

## HOW TO FILE AN EQUAL OPPORTUNITY COMPLAINT

### GENERAL PROVISIONS:

1. The complainant has the burden of establishing the validity and merits of their complaints.
2. A complainant may discontinue the complaint by submitting a "Withdrawal of EO Complaint and Release".
3. Sub-recipients shall have locally developed procedures approved by the DLIR Equal Opportunity Officer.

### COMPLAINT PROCEDURES:

These procedures are divided into whether they are complaints about discrimination prohibited by –

- Federal statute prohibiting discrimination against anyone (including applicants for benefits and services, recipients, On-the-Job Training employers, participants, and other beneficiaries); or
- Federal and/or State statutes against **employment** discrimination only.

Section A covers complaints about discrimination prohibited by federal statute against anyone, including applicants for benefits and services, recipients, On-the-Job Training employers, participants, and other beneficiaries. The Section B covers complaints about discrimination prohibited against **employment** discrimination only.

#### **A. Complaints Covered by Federal Statute Prohibiting Discrimination Against Anyone (Including Applicants, Recipients, Participants, On-the-Job Training Employers, and Other Beneficiaries)**

1. It is **against the law** for recipients of Federal financial assistance, including the State of Hawaii Department of Labor and Industrial Relations (DLIR) and the counties, **to discriminate** on the following bases:
  - Against any individual in the United States, on the basis of-
    - race,
    - color,
    - religion
    - sex,
    - national origin,
    - age,
    - disability,
    - political affiliation or belief; and

## HOW TO FILE AN EQUAL OPPORTUNITY COMPLAINT

- Against any beneficiary of programs financially assisted by the U.S. Department of Labor on the basis of the beneficiary's **citizenship/status as a lawfully admitted immigrant authorized to work** in the United States, or his or her participation in any Workforce Investment Act (WIA) Title I financially assisted program or activity.
- 2 The recipient **must not discriminate** in any of the following areas:
- Decide who will be admitted, or have access, to any federally-assisted program or activity;
  - Provide opportunities in or treating any person with regard to, such a program or activity; or,
  - Make employment decisions in the administration of, or in connection with, such program or activity.

### 3 Who May File

Any person who believes that either they, or any specific class of individuals, has been or is being subjected to discrimination prohibited by federal statute may file a written complaint, either by themselves or through a representative.

#### What to Do if You Believe You Have Experienced Discrimination

If you are a WIA applicant, participant, program staff, or other parties affected by the local Workforce Investment system, and think that you have been subjected to discrimination under a U.S. Department of Labor (USDOL) federal financially assisted program or activity, you may file your complaint within 180 days from the date of the alleged violation.

### 5. Where to File:

Pamela Martin  
State of Hawai'i Department of Labor  
and Industrial Relations  
830 Punchbowl St., Room 340  
Honolulu, Hawaii 96813

Phone: (808) 586-8771

Fax: (808) 586-8677

TTY/TDD (808) 586-3784

OR The Director  
Civil Rights Center  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Room N-4123  
Washington, D.C. 20210

6. If you file your complaint with the State of Hawaii Department of Labor and Industrial Relations (DLIR), you must wait either until DLIR issues a written

## HOW TO FILE AN EQUAL OPPORTUNITY COMPLAINT

Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the USDOL Civil Rights Center (CRC).

7. If DLIR does not give you a written Notice of Final Action within 90 days of the day on which you filed a complaint, you do not have to wait for DLIR to issue that Notice before filing a complaint with CRC. However, you must file your CRC complaint within 30 days of the 90- day deadline (in other words, 120 days after the day on which you filed your complaint with DLIR).
8. If DLIR 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 CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.
9. In addition to the above, WIA O`ahu WorkLinks, Big Island WorkPlace Connection, WorkSourceMaui and WorkWise Kauai applicants, participants, program staff, and other parties affected by the *respective* Workforce Investment system in the following counties may file with the persons listed below:

**City and County of Honolulu**  
Equal Opportunity Officer  
650 South King Street, 10<sup>th</sup> Floor  
Honolulu, HI 96813  
Phone: (808) 768-8505 (Voice)

**County of Hawaii**  
Teri Spinola-Campbell  
Equal Opportunity Officer/ADA Coordinator  
Department of Civil Services  
101 Pauahi Street, Suite 2  
Hilo, HI 96720-4224  
Phone: (808) 961-8379  
(808) 961-8619 (TTY)  
(808) 961-88617 (Fax)  
Email: tspino lac [ampbell@co.hawaii.hi.us](mailto:ampbell@co.hawaii.hi.us)

