

Mountain Local Area EO Complaint Grievance Procedure

Upon notice of an alleged non-criminal Equal Opportunity or Americans With Disabilities Act Complaint or Grievance the Mountain Area Equal Opportunity Officer shall supply the complainant with a copy of these grievance procedures and a Complaint Form – See attached (Form 46-M-1 – EO Complaint Procedure; Form 46-M-2 – EO Complaint Form).

Describe methods to ensure updates are incorporated in the procedure

The North Carolina Commission on Workforce Development notifies the Local Areas when revisions to the EO/ADA requirements are necessary. The Local Area EO Officer is responsible for proposing changes that satisfy these requirements and presenting that information to the Workforce Development Board Director, the proper staff, service providers and/or clients.

EO Assurance Language included in All Local Area contracts.

Equal Employment Opportunity:

- (a) As a condition to the award of financial assistance under WIOA, the Contractor assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws: Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I financially assisted program or activity; Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin; section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities; the Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs and section 403(a)(5)(J) and 408(d) of Title IV of the Social Security Act as amended September 1997, which prohibits discrimination in any Welfare-to-Work (WtW) financially assisted program or activity.
- (b) The Contractor also assures that it will comply with 29 CFR part 37 and all other regulations implementing the laws listed above. This assurance applies to the Contractor's operation of all financially assisted programs and activities and to all agreements the Contractor makes to carry out the financially assisted programs and activities. The Contractor understands that the United States has the right to seek judicial enforcement of this assurance.
- (c) The Contractor shall designate a person other than its chief executive as its equal employment opportunity officer, who shall be responsible for the Contractor's

non-discrimination policy, monitoring the equal employment opportunity compliance, development of a procedure for investigation of and hearings on equal employment opportunity grievances, dissemination of non-discrimination policy for the Contractor and who will act as the liaison with the Local Area.

THE MOUNTAIN AREA WORKFORCE DEVELOPMENT BOARD EQUAL OPPORTUNITY DISCRIMINATION COMPLAINT POLICY

Purpose

To communicate the requirements of Workforce Innovation and Opportunity Act, Section 188, to the Mountain Area Workforce Development Board (MAWDB), its funded Career Centers and Service Providers. These procedures, as written, are to be used only for complaints that directly involve the Mountain Area Workforce Development Board, its staff, procedure and policies. Organizations that receive WIOA funding through the MAWDB must use their own procedures to provide for the prompt and equitable resolution of complaints alleging violation of WIOA nondiscrimination and equal opportunity provision directly involving their staff, procedures and policies. With legal consultation, WIOA Career Centers and Service Providers may adapt these procedures for their use.

References

Workforce Innovation and Opportunity Act, Section 188.

29 CFR Part 37, Department of Labor, Office of the Secretary, Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act: Notice of Proposed Rulemaking; Proposed Rules, April 16, 2015.

Policy Statement

Mountain Area Workforce Development Board (MAWDB) shall ensure nondiscrimination and equal opportunity in admission or access to, opportunity or treatment in, or employment, in the administration of or in connection with any program or activity funded in whole or in part with WIOA funds. 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.

The person has the right to file a complaint with the Equal Opportunity Officer, Mountain Area Workforce Development Board, 339 New Leicester Highway, Asheville, NC 28806 or directly with the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue, N.W., and Room N-4123, Washington D.C. 20210.

If the complainant elects to file a complaint with the Mountain Area Workforce Development Board, the Mountain Area Workforce Development Board shall have 90 days to process a complaint and issue a decision. If the Mountain Area Workforce Development Board 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 Civil Rights Center (CRC) within 30 days of the expiration of the 90-day

period. If a complainant is not satisfied with the Mountain Area Workforce Development Board's resolution, the complainant may file a complaint with CRC. Such complaint must be filed within 30 days of the date the complainant received notice of the Mountain Area Workforce Development Board's proposed resolution.

Mountain Area Workforce Development Board has designated the Director of Business Services as their Equal Opportunity Officer¹, who will be responsible for adopting and publishing complaint procedures, and ensuring that they are followed. To communicate the discrimination complaint policy, "Equal Opportunity Is The Law" posters in English and Spanish shall be placed in a prominent location, which are accessible to applicants for employment, applicants for program services and/or funding, participants, employees, those who have exited the program and other interested parties. The poster contains a nondiscrimination and equal opportunity statement, as well as information about filing a complaint.

Mountain Area Workforce Development Board's JobLink Centers and Service Providers shall include in orientations to employees and/or participants a discussion of their rights under the nondiscrimination and equal opportunity provisions of WIOA and the right to file a complaint of discrimination with either the MAWDB or the CRC. Communication of policy shall be documented on a notification instrument for employees and applicants/participants, and retained in individuals' files. Mountain Area Workforce Development Board shall ensure access to "Equal Opportunity Is The Law" for individuals with visual disabilities via a private personal reading of the procedures, as well as persons who have difficulty reading and/or comprehending written materials.

