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May 20, 2019

To: WIOA Subrecipients of the Orange County
Development Area

From: Carma Lacy
Director of Workforce Development

Subject: Nondiscrimination and Equal Opportunity Procedures
Addendum #4 Information Notice No. 17-OCDB-13
Supersedes Information Notice 16-OCDB-03



PURPOSE:

To provide guidance and establish the procedures regarding nondiscrimination and equal opportunity (EO) procedures. This applies to all WIOA funded Subrecipients and contractors including eligible training providers. This policy supersedes Information Notice 16-OCDB-03 dated October 12, 2016.

In Addendum #4, the EO Officer has been updated. Also, the Dispute Resolution contacts were updated. All other requirements of the policy remain unchanged.

EFFECTIVE DATE:

This notice is effective on the date of issuance.

REFERENCES:

- Civil Rights Act of 1964 (Public Law 88-352) Titles VI and VII
- Education Amendments of 1972 (Public Law 92-318) Title IX
- Rehabilitation Act of 1973 (Public Law 93-112) Title V, Section 504
- Age Discrimination Act of 1975 (Public Law 94-135)
- Americans with Disability Act of 1990 (Public Law 101-336)
- Workforce Innovation and Opportunity Act (WIOA) (Public Law 113-128) Sections 121(b), 183(c), and 188
- Title 20 CFR Section 658.400
- Title 28 CFR Part 35, Subpart A
- Title 29 CFR Parts 31, 32, 34, 38, and 1690-1691
- Title 41 CFR Parts 101-19, Subpart 101-19.6
- Title 45 CFR Part 90, Subpart D, Section 90.43(c)(3)
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP)
- Fair Employment and Housing Act, California Government Code Sections 12900 – 12996
- Dymally-Alatorre Bilingual Services Act, California Government Code Sections 7290-7299.8
- Workforce Services Directive WSD17-01, Subject: *Nondiscrimination and Equal Opportunity Procedures* (August 1, 2017)



**ORANGE COUNTY
DEVELOPMENT BOARD**

1300 SOUTH GRAND
BLDG. B, THIRD FLOOR
SANTA ANA, CA 92705
PHONE: 714.480.6500
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BACKGROUND:

The nondiscrimination and EO provisions outlined in Section 188 of WIOA and 29 CFR Part 38 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-LEP); 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.

POLICY AND PROCEDURES:

Definitions

Complaint – An allegation of a violation of the nondiscrimination and EO provisions.

Recipient – May also be referred to as Subrecipient is any entity to which financial assistance under the WIOA Title I is extended, either directly from the Department of Labor (DOL) or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIOA Title I funded program or activity. In addition, One-Stop partners, as defined in Section 121(b) of WIOA, are treated as “Recipients” and are subject to the nondiscrimination and EO requirements of 29 CFR Part 38, to the extent that they participate in the One-Stop delivery system (29 CFR Section 38.4[zz]).

Small Recipient – A Recipient who serves a total of fewer than 15 beneficiaries during the entire grant year and employs fewer than 15 employees on any given day during the grant year (29 CFR Section 38.4[hhh]).

State Equal Opportunity Officer – The Employment Development Department’s (EDD) EO Officer.

Respondent – Means the party or entity against whom a discrimination charge has been filed.

Policy Statement

In carrying out the purpose of the WIOA, the OCDB shall ensure nondiscrimination and EO in admission or access to, opportunity or treatment in, or employment in the administration of or in connection with any program or activity funded with WIOA funds. Auxiliary aids and services will be available upon request to individuals with disabilities. Financially assisted aid, benefits, services and training will be readily accessible to qualified individuals. Each program under this title shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities.

In implementing the WIOA, the OCDB and its Recipients will foster EO and nondiscrimination in administering all aspects of the WIOA and comply with all federal, state and local provisions of the law. No individual shall be subjected to discrimination because of race; color; religion; sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity); national origin (including LEP); age; disability; political affiliation or belief; or, for beneficiaries, applicants, and participation only, on the basis of citizenship status or participation in a WIOA Title I financially assisted program or activity.

No individual will be discharged, intimidated, threatened, coerced, or discriminated against because of filing a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the nondiscrimination and equal employment opportunity provisions of the WIOA or Title 29 CFR Part 38.

The sanctions and penalties contained in these procedures may be imposed against any Recipient who engages in any such retaliation or intimidation, or fails to take necessary steps to prevent such activity. Failure to comply with this policy may result in disciplinary action and initial, continued or renewed funding may be jeopardized.

Assurances:

Contracts, cooperative agreements, job training plans, and policies and procedures must contain the nondiscrimination assurance specified in 29 CFR Section 38.25 and 38.26. The nondiscrimination assurance must state that the grant applicant will “comply fully with the nondiscrimination and EO provisions of the WIOA” (29 CFR Part 38 Preamble) and acknowledge the government’s right to seek judicial enforcement of the nondiscrimination assurance.

Also in accordance with 29 CFR Section 38.25, each application for federal financial assistance under WIOA Title I must include the nondiscrimination assurance. Application for assistance is defined as the process by which required documentation is provided to the Governor, Recipient, or the DOL prior to, and as a condition of, receiving federal financial assistance under WIOA Title I (including both new and continuing assistance).

EO Officers:

Administration responsibility for the OCDB’s EO policy is delegated to an Administrative Manager of the Community Investment Division/OC Community Services (under the direct supervision of the OCDB’s Executive Director). The OCDB EO Officer is responsible for coordinating OCDB’s obligation under these regulations.

The OCDB EO Officer’s responsibilities include:

- Serving as liaison with the EDD Equal Employment Opportunity (EEO) Office and/or Civil Rights Center (CRC);
- Investigating and monitoring the organization’s and its Subrecipients’ activities and programs;
- Reviewing the organization’s and its Subrecipients’ written policies;
- Developing, publishing, and enforcing the organization’s discrimination complaint procedures;
- Conducting outreach and education about EO and nondiscrimination requirements consistent with 29 CFR Section 38.40, and how an individual may file a complaint consistent with 29 CFR Section 38.69;

- Participating in continuing training and education, and ensuring that assigned staff receives the necessary training and support to maintain competency; and
- Informing applicants, employees and program beneficiaries of their equal opportunity rights and responsibilities, and how the discrimination complaint process works.

All recipients (excluding Small Recipients and Service Providers) must designate an EO Officer who is responsible for coordinating its obligation under these regulations. Recipients must notify the OCDB Administrative Office whenever the designation of their EO Officer changes.

Please send the EO Officer information (name, position title, business address, email address, and telephone number) to:

Equal Opportunity Officer: Nakia Thierry
Orange County Development Board
1300 South Grand Avenue, Bldg. B, 3rd floor
Santa Ana, CA 92705

Or, email to OCDB@OCCR.OCGOV.COM

The EO Officer's contact information such as name, position title, business address (including e-mail address) and telephone number (voice and Telecommunications Device for the Deaf (TDD), which is also known as teletypewriter (TTY)) must be publicized through a variety of means including posters, handouts, and listings in local directories. It must also be ensured that the EO Officer's identity and contact information appears on all internal and external communications about the Recipient's nondiscrimination and EO programs.

Attending periodic training is recommended for the EO Officer and assigned staff to keep abreast of EO issues.

Small Recipients and Service Providers:

Small Recipients, as defined in 29 CFR Section 38.4, do not need to designate an EO Officer with the full responsibilities as described above, but must designate an individual who will be responsible for the development and publishing of internal complaint procedures and the processing of complaints as required by 29 CFR Section 38.72 through 38.75.

Notice and Communication:

A Subrecipient must provide initial and continuing notice that it does not discriminate on any prohibited basis. **Attachment 1** contains the notice/poster relating to *Equal Opportunity is the Law* along with language highlighting the right to file a complaint under *What to Do if You Believe You Have Experienced Discrimination*. This notice/poster must be:

- Posted prominently, in reasonable numbers and places, in available and conspicuous physical locations and on website pages;

- Disseminated in internal memoranda and other written or electronic communications with staff;
- Included in employee and participant handbooks or manuals regardless of form, including electronic and paper form if both are available;
- Provided to each participant and employee; the notice must be made part of each employee's and participant's file. It must be part of both paper and electronic files, if both are maintained (29 CFR Section 38.36[a]). A copy of an acknowledgement of receipt shall be signed by the participant and included in each participant's file. Where an electronic case file is maintained, staff must make a note indicating that this notification did occur, the date of the notification, and the name of the staff person who provided it.
- Provided in appropriate formats to registrants, applicants, eligible applicants/registrants, and applicants for employment and employees and participants with visual impairments. When a notice has been given in an alternate format, a record of such notice shall be documented and made part of the employee's or participants' file. The notice must be provided in appropriate languages other than English (29 CFR Section 38.36[b]).

Distributed publications, recruitment brochures, other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper to staff, clients, or the public at large, broadcast program information in the news media, and other communications, including the homepage of the Recipients which promote, describe programs, or the requirement for participation by Recipients and participants of the WIOA Title I-financially assisted programs or activities, must include the following taglines: ***"This WIOA Title I financially assisted program or activity is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities."***

Where such materials indicate that the Recipients may be reached by voice telephone, they must also provide the TDD/TTY or equally effective communication system, such as a videophone, captioned telephone, or relay service. The California Relay Service (CRS), can be reached by dialing 711 or 1-800-735-2922.

Recipients that publish or broadcast program information in the news media must ensure that such publications and broadcasts state that the WIOA Title I-financially assisted programs or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIOA Title I-financially assisted program or activity is prohibited by Federal law) and indicate that auxiliary aids and services are available upon requests to individuals with disabilities.

A Recipient must not communicate any information that suggests, by text or illustration, that the Recipient treats beneficiaries, registrants, applicants, participants, employees or applicants for employment differently on any prohibited basis, except as such treatment is otherwise permitted under federal law or regulation.