**County of Maui**  
Roland Prieto  
WIA Executive Director  
200 S. High Street, Suite 305  
Wailuku, HI 96793  
Phone: (808) 270-8225 (Voice)  
(808) 270-7995 (Fax)  
E-mail: [Roland.Prieto@mauicounty.gov](mailto:Roland.Prieto@mauicounty.gov)

## HOW TO FILE AN EQUAL OPPORTUNITY COMPLAINT

**County of Kauai**  
Linda Nuland-Ames  
EEO/ADA Coordinator  
Phone: (808) 241-6203  
[E-mail: mayorsada@kauai.gov](mailto:mayorsada@kauai.gov)

10. Current State or County employees may also file a complaint or grievance with their union in their respective counties:

**HGEA Headquarters &  
Oahu Division Office**  
888 Mililani St., Suite 601  
Honolulu, HI 96813-2991  
**Phone:** (808) 543-0000 or 536-2351  
**Fax:** (808) 528-4059  
**E-mail:** [oahudiv@hgea.org](mailto:oahudiv@hgea.org)

**Hawaii Division Office**  
495 Manono St.  
Hilo, HI 96720-4422  
**Phone:** (808) 935-6841  
**Fax:** (808) 961-2437  
**E-mail:** [hawaiidiv@Azigea.org](mailto:hawaiidiv@Azigea.org)

**Maui Division Office**  
2145 Kaohu St., Suite 206  
Wailuku, HI 96793-2257  
**Phone:** (808) 244-5508  
**Fax:** (808) 244-3621  
**E-mail:** [mauidiv@hgea.org](mailto:mauidiv@hgea.org)

**Kauai Division Office**  
3213 Akahi St.  
Lihue, HI 96766-1108  
**Phone:** (808) 245-6751  
**Fax:** (808) 245-9632  
**E-mail:** [kauaidiv@hgea.org](mailto:kauaidiv@hgea.org)

11. Aliens/Intending citizens may file a complaint with:

U.S. Department of Justice  
Office of Special Counsel  
1730 M St. NW #218  
P. O. Box 27728  
Washington, D.C. 20038-2217  
Phone: (202) 254-3600 (Voice)

OR

Department of Labor and Industrial Relations  
Equal Opportunity Officer  
830 Punchbowl Street, Room 340  
Honolulu, HI 96813  
Phone: (808) 586-8771 (Voice)  
(808) 586-3784 (TTY/TTD)  
1-888-569-6859 (Neighbor Island TTD)

12. Contents of Complaints

Each complaint shall be filed in writing and shall:

- a. Be signed by the complainant or their authorized representative;
- b. Contain the complainant's name and address (or specify another means of contacting them);
- c. Identify the alleged discriminating official (ADO); and
- d. Describe the complainant's allegations in sufficient detail to allow for determination whether:
  - The appropriate agency has jurisdiction over the complaint;
  - The complaint was timely filed; and
  - The complaint has apparent merit; i.e., whether the allegations, if true, violate any of the nondiscrimination and equal opportunity provisions of current statutes.

13. Right to Representation

Complainants have the right to be represented by an attorney or other individuals of their own choice.

14 Complaint Processing (DLIR/RECIPIENT ONLY):

- a. The EO Officer shall hold a meeting with the complainant within seven working days of receipt of the complaint to hear the complaint and attempt to resolve the problem. The complainant shall be provided procedures for alternative dispute resolution (ADR) and offered the option of proceeding with ADR or customary process.
- b. The complainant shall be advised of the options available for redress and given a Notice to Individuals Filing Discrimination Complaints (see Appendix A).
- c. The EO officer will assist the complainant in completing the DLIR Form E0-1 (see Appendix B), if requested. Receipt of the complaint will be acknowledged in writing within five working days and shall contain a detailed description of the issues, whether the issues have been accepted, and the reason for any rejection of any issues by the Director/Executive.
- d. The EO officer shall investigate the complaint, collecting all pertinent data, interviewing parties involved, and documenting the investigation.
- e. Where the case appears to place the burden of proof on the Department/recipient, the EO Officer will attempt an informal resolution of the situation with management, as appropriate.
- f. The EO Officer shall prepare a report to the Director/Executive describing the case, results of the investigation, and conclusion; and recommend a course of action or response to the complaint.
- g. The Director/Executive shall inform the complainant of the decision in writing within ninety (90) days after receipt of the formal complaint, such time limit may be extended for good cause as determined by the Director, Civil Rights Center. The Director/Executive's decision shall include, as applicable, the action or remedy to be taken in response to a valid complaint, the reasons for the dismissal of the complaint, or other options for redress which can be pursued by the complainant. If the complainant is dissatisfied with the final decision, they may still file with the Civil Rights Center (for WIA matters), Hawaii Civil Rights Commission, the U.S. Department of Justice (for Aliens/Intended Citizens), or the U.S. Equal Employment Opportunity Commission within the time frames set by those agencies or they may file a civil suit in state or federal court.
- h. Complainants who file with DLIR/recipient, must wait until a decision is issued or until 60 days have passed, whichever is sooner, before filing with the Director CRC. If the complainant has not been provided with a written decision within 60 days of the filing of the complaint, the complainant need not wait for a decision to be issued, but may file a