Where a significant portion of eligible population may need service or information in a language other than English or Spanish, the MAWDB shall provide the initial notice and other material in the needed language to the extent possible.

Intimidation and Retaliation Prohibited

Consistent with 29 CFR, 37.11, intimidation and retaliation against individuals for having filed a complaint; opposing a prohibited practice; furnishing information; assisting or participating in any manner in an investigation, review, hearing or any other activity related to administration of, exercise of authority under, or privilege secured by, the nondiscrimination and equal opportunity provisions, of WIOA is prohibited. In accordance with 29 CFR 37.11, complaints may be filed alleging intimidation and retaliation.

¹Training and service providers are not required to designate an Equal Opportunity Officer. The WIA EO Officer is responsible for ensuring training provider compliance with the non discrimination and equal opportunity requirements of WIA.

Filing a Discrimination Complaint at the Local Level

A complaint of discrimination may be filed with the Mountain Area Workforce Development Board EO Officer or the State WIOA EO Officer.² A complaint must be filed within 180 days of the alleged discrimination. The complaint may be filed by the individual or on behalf of the individual by an authorized representative. A complaint must be filed in writing and signed by the complainant or by his or her authorized representative. It is recommended (but not required) that the complaint be filed on the MAWDB EO Complaint Form (which is attached) or the USDOL Complaint Information Form (found at the web page address listed below).

The complaint document must contain 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 the MAWDB's jurisdiction of the complaint, (2) timeliness of the complaint, (3) specific prohibited basis or basis of the alleged discrimination (i.e., race, sex, etc.) and (3) apparent merit of the complaint.

The MAWDB's EO Officer is responsible for ensuring publication of the name, title, address, telephone number and TDD number of the EO Officers or other individuals responsible for receiving complaints.

Time Frames

The MAWDB's EO Officer shall notify complainants, in writing, of the specific time frames for processing a complaint of discrimination as follows:

- If the complainant elects to file with the MAWDB, the MAWDB shall have 90 days to process the complaint and provide a determination. North Carolina's discrimination complaint process includes 60 days for the Local Workforce Board to investigate and 30 days for a review at the State level, if warranted.
- If the complainant elects to file with both Civil Rights Center (CRC) and the MAWDB, the complainant shall be informed that the local Workforce Development Board has 90 days to process the complaint and that CRC shall not investigate the complaint until the 90-day period has expired.
- If by the end of 90 days from the date on which the complaint was filed the MAWDB fails to issue a Notice of Final Action, the complainant may file a complaint with the Director of CRC within 30 days of the expiration of the 90-day period.
- Immediately upon determining that it does not have jurisdiction, the MAWDB EO Officer shall notify the complainant in writing that he or she does not have

² Complaints filed with the State EO Officer against and WIA will be referred to the Local-Level EO Officer.

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.

- 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 MAWDB's determination or expiration of the 90-day period, the Director of CRC may extend the time limits for good cause shown.

Processing a Discrimination Complaint

It is the responsibility of the MAWDB's EO Officer to determine which WIOA Program Operator entity has jurisdiction over the complaint. Upon determining that a WIOA Program Operator has jurisdiction, the complaint shall be recorded in the complaint log (see Record keeping) and deferred to the appropriate WIOA Service Provider for resolution in accordance with that partner's complaint processing procedures.³ Where the MAWDB EO Officer has jurisdiction for a complaint, he or she shall notify complainants, in writing, of the specific time frames for the processing of a discrimination complaint.

If the complainant elects to file with the MAWDB, the MAWDB shall have 90 days to process the complaint and provide a determination. During the 90-day period complainants may elect to participate in mediation.⁴ The choice whether to use mediation or the customary investigative process rests with the complainant.

Request for mediation shall be referred to the State EO Officer and shall be resolved within a 15 day period of the initial 90 day period. If the complainant elects mediation and there is no resolution, the complaint will be referred for investigation. If mediation is not elected the complaint shall be investigated in accordance with the MAWDB's complaint processing procedures. Such complaint procedures shall include the following elements:

- Initial, written notice to the complainant, and a notice that the complainant has the right to be represented in the complaint process,
- 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 MAWDB will accept or reject the issue, and the reasons for each rejection,
- A period for fact-finding or investigation of the issues,
- A period during which the Buncombe County's Mediation Center will attempt to resolve the complaint through mediation, and
- 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 MAWDB's determination.

Discrimination Complaint Investigation Procedure

Within 90 days of the date a discrimination complaint is filed, an investigation shall be conducted by the MAWDB's EO Officer and/or by a designee under the direction of the EO Officer consistent with the Discrimination Complaint Investigation procedure. This

³ Complaints filed against a WIA Service Provider on a basis covered under WIA, but not covered by that partner shall be referred to CRC.