During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title I-financially assisted programs or activity, whether this be in person or over the internet or using other technology, a Recipient must include a

discussion of rights and responsibilities under the nondiscrimination and EO provisions of WIOA Section 188 and 29 CFR Part 38, including the right to file a complaint of discrimination with the Recipient or the Director of the Civil Rights Center (CRC). This information must be communicated in appropriate languages as required in 29 CFR Section 38.9 and in formats accessible for individuals with disabilities as required in 29 CFR Part 38 and specified in Section 38.15.

The Dymally-Alatorre Bilingual Services Act (DABSA) requires that when state and local agencies serve a "substantial number of non-English-speaking people," they must employ a "sufficient number of qualified bilingual staff in public contact positions" and translate documents explaining available services in their clients' language. The DABSA establishes specific legal mandates for state agencies, but allows local agencies discretion in establishing the level and extent of bilingual services they provide.

Data and Information Collection and Maintenance:

Each Recipient must collect and maintain nondiscrimination data. The system and format in which the records and data are kept must be designed to allow the Governor and the CRC to conduct statistical or other quantifiable data analyses to verify the Recipient's compliance with Section 188 of the WIOA and 29 CFR Part 38.

Nondiscrimination data must include, but is not limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Each Recipient must record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, participant, terminee, applicant for employment, and employee. Such information must be kept for a period of not less than three years from the close of the applicable program year, stored in a manner that ensures confidentiality, and must be used only for the purposes of any of the following:

- Recordkeeping and reporting;
- Determining eligibility, where appropriate, for WIOA Title I-financially assisted programs or activities;
- Determining the extent to which the Recipient is operating its WIOA Title I-financially assisted program or activity in a nondiscriminatory manner; and
- Other use authorized by law.

Any medical or disability-related information obtained about a particular individual, including information that could lead to the disclosure of a disability, must be collected on separate forms. All such information, whether in hard copy, electronic, or both, must be maintained in one or more separate files, apart from any other information about the individual, and treated as confidential. Whether these files are electronic or hard copy, they must be locked or otherwise secured (e.g., through password protection).

LEP and Preferred Language Data:

As indicated in 29 CFR Section 38.41, "LEP and preferred language" has been added to the list of categories of information that each Recipient must record about each applicant,

registrant, eligible applicant/registrant, participant, and terminnee. It should be noted that this data collection obligation would not apply to applicants for employment and employees because the obligation as to LEP individuals in 29 CFR Section 38.9 does not apply to those categories of individuals. A Subrecipients' collection of information relates directly to serving (not employing) LEP individuals.

As it relates to the collection of "LEP and preferred language" data, the CRC has decided to delay enforcement for two years from the January 3, 2017 effective date of 29 CFR Part 38 in order to allow Recipients adequate time to update their data collection and maintenance systems. This means that full compliance is required by January 3, 2019, when the CRC will begin enforcing the collection of "LEP and preferred language" data.

Complaint Log:

Each Recipient must promptly notify OCDB of any administrative enforcement actions or lawsuits filed against Recipient 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 LEP), 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. OCDB will notify EDD and/or CRC.

Each Recipient must maintain a log of complaints filed alleging discrimination on the basis 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 must include the following:

- 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
- Other pertinent information.

Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential.

OCDB requires that all Recipients maintain annual (calendar year) complaint logs. If no complaint was filed in a calendar year, Recipients will note 'None to report' for the calendar year. Recipients shall use OCDB's Complaint Log (Attachment 2). Logs must be maintained for 3 years and available for review at the request of OCDB's EO Officer. Where a discrimination complaint has been filed, all logs and records relevant to the complaint shall be maintain for 3 years from the date of the final action related to the resolution or compliance review.

Submit logs by January 10th, annually to OCDB@OCCR.OCGOV.COM

Affirmative Outreach:

The guidelines found in 29 CFR Section 38.40 require Recipients to take appropriate steps to ensure that they are providing equal access to their WIOA Title I-financially assisted programs and activities. These steps should involve reasonable efforts to include members of the various groups protected by 29 CFR Part 38 including but not limited to persons of different sexes, various racial and ethnic/national origin groups, various religions, LEP individuals, individuals with disabilities, and individuals in different age groups. Such efforts may include, but are not limited to, the following:

- Advertising the Recipient's programs and/or activities in media such as newspapers or radio programs that specifically target various populations.
- Sending notices about openings in the Recipient's programs and/or activities to schools or community service groups that serve various populations.
- Consulting with appropriate community service groups about ways in which the Recipient may improve its outreach and service to various populations.

Discrimination Prohibited Based on Disability:

In providing any aid, benefit, service, or training under a WIOA Title I-financially assisted program or activity, whether directly or through contractual, licensing, or other arrangements, on the basis of disability, a Recipient must not do any of the following:

- Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, service, or training, including meaningful opportunities to seek employment and work in competitive integrated settings.
- Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefits, services, or training that is not equal to that afforded others.
- Provide a qualified individual with a disability with any aid, benefit, service, or training that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.
- Provide different, segregated, or separate aid, benefit, service, or training to individuals with disabilities, or to any class of individuals with disabilities, unless such action is necessary to provide qualified individuals with disabilities with any aid, benefit, service, or training that is as effective as those provided to others, and consistent with the requirements of the Rehab Act as amended by the WIOA, including those provisions that prioritize opportunities in competitive integrated employment.
- Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards.
- Otherwise limit a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service, or training.

Accessibility Requirements:

No qualified individual with a disability may be excluded from participation in, or be denied the benefits of a Recipient's service, program, or activity or be subjected to discrimination by any Recipient because a Recipient's facilities are inaccessible or unusable by individuals with disabilities. Recipients that are subject to Title II of ADA of 1990 must also ensure that new facilities or alterations of facilities that began construction after January 26, 1992, comply with the applicable federal accessible design standards, such as the ADA Standards for Accessible Design (1991 or 2010) or the Uniform Federal Accessibility Standards. In addition, Recipients that receive federal financial assistance must meet their accessibility obligations under Section 504 of the Rehab Act and the implementing regulations at 29 CFR Part 32. Some Recipients may be subject to additional accessibility requirements under other statutory authority, including Title III of the ADA that is not enforced by the CRC. As indicated in Section 38.3(d)(10), compliance with this part does not affect a Recipient's obligation to comply with the applicable ADA Standards for Accessible Design.

All WIOA Title I-financially assisted programs and activities must be programmatically accessible. This includes providing reasonable accommodations for individuals with disabilities, making reasonable modifications to policies, practices, and procedures, administering programs in the most integrated setting appropriate, communicating with persons with disabilities as effectively as with others, and providing appropriate auxiliary aids or services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

Reasonable Accommodation and Modifications for Individuals with Disabilities:

With regard to any aid, benefit, service, training, and employment, a Recipient must provide reasonable accommodations to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship. For more information on what would constitute undue hardship as it relates to a reasonable accommodation of individuals with disabilities, please see the definition of "undue burden or undue hardship" found in 29 CFR Section 38.4(rrr)(1).

With regard to any aid, benefit, service, training, and employment, a Recipient must also make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity, which would constitute a fundamental alteration. For more information, see the definition of "fundamental alteration" found in 29 CFR Section 38.4(z).

In those circumstances where a Recipient believes that the proposed accommodation would cause undue hardship, or the proposed modification would fundamentally alter the program, the Recipient has the burden of proving that compliance with this section would result in such hardship and alteration. The Recipient must make the decision that the accommodation would cause such hardship or result in such alteration only after

considering all factors listed in the definitions of "undue hardship" and "fundamental alteration." The decision must be accompanied by a written statement of the Recipient's reasons for reaching that conclusion. The Recipient must provide a copy of the statement of reasons to the individual(s) who requested the accommodation or modification.

If a requested accommodation would result in undue hardship or a modification would result in a fundamental alteration, the Recipient must take any other action that would not result in such hardship or such alteration but would nevertheless ensure that individuals with disabilities receive the aid, benefits, services, training or employment provided by the recipient.

In addition, a Recipient must take appropriate steps to ensure that communications with individuals with disabilities, such as beneficiaries, registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employees, members of the public, and their companions are as effective as communications with others.

Reasonable Accommodation Policy and Procedure Guide (Attachment 4) shall be used when processing all reasonable accommodation requests. This document contains two sections. The first section of Attachment 4, provides general guidance and definitions for use when processing reasonable accommodation requests. The second section, provides step-by-step instructions on how to process these requests.

Service Animals:

Generally, a Recipient shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

Mobile Aids and Devices:

A Recipient must permit individuals with mobility disabilities to use wheelchairs and manually-powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities, in any areas open to pedestrian use.

A Recipient must make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless the Recipient can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the Recipient has adopted.

Complaint Processing Procedures:

In compliance with nondiscrimination and equal opportunity provisions of the WIOA and Title 29 CFR Section 38.76, the following procedures provide for resolution of non-criminal complaints arising from the operation of the WIOA programs of the OCDB.

A complaint is defined here as written expression by a party alleging a violation of the WIOA regulations promulgated under the WIOA Recipient grants, sub-agreements or other specific agreements under the WIOA including terms and conditions of employment of such participants in WIOA Title I programs. All complaints, amendments and

withdrawals shall be in writing. These procedures are intended to resolve matters that concern policies, procedures or actions concerning WIOA Title I programs operated by each WIOA grant Recipient under the WIOA.

These procedures shall not be construed as affecting any other available legal remedy outside the WIOA complaint process (i.e., disputes regarding terms and conditions of employment of any employee who is not a participant), either separately or simultaneously, that an individual may decide to pursue in the resolution of a non-WIOA complaint. These procedures do not restrict the WIOA grant Recipient staff in initiating any informal discussion and/or resolution of any problem outside of and without resorting to the formal complaint process.

Informal conferences will be utilized to resolve complaints; however, such informal conferences shall not extend the time within which a decision must be issued after receipt of a complaint. Recipients will make an attempt to conduct an informal conference within one (1) week of the official date of filing the complaint. Respondents must make good faith efforts to resolve all grievances or complaints prior to the scheduled hearing. Every grievance or complaint not resolved informally or not withdrawn will be given a hearing.

