

Element 8 — Complaint Processing Procedures (29 CFR 34.54 Procedures for Processing Complaints Alleging Discrimination Against a WIA Recipient (29 CFR 34.54 (d)(1)(vii), 29 CFR 37.76))

PART A

1. Recipients Are Required to Develop and Publish Complaint Procedures:

The Department of Labor and Industrial Relations (DLIR) has developed complaint procedures that are applicable to all Department offices and programs, administratively attached agencies, state programs, county programs, and private agencies receiving federal or state funds from the DLIR. Entities which operate federal/state funded programs for the DLIR, within the State, are also allowed to use the procedures.

2. Issuance of a Written Notice of Final Action Within 90 Days From Date of Complaint:

Section F. 6, of the Hawaii Equal Opportunity Complaint Procedures provides, "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 Civil Rights Director."

3. The Complaint Procedures must contain the elements listed in 29 CFR Part 37.76(b), which include:

- a. Initial written notice to the complainant that contains an acknowledgment that the recipient has received the complaint, and a notice that the complainant has the right to be represented in the complaint process.*

Section F. 2, of the Hawaii Equal Opportunity Complaint Procedures provides that, "...Receipt of the complaint will be acknowledged in writing within five (5) working days..." and, Section E, "Right to Representation," indicates, "Complainants have the right to be represented by an attorney or other individual(s) of their own choice."

- b. A written statement provided to the complainant, that contains a list of issues raised in the complaint and, for each issue, a statement whether the recipients will accept the issue for investigation or reject the issue, and the reasons for each rejection.*

Section F. 2, of the Hawaii Equal Opportunity Complaint Procedures provides that it, "...shall contain a detailed description for the issues, whether the issues have been accepted, and the reason for rejection of any issues by the Director/Executive."

- c. A period for fact-finding or investigation of the circumstance underlying the complaint.*

Section F. 3, of the Hawaii Equal Opportunity Complaint Procedures provides that, "The EO Officer shall investigate the complaint, collect all pertinent data, interview all parties involved, and document the investigation."

- d. A period during which the recipient attempts to resolve the complaint. The methods available to resolve the complaint must include alternative dispute resolution (DDR).***

Section F. 6, of the Hawaii Equal Opportunity Complaint Procedures provides that, "The EO Officer shall hold a meeting with the complainant 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 an ADR or via the customary process."

- e. A written notice of Final Action, provided to the complainant within 90 days of the date on which the complaint was filed, that contains, for each issue raised in the complaint.***

Section F. 6, of the Hawaii Equal Opportunity Complaint Procedures provides that, "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 Civil Rights Director."

- f. A statement of the recipient's decision on the issue and an explanation of the reasons underlying the decision, or a description of the way the parties resolved the issue.***

Section F. 6, of the Hawaii Equal Opportunity Procedures provides that, "The Director/Executive's decision shall include, as applicable, the action or remedy to be taken in response to a valid complaint reasons for the dismissal of the complaint; or other options for redress which can be pursued by the complainant."

- g. Notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is issued if he or she is dissatisfied with the recipient's final action on the complaint.***

Section F. 7, of the Hawaii Equal Opportunity Procedures provides that, "If the complainant is dissatisfied with the recipient's resolution of the complaint, he or she has the right to file a complaint with the CRC within 30 days from the date of issuance of the notice of final action."

h. Describe the procedures to be followed if the complaint is filed more than 180 days after the date of the alleged violation.

Section C., "Time of Filing," of the Hawaii Equal Opportunity Procedures indicates that, "A complaint must be filed within 180 days of the alleged discrimination. For complaints filed under WIA, the Civil Rights Center Director may extend this filing time for good cause shown."

i. Provide that, if the complainant is dissatisfied with the outcome of the investigation, or if there is no final resolution of the complaint within 90 days of the date filed, the complainant is notified that he or she may file his or her complaint with the Civil Rights Center (CRC).

Section F. 8, provides that, if the complainant has not been provided with a written decision within 90 days of the filing of the complaint or is dissatisfied with a recent decision, the complainant may file a complaint with the Director of Civil Rights Center within 30 days of the expiration of the 90-day period.

PART B

Supporting Documentation

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| Exhibit A | State of Hawaii WIA Equal Opportunity Complaint Procedures and Forms |
| Exhibit B | WIA Bulletin No. 5-03 on Complaint and Grievance Procedures |