

Policy and Procedure



Title:	EEO and Non-Discrimination	Number:	OP-12-04
Effective Date:	July 1, 2012	Revisions:	September 14, 2017

Purpose

Programs and activities funded by the United States Department of Labor under the Workforce Innovation and Opportunity Act (WIOA) are subject to federal equal-opportunity laws and regulation. As a recipient of federal funds, the Shenandoah Valley Workforce Development Board (SVWDB) is obligated to comply with the nondiscrimination and equal-opportunity provisions of the Workforce Innovation and Opportunity Act. Section 188 of the WIOA describes the prohibition against discrimination on the basis of 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.

Reference

- P.L. 113-128, Workforce Innovation and Opportunity Act, Section 188, 29 CFR Part 38
- Title VI and Title VII, Civil Rights Act of 1964 and Pregnancy Discrimination Act of 1978
- Civil Rights Act of 1991
- 2 CFR Chapter I, Chapter II, Part 200
- Section 504 of the Rehabilitation Act
- Title I and Title II, Americans with Disabilities Act
- TEGL No. 37-14, May 29, 2015
- VCCS Policy Number 00-10, Revised January 15, 2010
- VCCS Policy Number 01-02, Revised January 15, 2010

Policy

The Shenandoah Valley Workforce Development Board (SVWDB) 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, or any other governmental funding sources. Any person who believes he or she has been subjected to discrimination based on 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, , 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 SVWDB Equal Opportunity Officer, P.O. Box 869, Harrisonburg VA 22803, State WIOA EO Officer, VCCS WDS, 300 Arboretum Place, Suite 200, Richmond, VA 23236 or directly with the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-4123, Washington D.C. 20210. If the complainant elects to file a complaint with the SVWDB, the SVWDB shall have 90 days to process a complaint and issue a decision. If the SVWDB 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 SVWDB'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 SVWDB.

The SVWDB has designated the Chief Executive Officer as its Equal Opportunity (EO) Officer, 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 prominent locations which are accessible to applicants for employment, applicants for program services and/or funding, participants, employees, terminees and other interested parties. The poster contains a nondiscrimination and equal opportunity statement, as well as information about filing a complaint.

The SVWDB's Workforce 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 of WIOA and their right to file a complaint of discrimination with the Program Operator, SVWDB, State Level EO Officer, or the CRC. Communication of policy shall be documented on a notification instrument for employees and applicants/participants, and retained in individuals' files (SVWDB EO Rights Notification document attached). The SVWDB shall ensure audiotape access to "Equal Opportunity Is the Law" for individuals with visual disabilities, as well as persons who have difficulty reading and/or comprehending written materials. As an alternative, this material may be read to the person by a staff member. Based on individual needs, appropriate auxiliary aids and services will be provided to individuals with disabilities, including beneficiaries, registrants, applicants, eligible applicants/registrants, participants, members of the public, and companions, to provide an equal opportunity to participate in, and enjoy the benefits of, a WIOA Title I-financially assisted service, program, or activity. Where a significant portion of eligible population may need service or information in a language other than English or Spanish, the SVWDB shall, to the extent practical, provide the initial notice and other material in the needed language. The SVWDB shall ensure that annual inspections of all workforce centers are performed, with inspection results kept on file at the SVWDB office at 217 S. Liberty Street, Suite 203, Harrisonburg, VA 22801.

Intimidation and Retaliation Prohibited

Consistent with 29 CFR, 38.19, 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 relate 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 38.19, complaints may be filed alleging intimidation and retaliation.

Procedure

Filing a Discrimination Complaint

Examples of who may file a complaint include the following:

1. Applicants and/or registrants for assistance, benefits, services or training,
2. Eligible applicants/registrants,
3. Participants,
4. Employers,
5. Applicants for employment under WIOA,
6. Service providers or
7. Eligible service providers.

A complaint of discrimination may be filed with the SVWDB EO Officer, the State WIOA EO Officer, or directly with the CRC. 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 a U.S. Department of Labor (DOL) Complaint Information Form, both English and Spanish forms being found at: <http://www.dol.gov/oasam/programs/crc/external-enforc-complaints.htm>

or on the SVWDB EO Complaint Form (which is attached).