All Recipients shall document the facts of an alleged complaint against any vendor. The facts should be used to advise the participant of any recourse available and to determine if the Recipient should continue to utilize the services of the vendor. All Recipients shall immediately notify the OCDB of any alleged complaint by a vendor and document the facts. Complainants against vendors will be advised of any recourse available to them.

The following principles and rules apply to all complaints at all steps of the complaint process:

- Upon enrollment into WIOA Title I funded programs services, participants shall be provided with a written description of complaint handling procedures, including notification of their right to file complaints and instructions for filing.
- Any person who believes that either he or she or any specific class of individuals, has been or is being subjected to discrimination prohibited by the nondiscrimination and EO provisions of WIOA may file a written complaint by using the ***Discrimination Complaint Form (Attachment 3)***, or a representative may file the complaint on his or her behalf.
- Complaints must be filed in writing by completing the ***Discrimination Complaint Form (Attachment 3)*** and shall be signed by the complainant or his or her representative; contain the complainant's name, address, or other means of contacting him or her; identify the respondent; and a description of the complainant's allegation(s) in sufficient detail to allow the Recipient/OCDB or CRC, as applicable, to determine: (1) who has jurisdiction over the complaint; (2) whether the complaint was filed timely and; (3) whether the complaint has apparent merit, i.e., whether the allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIOA. The complaint may be filed either with the Recipient's EO Officer (or the person designated for this purpose), or the OCDB's EO Officer, or directly with CRC, U.S. Department of Labor, 200 Constitution Avenue N.W., Room N-4123, Washington D.C. 20210; or electronically as directed on the CRC website at www.dol.gov/crc.

The Complaint handling procedures contained, herein (or the alternative procedures) shall be available to participants to resolve disputes regarding terms and conditions of employment of participants in employment and training programs. Such procedures shall not be used to resolve disputes regarding terms and conditions of employment and training of any employee who is not a participant, as defined herein.

- A complaint filed pursuant to Title 29 CFR Section 38.69 must be filed within 180 days of the alleged discrimination. The CRC, if shown good cause, may extend the filing time. In order to receive the extension, a waiver letter must be filed by the complainant with CRC. The reason for the 180-day time period lapse must be indicated in the waiver letter. This time period for filing is for the administrative convenience of CRC and does not create a defense for the respondent.
- All persons filing a complaint shall be free from restraint, coercion, reprisal, or discrimination due to filing of the complaint. Good faith efforts shall be made to informally resolve the complaint prior to the scheduled hearing. Complainants have the right to withdraw their complaints at any time prior to the hearing. Prior to the hearing, a complainant may amend the complaint to correct technical deficiencies but not to add issues. All withdrawals and amendments shall be in writing.
- The identity of any individual who furnishes information relating to, or assisting in, an investigation or compliance review, including the identity of the individual who files the complaint, will be kept confidential to the extent possible, consistent with a fair determination of the issues. An individual whose identity it is necessary to disclose must be protected from retaliation.
- Complainant and respondent have the right to be represented at their own expense by an attorney or other individual of his or her choice at all levels of the complaint process.
- Alternate Dispute Resolution (ADR) will be available to resolve complaints. The complainant will be offered ADR immediately upon receipt of the complaint. The choice whether to use ADR rests with the complainant. ADR providers are listed on **Attachment 5**.

The preferred form of ADR is mediation. Mediation is a voluntary process during which a neutral third party assists both parties (complainant and respondent), communicates their concerns and comes to an agreement about how to resolve a dispute. The mediator does not make decisions, rule as to who is right or wrong, nor take sides or advocate for one side or the other. The role of the mediator is to help with communication so the parties can reach an understanding about how to best resolve their differences.

As the law allows, mediation proceedings and the information shared are confidential and no information divulged during this mediation may be used in court or any legal or administrative proceedings.

If the parties do not reach an agreement under ADR, the complainant may file directly with CRC as described in Title 29 CFR Sections 38.69 through 38.72.

- A party to any agreement reached under ADR may file a complaint with the CRC in the event the agreement is breached. The following rules apply in the event an agreement reached under ADR is breached:
 - The non-breaching party may file a complaint with CRC within thirty (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 CRC based upon his or her original allegation(s), and the CRC will waive the time deadline for filing such a complaint.
- Complaints filed with the OCDB:

The OCDB EO Officer shall issue a written acknowledgement of receipt of a complaint alleging discrimination by a WIOA Title I Recipient and shall include a notice of the complainant's right to representation in the complaint process. Complainants that have initially filed with the OCDB's grant Recipient must exhaust the OCDB's and Recipient's hearing process prior to appealing to the Equal Employment Opportunity Office of the Employment Development Department (see Conciliation section below for applicable timelines).

A copy of the complaint will be mailed to the OCDB at the following address:

Equal Opportunity Officer: Nakia Thierry
Orange County Development Board
OC Community Services/Community Investment Division
1300 South Grand Avenue, 3rd Floor, Bldg B
Santa Ana, CA 92705

OCDB shall mail a copy of the complaint and one copy of the issued Notice of Final Action to the following address:

Equal Employment Opportunity Office
Employment Development Department
800 Capitol Mall, MIC 49
P. O. Box 826880
Sacramento, CA 94280-0001

- If the complainant elects not to participate in the ADR process, the EO Officer shall investigate the circumstances underlying the complaint.

Conciliation:

At any point of the investigation; the complainant, respondent, or the EO Officer may request that the parties attempt conciliation. The EO Officer shall facilitate such conciliation efforts.

Conciliation is a process whereby the parties to a dispute agree to utilize the services of a conciliator, who then meets with the parties separately in an attempt to resolve their

differences. Conciliation differs from mediation in that the main goal is to conciliate, most of the time by seeking concessions.

If the conciliator is successful in negotiating an understanding between the parties, said understanding is almost always committed to writing (usually with the assistance of legal counsel) and signed by the parties, at which time it becomes a legally binding contract and falls under contract law.

The OCDB shall be allowed 90 days to issue a Notice of Final Action from the date on which the complaint was filed. If, during the 90-day period, the OCDB issues a decision that is not acceptable to the complainant, the complainant or his or her representative may file a complaint with the CRC within 30 days after the date on which the complainant receives the Notice.

If the 90 days expire and the complainant does not receive a Notice of Final Action from the OCDB, or the OCDB failed to issue a Notice of Final Action, the complainant or his/her representative, within 30 days of the expiration of the 90-day period, file a complaint with the CRC. In other words, the complaint must be filed with the CRC within 120 days of the date on which the complaint was filed with the OCDB.

The CRC may extend the 30-day time limit if the complainant is not notified, as provided in Title 29 CFR Section 38.77, or for other good cause shown.

Note: The complaint procedures of both the Recipient and OCDB require that the 90-day time period be met collectively.

The OCDB shall notify the complainant in writing immediately upon determining that it does not have jurisdiction over a complaint that alleges a violation of the nondiscrimination and EO provisions of the WIOA. The Notice of Lack of Jurisdiction must also include the basis for such determination, as well as a statement of the complainant's right to file a written complaint with the CRC within 30 days of receipt of the Notice.

During the resolution process, the EO Officer shall assure that all parties involved are given due process. These due process elements include:

- Notice to all parties of the specific charges;
- 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;
- A decision made strictly on the evidence on the record.

Actions by the CRC:

The CRC determines acceptance of a complaint filed pursuant to 29 CFR Section 38.78. When the CRC accepts a complaint for investigation, it shall do the following:

- Notify the Local Area and the complainant of the acceptance of the complaint for investigation; and

- Advise the Local Area and complainant on the issues over which the CRC has accepted jurisdiction.

The Local Area, the complainant, or a representative may contact the CRC for information regarding the complaint filed. When a complaint contains insufficient information, the CRC will seek the needed information from the complainant. If the complainant is unavailable after reasonable efforts have been made to reach him or her, or the information is not provided within the time specified, the complaint file may be closed without prejudice upon written notice sent to the complainant's last known address (29 CFR Section 38.79).

In accordance with WIOA Section 183(c), the CRC may issue a subpoena to the complainant to appear and give testimony and/or produce documentary evidence, before a designated representative, relating to the complaint being investigated. Issuing a subpoena can be done any place in the United States, at any designated time and place.

Where the CRC lacks jurisdiction over a complaint, the CRC shall do the following:

- Notify the complainant, explaining why the complaint is not covered by the nondiscrimination and equal opportunity provisions of WIOA or Title 29 CFR Part 38; and
- Refer the complainant to the appropriate federal, state, or local authority, when possible.

The CRC will notify the complainant when a claim is not to be investigated and explain the basis for that determination.

The CRC will refer complaints governed by the Age Discrimination Act of 1975 to mediation as specified in 45 CFR Section 90.43(c)(3).

If the complainant alleges more than one kind of complaint, "joint complaint," (e.g., individual employment discrimination, age discrimination, equal pay discrimination, etc.) the CRC shall refer such joint complaint to the Equal Employment Opportunity Commission for investigation and conciliation under the procedures described in 29 CFR, Parts 1690 or 1691, as appropriate. The CRC will advise the complainant and the Local Area of the referral.

Under the AJCC delivery system where the complainant alleges discrimination by an entity that operates a program or activity financially assisted by a federal grant making agency other than DOL, but participates as a partner in the AJCC delivery system, the following procedures apply:

- If the complainant alleges discrimination on a basis that is prohibited both by Section 188 of WIOA and by a civil rights law enforced by the federal grant making agency, the CRC and the grant making agency have dual jurisdiction over the complaint. The CRC will refer the complaint to the grant making agency for processing. The grant making agency's regulations will govern the processing of the complaint.
- If the complainant alleges discrimination on the basis that is prohibited by Section 188 of WIOA, but not by any civil rights laws enforced by the federal grant making agency, the CRC has sole jurisdiction over the complaint and will retain and

process the complaint pursuant to 29 CFR Part 38. The CRC will advise the complainant and the Local Area of the referral.

