

HOW TO FILE AN EQUAL OPPORTUNITY COMPLAINT

GENERAL PROVISIONS

(WIOA Title I—funded program or activity)

1. The complainant has the burden of establishing the validity and merits of his or her complaint.
2. The complainant may discontinue his or her complaint by submitting a "Withdrawal of EO Complaint and Release" (Appendix C).
3. Recipients of Workforce Innovation and Opportunity Act (WIOA) Title I financial assistance, including the entities enumerated in No. 4 following this, must keep a complaint log (Appendix D) for monitors to review for oversight purposes.
4. All Service Providers, including the State Employment Security Agencies; State & Local Workforce Development Boards (LWDB), Grant Recipients, American Job Centers (AJCs), Training Providers and On-the-Job Training (OJT) employers are required to meet language accessibility laws according to 29 C.F.R. §38.35.

For persons with limited English proficiency (LEP) who need assistance to understand these procedures or to complete the complaint forms, an interpreter will be provided at no cost. If you need language assistance, please contact us by telephone at (808) 586-8866 or in person immediately.

ILOKANO	TAGALOG	CHINESE SIMPLIFIED 简体中文	CHINESE TRADITIONAL 繁體中文	SPANISH Español	JAPANESE 日本語	CHUUKESE Fosun Chuuk
MARSHALLESE Kajin Majol		KOREAN 한 한한		VIETNAMESE Tiếng Việt		

↑ **(808) 586-8866** ↑

WIOA COMPLAINT PROCEDURES

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

- ✓ Federal laws 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 the WIOA against anyone, including applicants for benefits and services, recipients, On-the-Job Training employers, participants, and other beneficiaries. **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 WIOA Title I financial assistance, including the State of Hawaii Department of Labor and Industrial Relations (DLIR) and the State and LWDB or their Service Providers, to discriminate:

❖ Against any individual in the United States on the basis of

- **Race**
- **Color**
- **Religion**
- **Sex, including transgender status, gender identity or expression**
- **Sexual orientation**
- **Pregnancy (childbirth and related medical conditions)**
- **National Origin, including limited English proficiency**
- **Age**
- **Disability**
- **Genetic Information**
- **Retaliation**
- **Political affiliation or belief (Civil Rights Center (CRC) processing only)**
- **Veteran status**
- **National guard absence**
- **Uniformed service**

❖ Against any **beneficiary** of programs financially assisted by the U.S. Department of Labor based on 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 Innovation and Opportunity Act (WIOA) Title I— financially-assisted program or activity.**

2. The recipient of WIOA Title I financial assistance **must not discriminate** directly or through contractual, licensing, or other arrangements, on any basis described above and **must not:**

1. Deny an individual any aid, benefits, services, or training provided under a WIOA Title I—funded program or activity;
2. Provide to an individual any aid, benefits, services, or training that is different, or is provided in a different manner, from that provided to others under a WIOA Title I—funded program or activity;
3. Subject an individual to segregation or separate treatment in any matter related to his or her receipt of any aid, benefits, services, or training under a WIOA Title I—funded program or activity;
4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any aid, benefits, services, or training under a WIOA Title I—funded program or activity;
5. Treat an individual differently from others in determining whether he or she satisfies any admission, enrollment, eligibility, membership, or other requirement or condition for any aid, benefits, services, or training provided under a WIOA Title I—funded program or activity;
6. Deny or limit an individual with respect to any opportunity to participate in a WIOA Title I—funded program or activity, or afford him or her an opportunity to do so that is different from the opportunity afforded others under a WIOA Title I—funded program or activity;
7. Deny an individual the opportunity to participate as a member of a planning or advisory body that is an integral part of the WIOA Title I—funded program or activity; or
8. Otherwise limit on a prohibited ground an individual in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any WIOA Title I—financially assisted aid, benefits, services, or training.

3. Retaliation

A recipient of WIOA Title I financial assistance must not discharge, intimidate, retaliate, threaten, coerce or discriminate against any individual because the individual has:

1. Filed a complaint alleging a violation of Section 188 of WIOA;
2. Opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of WIOA;
3. Furnished information to, assisted, or participated in any manner in an investigation, review, hearing, or any other activity related to any of the following:

- a. Administration of the nondiscrimination and equal opportunity provisions of WIOA;
 - b. Exercise of authority under those provisions; or
 - c. Exercise of privilege secured by those provisions;
4. Otherwise exercised any rights and privileges under the nondiscrimination and equal opportunity provisions of WIOA.