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 in order to determine:
 1. The SVWDB's jurisdiction of the complaint,
 2. The timeliness of the complaint,
 3. The specific prohibited basis of the alleged discrimination (i.e., race, sex, etc.), and
 4. The apparent merit of the complaint.

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

- A. If the complainant elects to file with the SVWDB, the SVWDB shall have 90 days to process the complaint and provide a determination. Virginia's discrimination complaint process includes 60 days for the SVWDB to investigate and 30 days for a review at the State level, if warranted.
- B. If the complainant elects to file with both CRC and the SVWDB, the complainant shall be informed that the SVWDB has 90 days to process the complaint and that CRC shall not investigate the complaint until the 90-day period has expired.
- C. If, by the end of 90 days from the date on which the complaint was filed, the SVWDB 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.
- D. Immediately upon determining that it does not have jurisdiction, the SVWDB 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.
- E. 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 SVWDB'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 SVWDB EO Officer to determine which Workforce entity has jurisdiction over the complaint. Upon determining that a Workforce partner has jurisdiction, the complaint shall be recorded in the complaint log (see "Record keeping" below) and referred to the appropriate Workforce partner for resolution in accordance with that partner's complaint processing procedures. Where the SVWDB EO Officer has jurisdiction for a complaint, they shall notify the complainants, in writing, of the specific time frames for the processing of a discrimination complaint.

If the complainant elects to file their complaint with the SVWDB, the SVWDB shall have 90 days to process the complaint and provide a determination. 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. Requests for mediation shall be referred to the SVWDB EO Officer.

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 SVWDB's complaint-processing procedures. Such complaint procedures shall include the following elements:

1. An initial written notice to the complainant, including notice that they have the right to be represented in the complaint process and their right to file a complaint directly with the Director, Civil Rights Center;
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 SVWDB will accept or reject the issue, and the reason(s) for each rejection;

3. A period for fact-finding or investigation of the issues;
4. A period during which the SVWDB 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 SVWDB's determination.

Discrimination Complaint Investigation Procedure

Within 90 days of the date a discrimination complaint is filed, an investigation shall be conducted by the SVWDB EO Officer, or by their designee under their direction, consistent with the Discrimination Complaint investigation procedures (See separate policy labeled Discrimination Complaint Procedures for details). This 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 SVWDB EO Officer shall sign the investigation, including determination and recommendation. The SVWDB 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, include:

1. The SVWDB's decision on the issue and an explanation of the reasons underlying the decision,
2. A description of the way the parties resolved the issue; and
3. A 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 SVWDB's Notice of Final Action on the complaint.

Determinations

The SVWDB 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 SVWDB 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 VCCS Vice Chancellor of Workforce Development Services, or his designee is warranted. If the VCCS concurs with the determination, the SVWDB EO Officer shall issue a written determination in the form of a Notice of Final Action. This Notice 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 SVWDB EO Officer. The SVWDB 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 SVWDB'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 SVWDB shall maintain a log of discrimination complaints to include:

- The 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.

Attachments:

Shenandoah Valley Workforce Development Board Inc. Equal Opportunity (EO) Rights Notification
Discrimination Complaint Information Form
Consent Form

Date approved by Board:

9/19/17

Signed by:


Jeff Stapel, Chair

Revisions:

September 14, 2017

Discrimination Complaint Information Form

1. Complainant Information:

State your name and address:

Your email address:

Home Number: () -

Work Number: ()

Message Number: ()

2. Respondent Information:

Provide name and address of agency involved:

Telephone Number: () -

3. What is the most convenient time and place for us to contact you about this complaint?

4. To your best recollection on what date(s) did the discrimination take place?

Date of first occurrence:

Date of most recent occurrence:

5. Have you ever attempted to resolve this complaint at the local Level? ☐ No or ☐ Yes

a. Have you been provided with a final decision at the local level regarding your complaint?

☐ No ☐ Yes

Date of final decision (if any)

b. Have 90 days elapsed since you filed or attempted to file this complaint at the local level?

☐ No ☐ Yes

Date you filed or attempted to file your complaint at the local level.

6. Explain as briefly and clearly as possible what happened and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently from you. Also attach any written material pertaining to your case.