complaint with the Director CRC within 30 days of the expiration of the 60-day period.

- i Where the complaint does not appear valid (no prima facie case), the complainant will be advised of the reasons and that the complaint will not be pursued through the complaint process and to pursue other avenues of redress if not satisfied.

15. ADR Processing

- a. Any complainant who wishes to file a complaint will be given the option of using ADR as a means of resolving their complaint.
- b. Complainants will be directed to the DLIR Equal Opportunity Officer who will evaluate the case and determine whether assignment of the case to the Mediation Centers of Hawaii is appropriate. The Mediation Centers of Hawaii will schedule a meeting between all parties and the mediator within ten (10) working days after receipt of the case.
- c. Upon completion of mediation, the Mediation Centers of Hawaii will provide a disposition of the case within forty-eight hours from the time mediation ends.
- d. All records and discussions that arise or occur during mediation shall be kept confidential and not be disclosed to anyone.
- e. Parties to any agreement reached under ADR may file a complaint with the Director CRC within 30 days of the date on which the non-breaching party learns of any alleged breach in the agreement.

**B Complaints Prohibited by Federal and/or State Statutes against Employment Discrimination Only**

1. In addition to the federal requirement that programs receiving federal financial assistance shall not discriminate against anyone (including applicants for benefits and services, recipients, participants, and other beneficiaries), both *federal* and *state* laws prohibit discrimination by **employers, unions, and employment agencies** against **employees and job applicants**.

Federal law prohibits discrimination because of:

- race,
- color,
- religion,
- sex,
- national origin,
- age,

- disability, or
- genetic information.

Hawai`i state law prohibits discrimination because of:

- race,
- sex, including gender identity or expression,
- sexual orientation,
- age,
- religion,
- color,
- ancestry,
- disability,
- marital status,
- arrest and court record,
- domestic or sexual victim status,
- national guard participation,
- assignment of income for child support obligations,
- breastfeeding, or
- credit history or credit report.

Both federal and state law prohibits retaliation against any individual for opposing prohibited discrimination, filing a complaint, or testifying or assisting in any proceeding regarding prohibited discrimination.

## 2. Where to File

If you think you have been subjected to **employment** discrimination, you can file a complaint with the Hawaii Civil Rights Commission (HCRC) or the U.S. Equal Employment Opportunity Commission (EEOC). The deadline for filing a complaint with the HCRC is 180 days from the date of the alleged discriminatory act (or last act in a pattern of ongoing discrimination). The deadline for filing an EEOC complaint is 300 days.

## 3. FOR MORE INFORMATION, CONTACT:

Hawaii Civil Rights Commission (HCRC)  
830 Punchbowl Street, Room 411  
Honolulu, Hawaii 96813  
Phone: (808) 586-8636  
TDD: (808) 586-8692

Neighbor Islands, call toll free: Kauai:  
274-3141, Ext. 6-8636# Maui: 984-  
2400, Ext. 6-8636# Hawai`i: 974-4000,  
Ext. 6-8636#  
Lanai & Molokai: 1-800-468-4644, Ext. 6-8636#  
Email: [DLIR.HCRC.INFOR@hawaii.gov](mailto:DLIR.HCRC.INFOR@hawaii.gov)  
Website: <http://labor.hawaii.gov/hcrc>

Or

U.S. Equal Employment Opportunity Commission (EEOC)

Honolulu Local Office  
300 Ala Moana Boulevard, Room 7-127  
Honolulu, Hawaii 96850  
Phone: (808) 541-3118  
Toll-Free: 1-800-669-4000  
Website: <http://www.eeoc.gov>

4. Affected County staff also may file a complaint with their respective county as listed in item A.9 above.
5. Affected State or County staff may file a complaint with the union in their local areas as listed in item A.10 above.