4. Who May File

Any individual who believes that he or she, or any specific class of individuals, have been or is being subjected to discrimination prohibited by federal law may file a written complaint, either by himself or herself or through a representative.

5. What to Do if You Believe You Have Experienced Discrimination

If you are a WIOA applicant, participant, program staff, employee or other party affected by the local workforce area, and think that you have been subjected to discrimination under a U.S. Department of Labor (U.S.DOL) WIOA Title I—financially assisted program or activity, you may file your complaint within 180 days of the date of the alleged discrimination or retaliation using this procedure and forms.

You may also file with the Hawaii Civil Rights Commission (HCRC) within 180 days, or the U.S. Equal Employment Opportunity Commission (EEOC) within 300 days of the alleged discriminatory act. A WIOA discrimination complaint does not have to be filed before the filing of a complaint with the HCRC or EEOC, and the filing of an internal DLIR or union complaint does not toll or extend the deadlines for filing a complaint with the HCRC or EEOC.

6. Where to File

AJC applicants, participants, program staff, and employees affected by their *respective* Local Workforce Development Area (LWDA) in the following counties may file with the persons in their county listed below

City and County of Honolulu:

Denise L. Tsukayama, CAAP,
 Equal Opportunity Administrator/ADA
 Coordinator
 925 Dillingham Blvd., Suite 180
 Honolulu, HI 96817
 Phone: (808) 768-8505
 TDD/ TTY: Dial 711 then ask for (808) 768-8505
 Fax: (808) 768-8490
 E-mail: dtsukayama@honolulu.gov

County of Maui:

Ralph Thomas EEO Specialist/ADA
 Coordinator
 200 S. High Street, 9th Floor
 Wailuku, Maui HI 96793
 Phone: (808) 463-3168
 TDD/TTY: Dial 711 then ask for (808) 463-3168
 E-mail: Ralph.Thomas@co.maui.hi.us

County of Kauai:

Daniel Fort
WIOA Executive Director
4444 Rice Street, Suite 200
Lihue, HI 96766
Phone: (808) 241-4948
TDD/TTY: Dial 711 then ask for (808) 241-4948
Fax: (808) 241-6877
E-mail: dfort@kauai.gov

County of Hawaii:

Local-Level EO Officer
101 Pauahi Street, Suite 2
Hilo, HI 96720-4224
Phone: (808) 961-8361
TDD/TTY: (808) 961-8619
Fax: (808) 961-8617

- 7. You may also file your complaint with the DLIR under this WIOA complaint procedure.
- 8. The LWDA or DLIR will use a written Notice of Final Action on complaints within 90 days of the date on which the complaint is filed.
- 9. If you are dissatisfied with the decision or resolution, you may file a complaint with the CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.
- 10. To file with either DLIR or CRC:

Christen Lee, State-Level EO Officer
DLIR Director's Office
830 Punchbowl St., Rm 321
Honolulu, Hawaii 96813
Phone: (808) 586-8148
Fax: (808) 586-9099
TDD/TTY Dial 711, then ask for (808) 586-8866
Email: dlir.eeo@hawaii.gov

OR The Director of the Civil Rights Center
U.S. Department of Labor
200 Constitution Avenue, N.W.
Room N-4123
Washington, D.C. 20210
Phone: (202) 693-6500
Fax: (202) 693-6505
TDD/TTY: (800) 877-8339
Email: CRCEXternalComplaints@dol.gov

- 11. Current State or County employees belonging to a union 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

Hawaii Division Office
495 Manono St.
Hilo, HI 96720-4422
Phone: (808) 935-6841

Fax: (808) 961-2437
E-mail: hawaiiidiv@hgea.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

Kauai Division Office

3213 Akahi St.
Lihue, HI 96766-1108

Phone: (808) 245-6751

Fax: (808) 245-9632

E-mail: kauaidiv@hgea.org

12. Current DLIR employees may also file a complaint under the DLIR's internal complaint policy.

13. Content of Complaints

Each complaint shall be filed in writing on the form in Appendix B, or in the case of the Local Area on the Local Area's form, and shall:

1. Be signed by the complainant or an authorized representative of the complainant.
2. Contain the complainant's name, mailing address, and email address, if available (or other means of contacting the complainant).
3. The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination).
4. A description of the complainant's allegations. This description must include enough detail to allow for determination of whether:
 - a. The appropriate agency has jurisdiction over the complaint;
 - b. The complaint was timely filed; and
 - c. The complaint has apparent merit; in other words, whether the complainant's allegations, if true, would indicate noncompliance with any of the nondiscrimination and equal opportunity provisions of WIOA.

