by agency management against any person for filing a complaint of discrimination; opposing a prohibited practice; furnishing information; assisting in participating in any manner in an investigation, review, hearing or any other activity related to the administration of, exercise of authority under, or privilege secured by, the nondiscrimination and EO provisions, of WIOA. Any WYWDB employee, contractor, or employee of a WYWDB contractor found in violation of the policy shall be subject to appropriate disciplinary action.



Virginia Career Works Centers and Service and Training providers shall promptly notify the WVVWDB EO Officer of any complaints or lawsuits filed against it alleging discrimination.

EO complaints may be filed by the individual or on behalf of the individual by an authorized representative, as a third-party complaint or as a class action complaint. The three major theories of discrimination that can be used to prove illegal discrimination under WIOA and other civil rights laws are disparate treatment, disparate impact, and failure to provide reasonable accommodation. The complaint must be filed in writing and signed by the filer and must include the following information:

- complainant's name and address, or other means by which the complainant may be contacted;
- identification of individual(s) and/or organization(s) responsible for the alleged discrimination;
- a description of the complainant's allegations to:
 1. determine WVVWDB's jurisdiction of the complaint,
 2. timeliness of the complaint,
 3. specific prohibited basis of the alleged discrimination (i.e., race, sex, etc.), and
 4. apparent merit of the complaint.

The WVVWDB may only review complaints that are in its jurisdiction. There are three criteria that determine jurisdiction: basis, timeliness and whether the respondent is a recipient of DOL funds. Basis is met if the claim is regarding those protected classes covered by civil rights (above). Timeliness is met if a complaint is filed within 180 days of the alleged violation. This time limit can be waived by the Director of CRC if certain criteria is met. All programs and activities operated by the WVVWDB are funded by WIA/WIOA and therefore meet the final criteria for jurisdiction. If it is determined that the board does not have jurisdiction, the WVVWDB EO Officer shall notify the complainant in writing that he or she does not have jurisdiction over the complaint, including reasons for the determination, and the complainant's right to file with the Director of CRC within 30 days of the notice and refer the complaint to the appropriate partner.

If the complainant elects to file a complaint with the WVVWDB, the WVVWDB shall have 90 days to process a complaint and issue a decision (60 days for the WVVWDB to investigate and 30 days for a review at the State level, if warranted). If the complainant files with both the CRC and the WVVWDB, they will be notified that the CRC shall not investigate until the 90-day period has expired. If the complainant chooses to file with the CRC only, the WVVWDB EO officer should log the complaint and assist the complainant in preparing the CRC's Complaint Information Form. During the 90-day period, complainants may elect to participate in mediation. The choice whether to use mediation or the customary investigative process rests with the complainant. If mediation is not elected, or is unsuccessful, the complaint shall be investigated in accordance with the WVVWDB's complaint-processing procedures. Such complaint procedures shall include the following elements:

1. Initial, written notice to the complainant, and a notice that the complainant has the right to be represented in the complaint process;
2. A written statement provided to the complainant that contains a list of the issues raised in the complaint and, for each issue, a statement whether the WVVWDB will accept or reject the issue, and the reasons for each rejection;



3. A period for fact-finding or investigation (data collection or on-site) of the issues and review of evidence (direct, circumstantial, comparative, or statistical) followed by the writing of an investigative report;
4. A 15-day period during which the WVVWDB will attempt to resolve the complaint through mediation; and
5. A written Notice of Final Action provided to the complainant within 90 days of the date on which the complaint was filed, that contains the WVVWDB's determination.

The written Notice of Final Action must include:

1. The jurisdictional authority including the basis for the investigation
2. The WVVWDB's decision on the issue and an explanation of the reasons underlying the decision,
3. A description of the way the parties resolved the issue; and
4. A notice that the complainant has the right to file a complaint with the Director of CRC within 30 days of the Notice if he/she is dissatisfied with the WVVWDB's final action on the complaint.

If the WVVWDB does not provide a written decision within 90 days of the filing of the complaint, the complainant need not wait for a decision to be issued but may file a complaint with the CRC within 30 days of the expiration of the 90-day period. If a complainant is not satisfied with the WVVWDB's resolution, the complainant may file a complaint with the CRC. Such complaint must be filed within 30 days of the date the complainant received the Notice of Final Action from the WVVWDB. The complainant shall be notified that if the complaint is not filed within 180 days of the alleged discrimination or a complaint has not been filed with CRC within 30 days of the receipt of WVVWDB's determination or expiration of the 90-day period, the Director of CRC may extend the time limits for good cause shown.