The CRC may offer the parties of a complaint the option of mediating the complaint. In such circumstances, the following rules apply:

- Because mediation is voluntary; both parties must consent before the mediation process proceeds;
- The mediation will be conducted under the guidance issued by the CRC; and
- If the parties are unable to reach resolution of the complaint through the mediation, the CRC will investigate and process the complaint under 29 CFR Sections 38.82 through 38.88.

After making such a cause finding, the CRC shall issue an Initial Determination. The Initial Determination shall notify the complainant and the Local Area, in writing, of the following:

- The specific findings of the investigation;
- The proposed corrective or remedial action and the time by which the corrective or remedial action must be completed;
- Whether it will be necessary for the Local Area to enter into a written agreement; and,
- The opportunity to participate in voluntary compliance negotiations.

Where a no cause determination is made, the CRC must issue a Final Determination to the complainant and the Local Area. The Final Determination represents the DOL's final agency action on the complaint.

Complaint Determinations:

A Letter of Findings, Notice to Show Cause, or Initial Determination issued pursuant to 29 CFR Sections 38.86 or 38.87, 38.88 and 38.89, or 38.90, respectively, must include the steps and the specific time period it will take the Local Area to achieve voluntary compliance. See Section 38.90 for corrective action steps. **Monetary corrective action may not be paid from federal funds.**

If the OCDB receives a finding of noncompliance, the following sections of 29 CFR Part 38 may be referred to for detailed information:

- "Final Determinations", Sections 38.96 through 38.97;
- "Breaches of Conciliation Agreements", Sections 38.98 through 38.100; and
- Subpart E – "Federal Procedures for Effecting Compliance", Sections 38.110 through 38.115.

Intimidation and Retaliation is Prohibited:

No Recipient may discharge, intimidate, retaliate, threaten, coerce, or discriminate against any individual because the individual has filed a complaint alleging any of the following:

- A violation of the WIOA.
- Opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of the WIOA.
- Furnished information to, or assisted or participated in any manner in an investigation, review, hearing, or any other activity related to administration of, exercise of authority under, or exercise of privilege secured by the nondiscrimination and equal opportunity of WIOA or 29 CFR Part 38.

The sanctions and penalties contained in these procedures may be imposed against any Recipient who engages in any such retaliation or intimidation, or fails to take necessary steps to prevent such activity.

Discrimination Complaint Form – Workforce Development Community:

It is important to receive documentation with sufficient information for the EO Officer to analyze, compile, and report in a manner that is consistent with the State/DOL requirements. It is helpful when information gathering efforts include adequate questions that will elicit responses from the complainant, making the need to request additional information less likely.

In an effort to provide more consistent information when processing discrimination complaints from clients of WIOA funded programs and activities, all Recipients shall use the ***Discrimination Complaint Form (Attachment 3)***

ACTION:

Bring this directive to the attention of affected staff. All Recipients shall review the nondiscrimination and equal opportunity procedures specified in this policy and ensure compliance in accordance with these requirements. All Recipients shall insert their Agency name (where indicated) on the standardized ***'Equal Opportunity Is The Law/What to do if You Believe You Have Experienced Discrimination'*** form (***Attachment #1***).

INQUIRIES:

If you have any questions regarding this policy, please contact your Contract Administrator at 714-480-6500.

ATTACHMENTS:

- Attachment 1: OCDB "Equal Opportunity Is The Law" Form
- Attachment 2: OCDB Discrimination Complaint Log
- Attachment 3: Discrimination Complaint Form
- Attachment 4: Reasonable Accommodation Policy and Procedure Guide
- Attachment 5: Dispute Resolution Recipients
- Attachment 6: Flow Chart – Nondiscrimination/EO, Recipient Level
- Attachment 7: Flow Chart - Nondiscrimination/EO, CRC

EQUAL OPPORTUNITY IS THE LAW

The Orange County Development Board (OCDB) and Workforce Innovation and Opportunity Act (WIOA) Recipients are prohibited from discriminating 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; 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 (WIOA)*, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

The OCDB and all its WIOA Recipients must not discriminate in any of the following areas: Deciding who will be admitted, or have access, to any WIOA Title I financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity.

The OCDB and all its WIOA Recipients of federal financial assistance must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, Recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

WHAT TO DO IF YOU BELIEVE YOU HAVE EXPERIENCED DISCRIMINATION

If you think that you have been subjected to discrimination under a WIOA Title I–financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either [insert agency name](#) OR with the OCDB's Equal Opportunity Officer OR the Director, Civil Rights Center (CRC), U.S. Department of Labor 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210; or electronically as directed on the CRC website at www.dol.gov/crc.

If you elect to file your complaint with the [insert agency name](#) Equal Opportunity Officer [insert name of Agency's EO Officer](#), [telephone number](#), [TDD/TTY number](#), [address](#) you must wait until the [insert agency name](#) issues a written Notice of Final Action, or until 45 days have passed, whichever is sooner, before filing with the OCDB's Equal Opportunity Officer, Nakia Thierry, (714) 480-6460, California Relay Service (CRS) (800) 735-2922 or TTY users 711; OCDB/Orange County Community Services-Community Investment Division, 1300 South Grand Avenue, Building B, 3rd flr., Santa Ana, CA 92705.

If the [insert agency name](#) does not provide you with a written Notice of Final Action within 45 days of the day on which you filed your complaint, you do not have to wait for the [insert agency name](#) to issue that Notice before filing a complaint with the OCDB. You must file your complaint with the OCDB within 15 days of the 45-day deadline (in other words, within 60 days after the day on which you filed your complaint with the [insert agency name](#)).

If the [insert agency name](#) does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with OCDB. You must file your OCDB complaint within 10 days of the date on which you received the Notice of Final Action.

If you elect to file your complaint directly with OCDB, you must wait until you receive a Notice of Final Action from OCDB or until 90 days have passed, whichever is sooner, before you file with CRC. If OCDB does not provide you with a written Notice of Final Action, within 90 days of the day on which you filed your complaint, you do not have to wait for OCDB to issue that Notice before filing with CRC. You must file your CRC complaint within 30 days of the 90 day deadline (in other words, within 120 days after the day on which you filed your complaint with the agency you filed against). If you received a Notice of Final Action but you are dissatisfied with OCDB's decision, you may file a complaint with CRC within 30 days of the date on which you received the Notice of Final Action.

Staff has explained these procedures to me and I understand that a full copy is available to me upon request.

Participant Signature: _____

Date: _____

Parent/Guardian Signature: _____

Date: _____

ORANGE COUNTY DEVELOPMENT BOARD Discrimination Complaint Log

CALENDAR YEAR:				Calendar Year									
Date of Complaint	Name of Complainant	Address of Complainant	Email Address of Complainant	Status of Complaint	DOL-Funded Program	Date of the Alleged Discriminatory Incident	Grounds of Complaint	Description/Issue of Complaint	Name of Respondent	Is Respondent a Recipient? Yes or No	Disposition	Date of Disposition	ADR Yes or No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input checked="" type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Email Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No

DISCRIMINATION COMPLAINT FORM
Orange County Development Board

This form should be used by anyone who wishes to file a discrimination complaint against any person(s)/entity that discriminates against you in the workforce development community system. To file a discrimination complaint, complete this form, sign on page 4 and return to the Subrecipient Equal Opportunity Officer.

1. Complainant information:

Miss Ms. Mrs. Mr. Other Home Phone: (000) 000-0000
 Work Phone: (000) 000-0000
 Name: Enter Name Cell : (000) 000-0000
 Street Address: Enter Address
 City: City. E-mail: E-mail
 State: State Zip Code: Zip

2. Complainant Contact Information:

When is it a convenient time during business hours (8am to 5pm) to contact you by phone about this complaint? [Click here to enter text.](#)

Day	Monday	Tuesday	Wednesday	Thursday	Friday
Time	<u>Enter Time</u>	<u>Enter Time</u>	<u>Enter Time</u>	<u>Enter Time</u>	<u>Enter Time</u>
Phone	(000) 000-0000	(000) 000-0000	(000) 000-0000	(000) 000-0000	(000) 000-0000

3. Contact Information for the Person(s) Who You Claim Discriminated Against You:

Provide the name of the entity where person(s) work(s): [Click here to enter text.](#)

Name of person(s) who discriminated against you: [Click here to enter text.](#)

Address of person(s)/entity: [Click here to enter text.](#)

City: City. State: State ZIP Code: Zip

Phone: (000) 000-0000

Date of first occurrence: Enter date. Date of most recent occurrence: Enter Date.

4. Tell Us About the Incident(s):

- Explain briefly what happened and how you were discriminated against.
- Provide the date(s) when the incident(s) occurred.
- Indicate who discriminated against you. Include names and titles if possible.
- If other people were treated differently than you, tell us how they were treated differently.
- Attach any documents that you think might help us better understand your complaint.

[Click here to enter text.](#)

5. Please list below any person(s) (witnesses) that we may contact for additional information to support or clarify the complaint.

Name	Address	Phone
Enter Name	Enter Address	(000) 000-0000
Enter Name	Enter Address	(000) 000-0000
Enter Name	Enter Address	(000) 000-0000
Enter Name	Enter Address	(000) 000-0000
Enter Name	Enter Address	(000) 000-0000

6. Basis for the Discrimination:

- Check the type of discrimination you experienced, such as age, race, color, national origin, disability, etc.
- If you believe more than one basis was involved, you may check more than one box:

- | | |
|---|--|
| <input type="checkbox"/> Age- <i>provide date of birth:</i>
<input type="checkbox"/> Color
<input type="checkbox"/> National Origin (including limited English proficiency)
<input type="checkbox"/> Retaliation
<input type="checkbox"/> Gender - Specify <input type="checkbox"/> F <input type="checkbox"/> M
<input type="checkbox"/> Race - <i>indicate race:</i>
<input type="checkbox"/> Political Affiliation or Belief | <input type="checkbox"/> Citizenship
<input type="checkbox"/> Disability
<input type="checkbox"/> Religion
<input type="checkbox"/> Harassment
<input type="checkbox"/> Sex (including pregnancy, childbirth, or related medical condition, gender identity, and transgender status)
<input type="checkbox"/> Status as a program participant under Workforce Innovation and Opportunity Act
<input type="checkbox"/> Other (Specify): |
|---|--|

7. Have you previously filed a complaint against this person(s)/entity? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If YES, answer the questions below, if NO move to section 8.	
a.	Was your complaint in writing? <input type="checkbox"/> Yes <input type="checkbox"/> No
b.	On what date did you file the complaint? Enter Date.
c.	Name of office where you filed your complaint: Enter Name.
	Address: Enter Address
	City: City State State ZIP Code Zip.
	Phone number: (000) 000-0000
	Contact person (if known): Enter Name
d.	Have you been provided a final decision or report? <input type="checkbox"/> Yes <input type="checkbox"/> No
If you marked "YES", please attach a copy of the complaint.	