14. Right to Be Represented

Any individual who believes that he or she, or any specific class of individuals, has been or is being subjected to discrimination prohibited by WIOA, may file a written complaint, either by him/herself or through a representative. The respondent also has the right to be represented by an attorney or other individual of their choice.

15. Right to Auxiliary Aids and Services

The complainant has the right to request and receive, at no cost, auxiliary aids and services, language assistance services, and to have the initial notice translated into the non-English languages as required in §§ 38.4(h) and (i), 38.34, and 38.36.

16. Complaint Processing (DLIR WIOA for Programs Operated by DLIR):

1. The State-Level EO Officer shall hold a meeting with the complainant within seven working days of receipt of the complaint to hear the complaint and assist the complainant in completing the DLIR Form EO-1 (see Appendix B), if requested. The complainant shall be informed of the right to be represented by an attorney or another individual of their choice, and of Alternate Dispute Resolution (ADR) at this time.
2. The complainant shall be advised of the options available for redress and given a Notice to Individuals Filing Discrimination Complaints (see Appendix A).
3. Receipt of the complaint will be acknowledged in writing within five (5) working days of the meeting with the complainant. This written acknowledgment shall contain:
 - a. A list of the issues raised in the complaint, and
 - b. For each such issue, a statement whether the recipient will accept or reject the issue for investigation and the reasons for each rejection.
4. After issuing the written acknowledgment, the State-Level EO Officer shall conduct an investigation on the issues accepted for investigation by collecting all pertinent data, interviewing parties involved, and documenting the investigation.
5. The methods available to resolve the complaint must include Alternate Dispute Resolution (ADR) as described in No. 18 below.
6. The State-Level EO Officer shall prepare a report to the DLIR Director that describes the case, results of the investigation, and conclusion, and recommends a course of action or response to the complaint.

7. The DLIR Director shall issue to the complainant a written decision called a Notice of Final Action within 90 days of the date on which the complaint was filed. The Notice shall contain the following information:
 - a. For each issue accepted for investigation, a statement of the DLIR Director'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; and
 - b. Notice that the complainant has a right to file a complaint with the CRC within 30 days of the date on which the Notice of Final Action is issued if he or she is dissatisfied with the DLIR Director's final action on the complaint.
8. Complainants who file with DLIR/recipient must wait until a decision is issued or until 90 days have passed, whichever is sooner, before filing with the CRC. If the complainant has not been provided with a written decision within 90 days of the filing of the complaint, the complainant need not wait for a decision to be issued, but may file a complaint with the CRC within 30 days of the expiration of the 90-day period.

18. Alternate Dispute Resolution (ADR) Processing

1. Any complainant who wishes to file a complaint will be given the option of using ADR as a means of resolving the complaint at any time after the complainant has filed a written complaint with the recipient, but before a Notice of Final Action has been issued. The choice to use ADR or the customary process rests with the complainant.
2. Complainants will be directed to the State-Level EO Officer who will evaluate the case, and refer the parties to a provider. The ADR provider shall schedule a meeting among all the parties.
3. Upon completion of mediation process the provider will issue a disposition of the case.
4. A party to any agreement reached under ADR may file a complaint with the CRC Director in the event the agreement is breached. In such circumstances, the following rules will apply:
 - a. The non-breaching party may file a complaint with the CRC Director within 30 days of the date on which the non-breaching party learns of the alleged breach; and
 - b. The CRC Director must evaluate the circumstances to determine whether the agreement has been breached. If the CRC Director determines that the agreement has been breached, the complaint will be reinstated and processed in accordance with the recipient's procedures.
5. If the parties do not reach an agreement under ADR, the complainant may file a complaint with the CRC.

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

1. In addition to the prohibited discrimination described in section A, both *federal* and *state* laws prohibit discrimination by **employers, unions, and employment agencies** against **employees and job applicants**.