The WVVWDB EO Officer shall determine at the conclusion of the investigation of a complaint whether there is reasonable cause to believe that a violation occurred. If an investigation results in a "reasonable cause" finding, the WVVWDB's EO Officer shall submit the signed investigative report, including determination and recommendation, to the State EO Officer for review within 60 days of the filing date. Based on review of the determination, the State EO Officer will determine if further review by the Attorney General's Office and the VEC Commissioner, or his designee, is warranted. If the VEC concurs with the determination, the WVVWDB's EO Officer shall issue a written determination. The determination shall notify the complainant of the specific findings, the proposed remedial or corrective action, and the time in which corrective action must be completed.

Where a "no cause" finding is made, the complainant shall be notified in writing. Such a determination represents the final action of the Western Virginia Workforce Development Board's EO Officer. The WVVWDB's EO Officer shall notify the complainant of his or her right to file a complaint with the CRC if he or she believes the WVVWDB's resolution is unsatisfactory. The complainant shall be informed that this right must be exercised within 30 days.

If discrimination is found through the process of a complaint investigation, the respondent shall be requested to voluntarily comply with corrective action(s) or conciliation agreement to correct the discriminatory actions or conditions. Actions to correct discrimination deficiencies may include any of the following:



- Back pay, or other monetary relief (Federal funds shall not be used to provide monetary relief);
- Hire or reinstatement;
- Promotion;
- Benefits or other services denied; and
- Any other remedial or affirmative relief such as outreach, recruitment, and training to ensure equal opportunity.

When technical violations are found during compliance monitoring, the EO Officer will notify the recipient in writing of the violations along with recommendations for corrective action. The EO Officer is responsible for providing technical assistance to correct the violations. Corrective action may include policy development or educating individuals responsible for implementing the required action. A follow-up visit, or contact will be made by either the Board's EO Officer to evaluate progress made toward resolving the violations when a Virginia Career Works Center, Service or Training Provider is cited for discrimination. Violations because of an investigation and/or monitoring efforts shall be made to achieve voluntary compliance by corrective action or a conciliation agreement to correct the discrimination.

Conciliation agreements must include the following provisions:

- Be in writing;
- Address each cited violation, specify the corrective action to be taken, and state the period needed to attain compliance;
- Provide for periodic reporting, as determined by the WVVWDB EO Officer, regarding the status or corrective action;
- Provide that the violation(s) do not recur; and
- Provide for enforcement if a breach of the agreement occurs.

If the WVVWDB EO Officer concludes that compliance cannot be achieved through voluntary means, he or she will notify the State EO Officer in writing, to include the following:

- The apparent violation(s) and the pertinent nondiscrimination or equal opportunity provision(s) of 29 CFR part 37;
- The efforts made to achieve voluntary compliance; and
- The corrective action the recipient must take to redress the violation.

The State EO Officer may secure voluntary compliance with the Virginia Career Works Center, Service or Training Provider through a written assurance and/or conciliation agreement. Sanctions shall be considered by the State EO Officer (or the VEC Commissioner) only if the Virginia Career Works Center, Service or Training Provider will not agree to take voluntary corrective action. Sanctions that may be imposed include termination of funding, partial funding, and disallowance of selected cost.

The Western Virginia Workforce Development Board shall maintain an automated or manual log of discrimination complaints to include:

- name and address of complainant;
- the basis of the complaint (i.e., race, sex, age, etc.),



- a description of the complaint;
- the date the complaint was filed;
- the disposition and date of disposition of the complaint; and
- other pertinent information.

Records pertaining to discrimination complaints, investigations, or any other such actions shall be retained for a minimum of three (3) years from the date of resolution. Information pertaining to the identity of any persons providing information related to, or assisting in, an investigation or a compliance review shall be maintained in a confidential manner to the extent possible. If it is necessary that a person's identity be disclosed, the person(s) shall be protected from retaliation.

Related Forms:

Equal Opportunity Form