8. What corrective action or remedy do you seek? Please explain:
Click here to enter text.

9. Choosing a Personal Representative:	
<ul style="list-style-type: none"> ▪ You may choose to have someone else represent you in dealing with this complaint. It may be a relative, friend, union representative, an attorney, or someone else. ▪ If you choose to appoint someone to represent you, all of our communication to you will be routed through your representative. 	
Do you want to authorize a personal representative to handle this complaint?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If YES, complete the section below. If NO, go to Section 10.	
AUTHORIZATION OF PERSONAL REPRESENTATIVE	
I wish to authorize the individual identified below to act on my behalf as my personal representative, in matters such as mediation, settlement conferences, or investigations regarding this complaint.	
Name:	Enter Name
<input type="checkbox"/> I am an attorney representing the complainant. <input type="checkbox"/> I am not an attorney representing the complainant.	
Mailing Address:	Enter Address
City:	City State: State Zip Code: Zip
Phone :	(000) 000-0000 Fax: (000) 000-0000
E-mail:	E-mail

10. Alternate Dispute Resolution (ADR) Also Known as Mediation.

Notice: You must indicate if you wish to mediate your case. The EEO Office cannot begin to process your complaint until you have made a selection. Please check **YES** or **NO** in the spaces below.

- Mediation is an alternative to having your complaint investigated.
- Neither party loses anything by mediating.
- The parties to the complaint review the facts, discuss opinions about the facts, and strive for an agreement that is satisfactory for both.
 - Agreement to mediate is not an admission of guilt by the person(s)/entity that you claim discriminated against you.
 - Mediation is conducted by a trained, qualified and impartial mediator.
 - You (or your Personal Representative) have control to negotiate a satisfactory agreement.
 - **Terms of the agreement are signed by the complainant and the person(s)/entity that you claim discriminated against you.**
 - **Agreements are legally binding on both parties.**
 - If an agreement is not reached, a formal investigation will start.
 - Failure to keep an agreement will result in a formal investigation.
 - A formal investigation will be opened if retaliation is reported.

- **Do you wish to mediate your complaint?**

(Please check only one box)

YES, I want to mediate. **NO**, please investigate.

If you select “YES” you will be contacted within five business days with more information.

11. Complainant’s Signature:

You must sign this form for your complaint to be processed!

By signing this form, you are declaring under penalty of perjury that the information is true and correct to the best of your knowledge of belief.

- Faxed or otherwise electronically delivered complaints will be logged into our system; however, an official investigation cannot begin until the original, signed copy is received.

Signature:

Date:

REASONABLE ACCOMMODATION POLICY AND PROCEDURE GUIDE

I. Introduction

The purpose of this guide is to assist local entities who are funded with *Workforce Innovation and Opportunity Act* (WIOA) or *Wagner-Peyser* (W-P) *Act* funding, in processing reasonable accommodation requests. Each entity will ensure that reasonable accommodations are provided to qualified individuals with disabilities to enable them to do the following:

- Be considered for the aid, benefits, services, training or employment as desired.
- Perform the essential functions of their jobs, or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities.
- Enjoy benefits and privileges of the aid, benefits, services, training, or employment equal to those that are enjoyed by other similarly situated individuals without disabilities, unless providing such accommodation would impose an undue hardship.

The requirement to provide reasonable accommodations applies to disabilities that are known to the local entity.

The reasonable accommodation process, including a description of key terms, is set forth below and should be implemented immediately.

II. Key Terms

A. Reasonable accommodation means any of the following:

- 1) Modifications or adjustments to an application/registration process that enables a qualified individual with a disability to be considered for the aid, benefits, services, training, or employment that the qualified individual desires.
- 2) Modifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities.
- 3) Modifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated individuals without disabilities.

B. Qualified individual with a disability means any of the following:

- 1) With respect to employment, an individual with a disability who, with or without reasonable accommodation, is capable of performing the essential functions of the job in question.
- 2) With respect to aid, benefits, services, or training, an individual with a disability who, with or without reasonable accommodation and/or reasonable modification,

meets the essential eligibility requirements for the receipt of such aid, benefits, services, or training.

C. An applicant is an individual seeking federally-assisted aid, benefits, services, or training. An individual is considered an "applicant" at the point in which they submit personal information in response to a request by the local entity for such information.

D. A participant is an individual who is receiving aid, benefits, services or training under a WIOA Title I or W-P funded program.

E. A disability means the following, with respect to an individual:

1) "Medical condition" includes the following:

a) Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.

b) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:

i. Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

ii. Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

2) "Mental disability" includes, but is not limited to, all of the following:

a) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

i. "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

ii. A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

iii. "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.

Any other mental or psychological disorder or condition not described in paragraph (a) that requires special education or related services.

- b) Having a record or history of a mental or psychological disorder or condition described in paragraph (a) or (b), which is known to the employer or other entity covered by this part.
- c) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.
- d) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (a) or (b).

“Mental disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

3) “Physical disability” includes the following:

- a) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
 - i. Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.
 - ii. Limits a major life activity. For purposes of this section:
 - “Limits” shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
 - A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.
 - “Major life activities” shall be broadly construed and includes physical, mental, and social activities and working.
- b) Any other health impairment not described in paragraph (a) that requires special education or related services.
- c) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (a) or (b) which is known to the employer or other entity covered by this part.

- d) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.
- e) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (a) or (b).
- f) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

F. Essential eligibility requirements are such criteria that can be shown to be necessary for the provision of the aid, benefit, service, training, program, or activity being offered.

G. Essential functions means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

- 1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:
 - a) The function may be essential because the reason the position exists is to perform that function.
 - b) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.
 - c) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.
- 2) Evidence of whether a particular function is essential includes, but is not limited to the following:
 - a) The employer's judgment as to which functions are essential.
 - b) Written job descriptions prepared before advertising or interviewing applicants for the job.
 - c) The amount of time spent on the job performing the function.
 - d) The consequences of not requiring the incumbent to perform the function.
 - e) The terms of a collective bargaining agreement.
 - f) The work experiences of past incumbents in the job.
 - g) The current work experience of incumbents in similar jobs.

H. Fundamental alteration means a change in the essential nature of a program or activity, or a cost that the local entity can demonstrate would result in an undue burden. Factors to be considered in determining whether a requested modification would result in a

fundamental alteration are referenced in Step 3 of this process (described later in the Step by Step Process section of this guide.)

I. Major life activities mean functions such as the following:

- Caring for one's self
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Learning
- Working

J. Undue hardship means an action requiring significant difficulty or expense, when considered in light of the following factors:

- 1) The nature and cost of the accommodation needed.
- 2) The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility.
- 3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities.
- 4) The type of operations, including the composition, structure, and functions of the workforce of the entity.
- 5) The geographic separateness, administrative, or fiscal relationship of the facility or facilities.

III. Effective Communication and Other Assistance

Each local entity shall be responsible for ensuring effective communication between the qualified individual with a disability and entity staff throughout the reasonable accommodation process. Effective communication may require arranging for sign language interpreters, assistive listening equipment, alternative formats for people with visual impairments, or other approaches. In addition, the local entity shall also be responsible for providing such other reasonable assistance as is requested throughout the reasonable accommodation process, as well as through the process of any necessary appeals.

IV. Confidentiality

- A. **Local entity must maintain confidentiality.** All documentation and information concerning the medical condition or history of an individual with a disability

requesting an accommodation must be collected on forms separate from other forms related to that individual, and must be maintained by the local entity in separate medical files. The information shall be treated as confidential medical records, and access to the records must be limited, except to the extent of the following:

- 1) The local entity management must be informed about work restrictions or reasonable accommodations.
- 2) The first-aid and safety personnel need to be informed if the disability may require emergency treatment.
- 3) Government officials investigating compliance with law are required to be provided with relevant information upon request.

What Accommodations Are Reasonable?

The reasonableness of an accommodation will depend upon the circumstances of each case. For additional clarification as to what are reasonable accommodations in the employment context, refer to 29 CFR Part 32. Reasonable accommodations include, but are not limited to the following:

- Making facilities that are not otherwise required to comply with Federal accessibility standards physically accessible to and usable by people with disabilities (e.g., providing ramps, restroom grab bars, signage, etc.).
- Restructuring of job or training tasks (e.g., reallocating non-essential typing, telephone or other clerical assignments among employees, assignment of non-essential tasks to others, eliminating non-essential tasks, etc.).
- Modifying schedules (e.g., permitting alternative starting and ending times to avoid standing and jostling on subways).
- Providing or modifying equipment, devices or materials (e.g., raising a desk on boards for a person who uses a wheelchair, providing flashing lights and volume controls on intercoms and telephones, installing text telephones [TTYs], providing large-print computer display programs, or materials in alternative formats, including Braille, audio tape or enlarged print, etc.).
- Providing qualified readers, interpreters, or other support services for all aspects of programs and activities including the application, interview, and testing processes, and during training and employment-related activities.

Reasonable accommodation may also include permitting the individual with a disability to use aids or services that the local entity is not otherwise required to provide. For example, although a local entity generally would not be required to provide a motorized scooter to an individual with mobility impairment, reasonable accommodation may include providing an area to stow such a mobility aid, if necessary.