⁴ See Buncombe County's Mediation Program Guidelines for specific information of the mediation process.

procedure shall be used for any discrimination complaint for which a written and signed complaint has been received.

All activities and records related to an investigation shall ensure the confidentiality of the complaint and any resulting actions. The investigation must be managed in a manner that does not have an adverse effect on the complainant or any other party related to the complaint.

Responding To a Discrimination Complaint

The MAWDB's EO Officer shall sign the investigation, including determination and recommendation. The MAWDB shall provide a written determination (Notice of Final Action) of the complaint and offer resolution within 90 days of the date the complaint was filed and for each issue filed: 1) include the MAWDB's decision on the issue and an explanation of the reasons underlying the decision; 2) description of the way the parties resolved the issue; and 3) notice that the complainant has the right to file a complaint with the Director of CRC within 30 days of the Notice of Final Action if he or she is dissatisfied with the MAWDB's final action on the complaint.

Determinations: MAWDB's 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 MAWDB'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 Secretary of Commerce, or his designee is warranted. If the Secretary of Commerce concurs with the determination, the MAWDB'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 MAWDB's EO Officer. The MAWDB's EO Officer shall notify the complainant of his or her right to file a complaint (not an appeal) with the CRC, if he or she believes the MAWDB's resolution is unsatisfactory. The complainant shall be informed that this right must be exercised within 30 days.

Corrective Action

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.

Record Keeping

The Mountain Area 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. In the event that it is necessary that a person's identity be disclosed, the person(s) shall be protected from retaliation.

Mountain Area Workforce Development Board

Equal Opportunity Complaint Form

It is against the law for the Mountain Area Workforce Development Board (MAWDB), as recipients of financial assistance under Title I of the Workforce Innovation and Opportunity Act (WIOA), to discriminate on the bases of race, color, religion, sex, national origin, age, disability, political affiliation or belief. It is also against the law for MAWDB to discriminate against any beneficiary of Federally financially assisted programs on the basis of the beneficiary's citizenship/ status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIOA Title I financially assisted program or activity.

If you think that you have, or someone else has, been subjected to discrimination by MAWDB on one of the bases listed above, you may file a complaint within 180 days from the date of the alleged violation with either the MAWDB or the U.S. Department of Labor's Civil Rights Center (CRC). If you have missed this deadline and think you have good cause for filing late, you must explain the circumstances and request an extension from the Director of CRC at the address listed below. The Director will determine whether you have proven good cause for an extension and notify you of his/her determination.

To file a complaint, you may use this Complaint Information Form, or send the information listed on this form, in writing, either to MAWDB or CRC. To file the complaint with the Mountain Area Workforce Development Board, send it to Equal Opportunity Officer, Mountain Area Workforce, 339 New Leicester Hwy., Ste. 140, Asheville NC 28806 or, to file a complaint with CRC, send it to Director, Civil Rights Center, U.S. Department of Labor, 200 Constitution Ave NW, Room N-4123, Washington, DC 20210. You may obtain a CRC complaint form electronically through CRC's website at <http://www.dol.gov/oasam/programs/crc/external-enforc-complaints.htm>

Complainant Information

Mailing Address:

Home Phone Number:

Work Phone Number:

Email Address:

Please provide the name and address of the person or organization that you believe discriminated against you or someone else. If you believe that someone else was discriminated against, identify that person or group of people to the best of your ability.

Explain as briefly and clearly as possible what happened and why you believe discrimination took place. Please give the name and contact information for any person that witnessed the events you described above. Also attach any written material that relates to the events you are describing.

Please check the box or boxes that you think best represents the reason why you believe you were, or someone else was, discriminated against. If you are filing a complaint because you believe someone else was discriminated against, and you do not have the exact information about that other person or group (such as their exact date of birth, race, national origin, or type of disability), then provide the best information that you can.

- | | |
|---|---|
| <input type="checkbox"/> Race: Specify _____ | <input type="checkbox"/> Age: Specify Date of Birth _____ |
| <input type="checkbox"/> Color: Specify _____ | <input type="checkbox"/> Disability: Specify _____ |
| <input type="checkbox"/> Religion: Specify _____ | <input type="checkbox"/> Political Affiliation: Specify _____ |
| <input type="checkbox"/> National Origin: Specify _____ | <input type="checkbox"/> Citizenship: Specify _____ |
| <input type="checkbox"/> Sex: Specify ____ Male ____ Female | <input type="checkbox"/> Reprisal/Retaliation _____ |
| <input type="checkbox"/> Other: Specify _____ | |

Please explain the remedy that you are seeking.

Signature:

Date:

Source: <http://www.dol.gov/oasam/programs/crc/DL1-2014A-Rev-April-2011.pdf>