Individuals can seek relief and request an investigation through the methods listed below. In addition to filing a complaint with the HCRC, EEOC, or their union, an employee or job applicant who believes he or she has been subjected to unlawful discrimination can file a workforce complaint with DLIR (DLIR employees may also file an internal complaint). A workforce DLIR complaint does not have to be filed before the filing of a complaint with the HCRC or EEOC, and the filing of an internal DLIR or union complaint does not toll or extend the deadlines for filing a complaint with the HCRC or EEOC.

Federal fair employment law prohibits discrimination based on:

- **Race**
- **Color**
- **Religion**
- **Sex, including gender identity or expression**
- **Sexual orientation**
- **Pregnancy**
- **National Origin**
- **Age**
- **Disability**
- **Genetic Information**
- **Retaliation**
- **Political affiliation or belief (CRC processing only)**
- **Veteran status**
- **National guard absence**
- **Uniformed service**
- **Citizenship**

Hawaii state fair employment law prohibits discrimination based on:

- **Race**
- **Sex, including gender identity or expression**

- **Sexual orientation**
- **Age**
- **Religion**
- **Color**
- **Ancestry**
- **Disability**
- **Marital status**
- **Arrest and court record**
- **Domestic or sexual violence victim status**
- **National guard participation**
- **Income assignment for child support obligations**
- **Breastfeeding**
- **Credit history or credit report**
- **Retaliation**
- **Reproductive health decisions**

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

2. What to Do if You Believe You Have Experienced Discrimination

If you think you have been subjected to **employment** discrimination in one or more ways as described in section B.1, you may file a complaint with the Hawaii Civil Rights Commission (HCRC) or the U.S. Equal Employment Opportunity Commission (EEOC).

3. When to File

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 from the date of the alleged discriminatory act.

4. Where to File and Seek More Information:

Hawaii Civil Rights Commission (HCRC)
 830 Punchbowl Street, Room 411
 Honolulu, Hawai'i 96813
 Phone: (808) 586-8636
 TDD/TTY: (808) 586-8692
 Neighbor Islands, call toll free:
 Kaua'i: 274-3141, Ext. 6-8636#

Maui: 984-2400, Ext. 6-8636#
Hawai'i: 974-4000, Ext. 6-8636#
Lana'i & Moloka'i: 1-800-468-4644, Ext. 6-8636#
Email: 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 4-257
Honolulu, Hawai'i 96850
Phone: (808) 541-3118
Toll-Free: 1-800-669-4000
Website: <http://www.eeoc.gov>

Individuals may also obtain information and assistance from the State-Level EO Officer:

Christen Lee, State-Level EO Officer
State of Hawaii Department of Labor and Industrial Relations
Director's Office
830 Punchbowl St., Rm 321 Honolulu, Hawaii 96813
Phone: (808) 586-8148
Fax: (808) 586-9099
TDD/TTY: Dial 711 then ask for (808) 586-8866

5. Affected State or County employees belonging to a union may file a complaint with their union in their local areas as listed in item A.11 above.
6. DLIR employees may file a departmental discrimination complaint.

Equal Opportunity Employer/Program
Auxiliary aids and services are available upon request to individuals with
disabilities.
TDD/TTY Dial 711 then ask for (808) 586-8866.

State of Hawaii
Department of Labor and Industrial Relations

**WORKFORCE NOTICE TO PERSONS WHO BELIEVE THEY HAVE BEEN
DISCRIMINATED AGAINST (NON-EMPLOYMENT OR EMPLOYMENT) IN ANY
WIOA TITLE I FUNDED PROGRAM OR ACTIVITY.**

- Any person who believes that they or any specific class of individual has been or is being subjected to discrimination prohibited by Section 188 of the Workforce Innovation and Opportunity Act (WIOA), or 29 C.F.R. Part 38, as amended; Title[s] VI [~~and VII~~] of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; or Title IX of the Education Amendments of 1972, as amended; may file a written complaint by themselves or by a representative.
- An EO complaint Form, DLIR-WIOA EO Form #1 (see Appendix B), is to be submitted to register your complaint. If you choose to present your complaint orally, you will be asked to sign a DLIR-WIOA EO Form #1 and it will be completed for you based on information you provide.
- Each complaint filed shall be signed by the complainant or their authorized representative; contain the complainant's name and address (or specify another means of contacting them); identify the alleged discrimination official (ADO); and describe the complaint's allegations in sufficient detail to allow for the determination whether, the appropriate agency has jurisdiction over the complaint, the complaint was timely filed, and the complaint has apparent merit.
- Each complainant has the right to be represented by an attorney or other individual of his or her own choice.
- Each complainant has the right to pursue Alternative Dispute Resolution (ADR).
- You may request notification in writing of each of the steps taken in the processing of your complaint and of any decision reached at any of these steps. You will be notified ahead of time of any inquiry or conference to be held regarding your complaint.
- You and all participants in the investigation process are assured freedom from restraint, interference, coercion, or reprisal.
- You may withdraw your complaint under departmental procedures at any time by submitting a Withdrawal/Release of EO Complaint Form, DLIR-WIOA EO Form #2, (see Appendix C).
- Pursuant to current regulations, a complaint must be filed within 180 days of the alleged discrimination. Please refer to the State of Hawaii Department of Labor and Industrial Relations Equal Opportunity Complaint Procedures for more information.