The local entity is not required to provide personal items to individuals with disabilities. Such items include hearing aids, prosthetic limbs, wheelchairs, or eyeglasses. However, such items may constitute reasonable accommodation where they are specifically

designed to meet needs that are related to the program or activity in which the person is participating, or the job the person is performing. For example, eyeglasses designed to enable the individual to view a computer monitor, but which are not otherwise needed outside of the program or activity in which the person is participating, or the job the person is performing, may constitute a reasonable accommodation.

Where more than one possible reasonable accommodation exists, the local entity should give primary consideration to the individual's preference in determining what accommodation it will provide.

As noted above, some requests for reasonable accommodation can be granted and implemented immediately following their receipt, without formal evaluation, consistent with this procedure. Such may be the case where the individual identifies any requested accommodation with specificity. For example, an employee who is deaf and routinely uses a text telephone (TTY) can readily identify a job-related limitation, as well as the accommodation needed. Where it is obvious that providing the TTY will enable the individual to meet the job's essential functions, the TTY can be ordered, provided and documented without the more comprehensive analysis provided for in Steps 2 and 3 (described later in the Step by Step Process section of this guide.) In these cases, the reasonable accommodation process is merely compressed; it is not eliminated.

Accommodations may be considered "unreasonable" only if they impose an undue hardship for the specific local entity in question. For example, shifting tasks among clerical employees to accommodate an employee with a disability may be reasonable where a sufficient number of employees exist among whom the tasks can be distributed; however, such an accommodation may be unreasonable in a very small office with few employees. The factors listed in the definition of "undue hardship" in 29 CFR Section 38.4(rrr) must be considered in making this determination.

If a requested accommodation would result in undue hardship, the Recipient must, after consultation with an individual with a disability (or individuals with disabilities), take any other action that would not result in such hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefit, service, training, or employment provided by the Recipient.

REASONABLE ACCOMMODATION POLICY AND PROCEDURE

Step by Step Process

Step 1 – Individual with a Disability Requests Reasonable Accommodation

Initial Consultation

The individual with a disability should submit a reasonable accommodation request to designated staff. If a request for reasonable accommodation is made to facilitate the application process, the local entity manager supervising the application process should assist where requested and, in conjunction with the local entity staff, process the request

for accommodation. The local entity manager receiving the request shall acknowledge each request in writing. The current request for reasonable accommodation shall not preclude the submission of subsequent requests.

Generally, it is the responsibility of the individual with a disability to inform the local entity of the need for an accommodation. Reasonable accommodation must be provided for disabilities that are known. Nevertheless, once the local entity is aware of an individual's disability, it may have the responsibility to initiate discussions about reasonable accommodation and set these procedures in motion.

Where the need for a requested accommodation is not apparent, the local entity manager supervising the application process may ask the individual to provide documentation in support of the request. For example, if the individual with dyslexia requests additional time within which to complete a timed, written entrance qualifying examination, that individual may be asked to provide documentation in support of that request.

Similarly, if an individual with a mental disability requests a flexible schedule to attend psychotherapy during the work day, the individual may be asked to provide documentation from the treating professional in support of that request.

After acknowledging a request for accommodation, the local entity manager should do one of the following:

- 1) Provide or implement the request and document the accommodation
- 2) Proceed to Step 2 of this procedure.

Step 2 – Consult with the Individual Requesting a Reasonable Accommodation

The reasonable accommodation process sometimes can be accomplished without a formal analysis of the individual's limitations and the local entity's resources, as in the example provided above, where an individual's desk is elevated on blocks to permit access from a wheelchair. Other situations are more complex, however, and require structured analysis. In these instances, upon receipt of a request for reasonable accommodation, the local entity should consult with the individual requesting the accommodation to assess the limitations of the disability and how the individual may best be involved in the accommodation process.

Using a collaborative, open and flexible approach, the local entity should consider how any limitations can be overcome, discuss possible reasonable accommodations, and assess the effectiveness of each. Other possible resources to consult with throughout this process include, but are not limited to, the following:

- The Job Accommodation Network (JAN), which can be reached at 1-800-JAN-7234 or by accessing their website at: www.Jan.wvu.edu.
- The California Committee on Employment of People with Disabilities at the Department of Rehabilitation. They can be reached at: (855) 894-3436 or via email at: CCEPD@dor.ca.gov.

The local entity must consider the individual's preferences, along with what is reasonable and does not impose an undue hardship.

The circumstances, in which documentation can be requested, as well as the procedure for requesting such documentation, are as follows:

- A. When the disability and/or the need for accommodation are not obvious, the local entity may ask the individual for reasonable documentation about his/her disability and functional limitations.

Reasonable documentation means that the local entity may require only the documentation that is needed to establish that a person has an actual, current disability, and that the disability necessitates a reasonable accommodation. However, the local entity, in response to a request for reasonable accommodation, cannot ask for documentation that is unrelated to determining the existence of a disability and the necessity for an accommodation.

The local entity may require that the documentation about the disability and the functional limitations come from an appropriate health care or rehabilitation professional. The appropriate professional in any particular situation will depend on the disability and the type of function limitation it imposes. Appropriate professionals include, but are not limited to, doctors (including psychiatrists), psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals.

In requesting documentation the local entity should specify what types of information they are seeking regarding the disability, its functional limitations, and the need for reasonable accommodation. For example, the person can be asked to sign a limited release allowing the local entity to submit a list of specific questions to the health care or vocational professional. **The local entity must maintain the confidentiality of all medical information collected during this process, regardless of where the information comes from.**

- 1) It is unlawful except as provided in paragraph (2) or (3), for any employer or employment agency to require any medical or psychological examination of an applicant, to make any medical or psychological inquiry of an applicant, to make any inquiry whether an applicant has a mental disability or physical disability or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.
- 2) Notwithstanding paragraph (1), an employer or employment agency may inquire into the ability of an applicant to perform job-related functions and may respond to an applicant's request for reasonable accommodation.
- 3) Notwithstanding paragraph (1), an employer or employment agency may require a medical or psychological examination or make a medical or psychological inquiry of a job applicant after an employment offer has been

made but prior to the commencement of employment duties, provided that the examination or inquiry is job-related and consistent with business necessity and that all entering employees in the same job classification are subject to the same examination or inquiry.

- 4) It is unlawful except as provided in paragraph (5), for any employer or employment agency to require any medical or psychological examination of an employee, to make any medical or psychological inquiry of an employee, to make an inquiry whether an employee has a mental disability, physical disability, or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.
- 5) Notwithstanding paragraph (4), an employer or employment agency may require any examinations or inquiries that it can show to be job-related and consistent with business necessity. An employer or employment agency may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that worksite.

- B. If a person provides insufficient documentation of a disability in response to the local entity's initial request, the local entity may require the person to go to a health care professional of the local entity's choice. However, the local entity should explain why the documentation is insufficient and allow the person an opportunity to provide the missing information in a timely manner.

Please note that under the federal disability nondiscrimination law, the local entity cannot ask for documentation under the following circumstances:

- 1) Both the disability and the need for reasonable accommodation are obvious, or
- 2) The person has already provided sufficient information to substantiate they have an actual, current disability and needs the reasonable accommodation requested.

If the individual's disability or need for reasonable accommodation is not obvious, and they refuse to provide the reasonable documentation requested by the local entity, then they are not entitled to reasonable accommodation. On the other hand, failure by the local entity to initiate or participate in an interactive process with the individual after receiving a request for reasonable accommodation could result in liability for failure to provide a reasonable accommodation.

Step 3 – Local Entity Management and/or Designated Staff Analyzes the Request for Reasonable Accommodation

After consulting with the individual with a disability, the entity should examine the request and determine if the requested accommodation is feasible and does not create an undue hardship or result in a fundamental alteration. Please note, if a requested accommodation would result in undue hardship, the Recipient must, after consultation with an individual with a disability (or individuals with disabilities), take any other action that would not result

in such hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefit, service, training, or employment provided by the Recipient (29 CFR Section 38.14[a][3]).

It is unlawful for an employer or other entity covered by the WIOA, Section 188, 29 CFR part 38, W-P, the Americans with Disabilities Act (ADA), and the Fair Employment and Housing Act (FEHA), to fail to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition.

The factors to be considered in determining whether an accommodation would impose an undue hardship or in determining whether the cost of a modification would result in a fundamental alteration includes the following:

- A. The nature and net cost of the accommodation/modifications needed, taking into consideration the availability of tax credits and deductions, and/or outside funding, for the accommodation/modification.
- B. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation/modification, including the following:
 - 1) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities.
 - 2) The effect the accommodation/modification would have on the expenses and resources of the facility or facilities.
- C. The overall financial resources of the local entity, including the following:
 - 1) The overall size of the local entity.
 - 2) The number of persons aided, benefited, served, trained, or employed by the local entity.
 - 3) The number, type and location of the local entity's facilities.
- D. The type of operation or operations of the local entity, including the following:
 - 1) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the local entity.
 - 2) Where the individual is seeking an employment related accommodation/modification, the composition, structure and functions of the local entity's workforce.
- E. The impact of the accommodation/modification upon the operation of the facility or facilities, including the following:
 - 1) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties.
 - 2) The impact on the facility's ability to carry out its mission.

It is unlawful for an employer or other entity covered by the WIOA, Section 188, 29 CFR part 38, W-P, ADA, and the FEHA, to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee. Nothing in this document

shall be construed to require an accommodation that is demonstrated by the employer or other covered entity to produce undue hardship to its operation.

Step 4 – Select and Implement an Appropriate Reasonable Accommodation

Within 10 business days of receipt of a request for reasonable accommodation, the local entity to where it was submitted shall either grant or deny the request in writing. Provisions of this accommodation should commence immediately. If a requested accommodation would result in undue hardship, the Recipient must, after consultation with an individual with a disability (or individuals with disabilities), take any other action that would not result in such hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefit, service, training, or employment provided by the Recipient (29 CFR Section 38.14[a][3]).