7. To the best of your knowledge, which of the following Department of Labor programs were involved? (Check one)

- ☐ Workforce Innovation and Opportunity Act (WIOA)
☐ MSHA
☐ Welfare to Work
☐ OSHA
☐ Job Service
☐ WIN
☐ Youth
☐ Unemployment Insurance
- ☐ Job Corps
☐ Apprenticeship
☐ Older Americans
☐ New Directions
☐ Displaced Worker
☐ Valley OJT
☐ Other: Specify

13. Please list below any persons (witnesses, fellow employees, supervisors, or others) that we may contact for additional information to support or clarify your complaint:

Name	Address	Telephone Number

14. Do you have an attorney?
☐ Yes ☐ No

If yes, please provide name, address and phone:

Attorney Name	Address	Telephone Number

15. Have you filed a case or complaint with any of the following?
- ☐ Civil Rights Division, U S Dept of Justice
 - ☐ U S Equal Employment Opportunity Commission
 - ☐ Federal or State court
 - ☐ Your State or local Human Relations/Rights Commission

16. For each item checked in #15 above, please provide the following Information:

Agency:
Data Filed:
Case or Docket Number
Date of Trial or Hearing:
Location of agency or court
Name of Investigator:
Status of Case:
Comments:

17. Sign (Complaint NOT VALID unless signed)

_____	_____
(Signature)	(Date)

(Printed Name)	

**Shenandoah Valley Workforce Development Board
Equal Opportunity (EO) Rights of Notification**

Equal Opportunity Is The Law

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases: against any individual in the United States, on the basis of 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.

If you think that you have been subjected to discrimination under a WIOA-funded program or activity, you may file a complaint within 180 days from the date of the alleged violation with the recipient's Equal Opportunity Officer: *Sharon Johnson*, Shenandoah Valley Workforce Development Board, P.O. Box 869 Harrisonburg, VA 22803, or you may file a complaint directly with the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue N.W., Room N-4123, Washington D.C. 20210. If you elect to file your complaint with the recipient, you must wait until the recipient issues a decision or until 90 days have passed, whichever is sooner, before filing with (CRC) (see address above). If the recipient has not provided you with a written decision within 90 days of the filing of the complaint, you need not wait for a decision to be issued, but may file a complaint with (CRC) within 30 days of the expiration of the 90 day period. If you are dissatisfied with the recipient's resolution of your complaint, you may file a complaint with the (CRC). Such complaint must be filed within 30 days of the date you received notice of the recipient's proposed resolution.

*Recipient - means any entity to which Federal financial assistance under any title of WIOA is extended, either directly or through the Governor or through another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIOA-funded program or activity and the Governor. Recipient includes, but is not limited to: Job Corps Centers and One Stop Center/Operators (excluding Federally- operated Job Corps Centers), State Employment Security Agencies, State-level agencies that administer WIOA funds, SDA grant recipients, Substate grant recipients and service providers, as well as National Program recipients.

Grievance and Complaint Procedure

Each grievance or complaint must be filed, in writing, to the Shenandoah Valley WDB, PO Box 869, Harrisonburg, VA 22803, within 30 calendar days of the alleged incident and shall contain the following information:

1. The name, address and phone number of the person filing the grievance or complaint;
2. The date of the alleged situation and the date the grievance or complaint was filed;
3. The identity of the respondent (i.e. the individual or entity against whom the grievance or complaint is alleged);
4. A description of the allegations. This description must include enough detail to allow the reviewer to decide whether the allegations, if true, would violate any of the provisions of WIOA; and
5. The signature of the person filing the grievance or complaint.

I understand that written policies on Grievance Procedures are on file at the contactor's administrative office and that I may have a copy upon request.

I have read my rights under WIOA programs and have been given a copy of the Equal Opportunity Rights Notification.

I, THE APPLICANT, AGREE THAT THIS NOTIFICATION HAS BEEN EXPLAINED TO ME, AND I HAVE HAD THE OPPORTUNITY TO ASK QUESTIONS FOR CLARIFICATION.

Signature of Applicant _____ **Date** _____

Signature of Parent/Guardian (if participant under 18) _____ **Date** _____

I, AS A REPRESENTATIVE OF THE SHENANDOAH VALLEY WORKFORCE DEVELOPMENT BOARD, HAVE EXPLAINED THE INFORMATION CONTAINED IN THIS NOTIFICATION TO THE APPLICANT.

Signature of Representative _____ **Date** _____