Equal Opportunity Employer/Program
Auxiliary aids and services are available upon request to individuals with disabilities.
▪ TDD/TTY Dial 711 then ask for (808) 586-8866

Revised October 17, 2019

STATE OF HAWAII
Department of Labor and Industrial Relations
WORKFORCE EQUAL OPPORTUNITY COMPLAINT FORM
(Please Print)

Name: _____ SSN: (last four only) _____

Date Received: _____

Street Address: _____ Apt.# _____

City: _____ State: _____ Zip Code: _____

Telephone Home: _____ Cell: _____

Basis for alleged discrimination *(Please Mark at Least One in the Boxes Below and Circle if Employment Related)*

Employment Related: Yes or No

- Race
- Color
- Religion
- Sex
- National Origin
- Age
- Political Affiliation or Belief
- Disability
- WIOA Participation
- Citizenship/Status
- Retaliation

Nature of the alleged discrimination (Examples: recruitment, interviewing, testing, selection, promotion, demotion, worksite placement, performance evaluation, training, transfer, discharge, work assignment, leave of absence, pregnancy, benefit approval, participant selection, job referral, etc.). *Please specify:*

Explain/describe briefly how and/or why you believe you were discriminated against. Be specific: include the name(s) of individual(s) involved, the date(s) when the discriminatory actions occurred, the remedy/relief you are seeking (what you want to have done) if your complaint is found to be valid.

Multiple horizontal lines for text entry.

CERTIFICATION: By my signature below, I certify that the statement of my complaint above and on any page(s) attached is true to the best of my knowledge and belief. I also agree to notify the Equal Opportunity Officer if I change my address or telephone number(s). I further understand that I may withdraw my complaint at any time by submitting a Withdrawal and Release form, DLIR EO Form #2.

Date _____ Signature _____

To be filled out by departmental personnel only. Case Number: _____

Notes:

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Equal Opportunity Employer/Program
Auxiliary aids and services are available upon request to individuals with disabilities.
TDD/TTY Dial 711 then ask for (808) 586-8866

CONFIDENTIAL

<p>State of Hawaii Department of Labor and Industrial Relations</p> <p>WITHDRAWAL/RELEASE OF EQUAL OPPORTUNITY COMPLAINT</p>	
Name <i>(Please print)</i>	Complaint number
Nature of complaint	Date filed
<p>STATEMENT</p> <p>I hereby withdraw my complaint of discrimination. I further release and forever discharge the State of Hawaii, Department of Labor and Industrial Relations/recipient, and all their past and present officers, employees, and agents from any and all claims, demands, actions, causes of actions, or suits at law or in equity, known or unknown, concerning the act or actions giving rise to or otherwise related to the complaint indicated above.</p> <p>I have read and fully understand the foregoing, and make this withdrawal and release voluntarily and of my own free will, without coercion or duress from anyone.</p>	
Signature of complainant	Date

DLIR-WIOA EO Form #2 (Rev 10/19)

Equal Opportunity Employer/Program
Auxiliary aids and services are available upon request to individuals with disabilities.
TDD/TTY Dial 711 then ask for (808) 586-8866

Discrimination Complaint Log

Name of entity _____

Date of complaint	Name of Complainant	Address of Complainant	Status of Complainant	DOL-funded Program	Date of the Alleged Discriminatory Incident	Grounds/Bases of Complaint	Description/Issue of Complaint	Name of Respondent	Is Respondent a recipient?	Date of Disposition	Disposition	Alternate Dispute Resolution?

Equal Opportunity Employer/Program
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 TDD/TTY Dial 711 then ask for (808) 586-8866