Where the provision or implementation of a reasonable accommodation will take longer than 10 business days, the steps taken to order, secure or carry out the accommodation shall be documented and discussed with the individual requesting a reasonable accommodation. In all instances, however, the local entity shall act as expeditiously as possible to provide reasonable accommodations.

Where further supporting documentation has been sought from the individual requesting a reasonable accommodation, the grant or denial of a request for reasonable accommodation shall be rendered as noted below:

- A. For those cases in which medical documentation is necessary in order to understand the individual's limitations and what accommodations are possible, the grant or denial shall be issued within 10 business days of receipt of the requested documentation.
- B. For those cases in which the documentation is being requested merely to verify the information provided by the individual with a disability, the grant or denial shall be issued within 5 business days of receipt of the requested documentation.
- C. For those cases in which the individual refuses to provide reasonable requested documentation, the grant or denial shall be issued within 5 business days of the notification of refusal.

Where the local entity determines to deny a request for accommodation, or to provide an accommodation other than the individual's expressed preference, the local entity shall first consult with the individual requesting the reasonable accommodation. The local entity will document the determination in writing. Where the determination is to deny the request on the basis of undue hardship or fundamental alteration, the proposed alternative accommodation or modification will also be documented.

What if an Appropriate Reasonable Accommodation cannot be identified?

Sometimes, the local entity, or the individual requesting the reasonable accommodation, cannot identify possible reasonable accommodations. In those instances, the local entity should consult with appropriate resources e.g., those listed in Step 2 of these instructions.

The local entity will seek to facilitate effective communication between the parties with the goal of identifying and implementing appropriate reasonable accommodation and, where a reasonable accommodation has been selected, shall monitor its implementation.

Throughout the Step 2 consultation process, the individual, and the local entity may seek technical assistance or clarification of each component of the reasonable accommodation process from appropriate resources.

Dispute Resolution Program Act (DRPA) Recipients

Waymakers

1221 E. Dyer Road, Suite 120
Santa Ana, CA 92705
Contact: Jennifer Reed, Program Director
Phone: 949-250-4058 x 333
E-mail: jreed@waymakersoc.org

Orange County Human Relations

1801 E. Edinger St., Suite 115
Santa Ana, CA 92705
Contact: Kathy Shimizu, Dispute Resolution Program Coordinator
Phone: 714-480-6581
E-mail: Kathy@ochumanrelations.org

Chapman University Mediation Clinic

1 University Drive
Orange, CA 92866
Contact: Tamara Alexander, Co-Director
Phone: 714-628-2620
E-mail: taalexander@chapman.edu

NON DISCRIMINATION AND EQUAL OPPORTUNITY PROCEDURES FOR HANDLING NON-CRIMINAL COMPLAINTS UNDER THE WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA)

GRIEVANCE OR COMPLAINTS MUST BE FILED WITHIN 180 DAYS OF THE ALLEGED VIOLATION

FILING WITH THE RECIPIENT

Filing Date: Date Written Complaint is Received

Recipient Sends Written Notification of Hearing

10 Days Prior to Date of Hearing



Hearing Conducted

Within 15 Days of the Day Complaint was Filed



Recipient Issues Notice of Final Action

Within 45 Days of the Day Complaint was Filed

RECIPIENT NOTICE OF FINAL ACTION NOT ISSUED WITHIN 45 DAYS

Complainant may file with the OCDB within 15 days of the 45 day deadline (In other words, within 60 days after the day Complainant filed with the Recipient)

UNSATISFACTORY DECISION

Complainant may file complaint with OCDB within 10 days after receiving Recipient's Notice of Final Action

NON DISCRIMINATION AND EQUAL OPPORTUNITY PROCEDURES FOR HANDLING NON-CRIMINAL COMPLAINTS UNDER THE WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA) - FILING WITH THE CIVIL RIGHTS CENTER (CRC)

GRIEVANCE OR COMPLAINTS MUST BE FILED WITHIN 180 DAYS OF THE ALLEGED VIOLATION

FILING WITH THE CIVIL RIGHTS CENTER (CRC)

OCDB NOTICE OF FINAL ACTION NOT ISSUED WITHIN 90 DAYS OF DAY COMPLAINT WAS FILED

Complainant may file directly with CRC within 30 days of the 90 day deadline (in other words, within 120 days after the day Complainant filed with the Recipient)

OCDB ISSUES UNSATISFACTORY DECISION

Complainant may file complaint with CRC within 30 days after receiving OCDB's Notice of Final Action

EQUAL OPPORTUNITY IS THE LAW

The Orange County Development Board (OCDB) and Workforce Innovation and Opportunity Act (WIOA) Recipients are prohibited from discriminating 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; 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* (WIOA), on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

The OCDB and all its WIOA Recipients must not discriminate in any of the following areas: Deciding who will be admitted, or have access, to any WIOA Title I financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity.

The OCDB and all its WIOA Recipients of federal financial assistance must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, Recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

WHAT TO DO IF YOU BELIEVE YOU HAVE EXPERIENCED DISCRIMINATION

If you think that you have been subjected to discrimination under a WIOA Title I-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either [insert agency name](#) OR with the OCDB's Equal Opportunity Officer OR the Director, Civil Rights Center (CRC), U.S. Department of Labor 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210; or electronically as directed on the CRC website at www.dol.gov/crc.

If you elect to file your complaint with the [insert agency name](#) Equal Opportunity Officer [insert name of Agency's EO Officer, telephone number, TDD/TTY number, address](#) you must wait until the [insert agency name](#) issues a written Notice of Final Action, or until 45 days have passed, whichever is sooner, before filing with the OCDB's Equal Opportunity Officer, Nakia Thierry, (714) 480-6460, California Relay Service (CRS) (800) 735-2922 or TTY users 711; OCDB/Orange County Community Services-Community Investment Division, 1300 South Grand Avenue, Building B, 3rd flr., Santa Ana, CA 92705.

If the [insert agency name](#) does not provide you with a written Notice of Final Action within 45 days of the day on which you filed your complaint, you do not have to wait for the [insert agency name](#) to issue that Notice before filing a complaint with the OCDB. You must file your complaint with the OCDB within 15 days of the 45-day deadline (in other words, within 60 days after the day on which you filed your complaint with the [insert agency name](#)).

If the [insert agency name](#) does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with OCDB. You must file your OCDB complaint within 10 days of the date on which you received the Notice of Final Action.

If you elect to file your complaint directly with OCDB, you must wait until you receive a Notice of Final Action from OCDB or until 90 days have passed, whichever is sooner, before you file with CRC. If OCDB does not provide you with a written Notice of Final Action, within 90 days of the day on which you filed your complaint, you do not have to wait for OCDB to issue that Notice before filing with CRC. You must file your CRC complaint within 30 days of the 90 day deadline (in other words, within 120 days after the day on which you filed your complaint with the agency you filed against). If you received a Notice of Final Action but you are dissatisfied with OCDB's decision, you may file a complaint with CRC within 30 days of the date on which you received the Notice of Final Action.

Staff has explained these procedures to me and I understand that a full copy is available to me upon request.

Participant signature: _____

Date: _____

Parent/Guardian Signature: _____

Date: _____

This WIOA Title I-financially assisted program or activity is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Request for services, aids, and/or alternative formats need to be made by calling: TDD/TTY users [Insert Agency TDD #](#) or TTY 711 or 1-800-735-2922.

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The OCDB and all its WIOA Recipients must not discriminate in any of the following areas: Deciding who will be admitted, or have access, to any WIOA Title I financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity.

The OCDB and all its WIOA Recipients of federal financial assistance must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, Recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

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This WIOA Title I-financially assisted program or activity is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Request for services, aids, and/or alternative formats need to be made by calling: TDD/TTY users [Insert Agency TDD #](#) or TTY users 711 or 1-800-735-2922.

LA IGUALDAD DE OPORTUNIDADES ES LA LEY

La Junta de Desarrollo del Condado de Orange (OCDB) y los Beneficiarios de la Ley de Innovación y Oportunidad de la Fuerza Laboral (WIOA) tienen prohibido discriminar a cualquier individuo en los Estados Unidos, por motivos de raza; color; religión; el sexo (incluido el embarazo, el parto y las afecciones médicas relacionadas, los estereotipos sexuales, el estatus transgénero y la identidad de género); origen nacional (incluida la competencia limitada en inglés); años; discapacidad; afiliación política o creencia; o en contra de cualquier beneficiario, solicitante o participante en programas financieramente asistidos bajo el Título I de la *Ley de Innovación y Oportunidad de la Fuerza Laboral* (WIOA), sobre la base del estado de ciudadanía del individuo o la participación en cualquier programa o actividad del WIOA Título I.

El OCDB y todos sus Beneficiarios de WIOA no deben discriminar en ninguna de las siguientes áreas: Decidir quién será admitido o tendrá acceso a cualquier programa o actividad con asistencia financiera Título I de WIOA; proporcionar oportunidades en, o tratar a cualquier persona con respecto a tal programa o actividad; o tomar decisiones de empleo en la administración, o en relación con tal programa o actividad.

El OCDB y todos sus Beneficiarios de WIOA de asistencia financiera federal deben tomar medidas razonables para garantizar que las comunicaciones con personas con discapacidades sean tan efectivas como las comunicaciones con otras personas. Esto significa que, a petición del solicitante y sin costo para el individuo, se requiere que los Beneficiarios reciban ayuda y servicios auxiliares apropiados a personas calificadas con discapacidades.

QUÉ HACER SI CREES QUE HAS SUFRIDO DISCRIMINACIÓN

Si crees que has sido discriminado según un programa o actividad con respaldo financiero de WIOA Título I, puedes presentar una queja dentro de los 180 días de la presunta infracción [escribe el nombre de la agencia](#) o con el Oficial de Igualdad de Oportunidades del OCDB O el Director, del Centro de Derechos Civiles (CRC), Departamento de Trabajo de EE.UU. 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210; o electrónicamente como se indica en el sitio web de CRC en www.dol.gov/crc.

Si eliges presentar tu queja con [escribe el nombre de la agencia](#) u Oficial de Igualdad de Oportunidades, [escribe el nombre del Oficial de EO de la Agencia, número de teléfono, número de TDD/TYY, dirección](#), debes esperar hasta que [escribe el nombre de la agencia](#) tenga un Aviso de Acción Final por escrito, o hasta que hayan pasado 45 días, lo que ocurra primero, antes de presentar una solicitud ante la Oficial de Igualdad de Oportunidades de OCDB, Nakia Thierry, (714) 480-6460, California Relay Service (CRS) (800) 735-2922 o los usuarios de TTY 711; OCDB/Servicios a la Comunidad del Condado de Orange -División de Inversión Comunitaria, 1300 South Grand Avenue, Building B, 3rd flr., Santa Ana, CA 92705.ú

Si la [escribe el nombre de la agencia](#) no te proporciona un Aviso de Acción Final por escrito dentro de los 45 días posteriores al día en que presentaste tu queja, no tienes que esperar [escribe el nombre de la agencia](#) para emitir ese aviso antes de presentar una queja con el OCDB. Debes presentar tu queja ante el OCDB dentro de los 15 días de la fecha límite de 45 días (en otras palabras, dentro de los 60 días posteriores al día en que presentó su reclamo con [escribe el nombre de la agencia](#)).

Si la [escribe el nombre de la agencia](#) te da un Aviso de Acción Final por escrito sobre tu queja, pero no está satisfecho con la decisión o resolución, puedes presentar una queja ante OCDB. Debes presentar tu queja de OCDB dentro de los 10 días a partir de la fecha en que recibió el Aviso de Acción Final.

Si eliges presentar tu queja directamente ante el OCDB, debes esperar hasta que recibas un Aviso de Acción Final del OCDB o hasta que hayan transcurrido 90 días, lo que ocurra primero, antes de presentar tu queja ante el CRC. Si OCDB no te proporciona un Aviso de Acción Final por escrito, dentro de los 90 días posteriores al día en que presentaste tu reclamo, no tienes que esperar que OCDB emita ese aviso antes de presentarlo ante el CRC. Debes presentar tu queja ante el CRC dentro de los 30 días posteriores a la fecha límite de 90 días (en otras palabras, dentro de los 120 días posteriores al día en que presentó tu reclamo ante la agencia contra la que presentaste la queja). Si recibes un Aviso de Acción Final pero no estás satisfecho con la decisión del OCDB, puedes presentar una queja ante el CRC dentro de los 30 días a partir de la fecha en que recibiste el Aviso de Acción Final.

Este programa o actividad con asistencia financiera Título I de WIOA es un empleador/programa con igualdad de oportunidades. Los auxiliares y servicios auxiliares están disponibles bajo petición para personas con discapacidades. La solicitud de servicios, ayudas y/o formatos alternativos debe hacerse llamando a: usuarios de TDD/TTY [escribe el # TDD de la agencia](#) o los usuarios de TTY 711 o 1-800-735-2922.

CƠ HỘI BÌNH ĐẲNG LÀ ĐẠO LUẬT

Chiếu theo đạo luật của Hội Đồng Phát Triển Quận Cam (The Orange County Development Board (OCDB)) và những người tuân theo Đạo Luật Cải Tiến và Cơ Hội của Bộ Lao Động (Workforce Innovation and Opportunity Act (WIOA)) là, không nên phân biệt đối xử với bất kỳ cá nhân nào ở Hoa Kỳ, trên căn bản chủng tộc, màu da, tôn giáo, giới tính (bao gồm cả việc mang thai, sinh đẻ, và bệnh tình, định kiến về giới tính, tình trạng chuyển giới, và nhận dạng giới tính); Quốc gia nơi mình sinh trưởng (kể cả hạn chế việc thành thạo tiếng Anh), tuổi tác, khuyết tật, liên kết chính trị, sự tín ngưỡng; hoặc phân đối bất kỳ người thụ hưởng, người nộp đơn giùm, hay là những ai tham gia trong những chương trình tài trợ của Tiêu Đề I của *Đạo Luật Cải Tiến và Cơ Hội của Bộ Lao Động (WIOA)*, dựa trên tình trạng công dân của từng cá nhân hay tham gia vào bất kỳ chương trình hay sinh hoạt nào được tài trợ của Tiêu Đề I WIOA.

Hội Đồng Phát Triển Quận Cam (OCDB) và tất cả những ai đang nhận chương trình Đạo Luật Cải Tiến và Cơ Hội của Bộ Lao Động (WIOA) không được phân biệt kỳ thị trong những điều sau đây: Quyết định ai sẽ được thụ hưởng, hay có quyền truy cập vào bất kỳ chương trình hay sinh hoạt nào được tài trợ bởi Tiêu Đề I của Đạo Luật Cải Tiến và Cơ Hội của Bộ Lao Động WIOA, giúp để có cơ hội, hay tiếp xúc cho bất kỳ ai đang thụ hưởng chương trình, hay các sinh hoạt; hoặc quyết định việc làm trong cơ quan, hay liên hệ với một ai đó về chương trình hoặc các hoạt động tương tự như vậy.

Hội Đồng Phát Triển Quận Cam (OCDB) và tất cả Những Người Nhận chương trình Đạo Luật Cải Tiến và Cơ Hội của Bộ Lao Động (WIOA) phải hiểu tường tận là người khuyết tật cũng đều hưởng quyền lợi như nhau, có nghĩa là họ được nhận chương trình hoàn toàn miễn phí, nếu họ hội đủ điều kiện.

QUÝ VỊ PHẢI LÀM GÌ KHI TIN TƯỞNG LÀ MÌNH BỊ KỶ THỊ

Nếu quý vị tin tưởng là mình bị kỳ thị khi xin chương trình Đạo Luật Cải Tiến và Cơ Hội của Bộ Lao Động (WIOA) Tiêu đề I, quý vị có 180 ngày để nộp đơn khiếu nại. Khi điền đơn khiếu nại nhớ để tên của cơ quan mà quý vị muốn khiếu nại cơ quan **tên cơ quan** hay tên của viên chức của Hội Đồng OCDB hay giám đốc điều hành, cơ quan Quyền Công Dân (CRC), Bộ Lao Động Hoa Kỳ 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210; hay khiếu nại trên mạng toàn cầu của Cơ Quan Quyền Công Dân (CRC) tại www.dol.gov/crc.

Nếu quý vị chọn nộp đơn khiếu nại với cơ quan Quyền Bình Đẳng **điền vào tên cơ quan**, **tên người viên chức**, **số điện thoại**, **số điện thoại dành cho người khuyết tật TDD/TTY**, **địa chỉ** quý vị phải đợi cho đến khi **tên cơ quan** gửi cho quý vị thư Quyết Định Cuối Cùng, hay là sau 45 ngày, tùy theo cái nào trước rồi mới được nộp đơn khiếu nại với Viên Chức của Hội Đồng OCDB, Nakia Thierry, (714) 480-6460, California Relay Service (CRS) (800) 735-2922 hoặc những người dùng TTY 711; OCDB/Orange County Community Services-Community Investment Division ở địa chỉ 1300 South Grand Avenue, Building B, 3rd fl., Santa Ana, CA 92705.

Khi quý vị khiếu nại cơ quan **tên cơ quan** mà trong vòng 45 ngày không nhận được bất kỳ lá thư gì, quý vị không cần đợi **tên cơ quan** đó gửi thư nữa mà khiếu nại thẳng với Hội Đồng OCDB liền. Quý vị phải nộp đơn khiếu nại với Hội Đồng OCDB trong vòng 15 ngày kể từ thời hạn sau 45 ngày (có nghĩa là, trong vòng 60 ngày quý vị phải khiếu nại cơ quan **tên cơ quan**).

Nếu cơ quan **tên cơ quan** gửi cho quý vị thư Quyết Định Cuối Cùng về sự khiếu nại của quý vị, nhưng quý vị không hài lòng với quyết định ấy hoặc những điều được viết trong thư, quý vị có thể nộp đơn khiếu nại với Hội Đồng OCDB. Mà phải nộp đơn khiếu nại trong vòng 10 ngày kể từ ngày quý vị nhận được thư Quyết Định Cuối Cùng của cơ quan về sự khiếu nại của quý vị.

Nếu quý vị chọn nộp đơn khiếu nại trực tiếp với Hội Đồng OCDB, quý vị phải đợi cho đến khi nhận được thư Quyết Định Cuối Cùng của Hội Đồng OCDB, hoặc cho đến khi 90 ngày đã trôi qua, tùy theo cái nào trước rồi mới được nộp đơn cho Hội Đồng CRC. Nếu trong vòng 90 ngày mà Hội Đồng OCDB không gửi thư Quyết Định Cuối Cùng cho quý vị, Quý vị đừng chờ đợi, mà hãy nộp đơn cho Hội Đồng CRC. Đơn gửi khiếu nại với Hội Đồng CRC phải trong vòng 30 ngày kể từ ngày hạn 90 ngày (có nghĩa là, trong vòng 120 ngày nộp đơn khiếu nại với cơ quan mà quý vị đã nộp đơn). Nếu quý vị nhận được thư Quyết Định Cuối Cùng của Hội Đồng OCDB mà quý vị không hài lòng với quyết định ấy, thì quý vị có thể nộp đơn khiếu nại với CRC trong vòng 30 ngày kể từ ngày quý vị nhận được thư Quyết Định Cuối Cùng.

Chương trình trợ giúp của Tiêu Đề I WIOA là một chương trình với cơ hội bình đẳng. Các trợ giúp và dịch vụ phụ trợ được cung cấp theo yêu cầu cho những người khuyết tật. Yêu cầu dịch vụ, hỗ trợ, và/hoặc các giúp đỡ với hình thức khác bằng cách gọi điện thoại: Những người dùng TDD/TTY **Điền Vào Số TDD của Cơ Quan** hoặc những người dùng TTY 711 hay 1-800-735-2922.