

STATE OF HAWAI'I
WIOA DISCRIMINATION AND EQUAL OPPORTUNITY COMPLAINT PROCEDURE

This document outlines the complaint procedure required of the State of Hawai'i Nondiscrimination Plan and 29 C.F.R. 38.72. The procedure outlined in this document applies only to Workforce Innovation and Opportunity Act (WIOA) Title I programs or activities.

The nondiscrimination and equal opportunity provisions found in WIOA Section 188 and 29 C.F.R. 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), age, disability, political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the WIOA, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

The recipient 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.

Recipients include, but are not limited to, the DLIR, State and Local Workforce Development Boards, the American Job Centers (AJCs), State and Local Workforce Area grant recipients, service providers (including eligible training providers, On-the-Job employers, and any successor, assignee, or transferee of a recipient).

Generally, a complaint must be filed within 180 days of the alleged discrimination or retaliation. However, for good cause shown, the Director of the Civil Rights Center (CRC) may extend the filing time. The complaint must be filed in writing, submitted either electronically or in hard copy, by the person or the person's representative, preferably by submitting the WIOA EO Complaint Form (*Appendix B*), to the State or Local Equal Opportunity (EO) Officer.

Each complaint must contain the following:

1. The complainant's name, mailing address, and, if available, email address (or another means of contacting the complainant).
2. The identity of the respondent, including the individual or entity that the complainant alleges is responsible for the discrimination.
3. A description of the complainant's allegations that should include enough detail to allow the Civil Rights Center (CRC) or the State or Local-Level Equal Opportunity Officer to decide whether:
 - a. CRC or the recipient, as applicable, has jurisdiction over the complaint,
 - b. The complaint was filed timely, 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 or this 29 CFR 38.
4. The written or electronic signature of the complainant, or of the complainant's representative.

Where to File:

Department of Labor and Industrial Relations:
David J. Rodriguez, State-Level EO Officer
830 Punchbowl, Room 321, Honolulu, HI 96813
Phone: (808) 586-8855 Fax: 586-8866
E-Mail: dlir.eeo@hawaii.gov

United States Civil Rights Center:
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) 639-6500 Fax: (202) 693-6505
TDD/TTY: Dial 711 then ask for (800) 877-8339
E-Mail: CRCEXternalComplaints@dol.gov

City and County of Honolulu:
Denise L. Tsukayama, CAAP, EO Officer/ADA Coordinator
925 Dillingham Blvd., Suite 180, Honolulu, HI 96817
Phone: (808) 768-8505 Fax: (808) 768-8480
TDD/TTY: Dial 711 then ask for (808)768-8505
E-Mail: dtsukayama@honolulu.gov

County of Maui:
Diana Merantza, Local-Level EO Officer
200 S. High Street, 6th Floor, Wailuku, HI 96793
Phone: (808) 463-3168
TDD/TTY: Dial 711 then ask for (808) 270-6292
E-Mail: diana.m.merantza@co.maui.hi.us

County of Hawai'i:
Ryan K. Caday, Local-Level EO Officer/ADA Coordinator
101 Pauahi Street, Suite 2, Hilo, HI 96720
Phone: (808) 961-8361 Fax: (808) 961-8671
TDD/TTY: Dial 711 then ask for (808) 961-8819
E-Mail: ryank.caday@hawaiicounty.gov

County of Kauai:
Linda Nulan-Ames, WIOA Executive Director
4444 Rice Street, Suite 200, Lihue, HI 96766
Phone: (808) 241-4924 Fax: (808) 241-4924
TDD/TTY: Dial 711 then ask for (808) 241-4924
E-Mail: lnuland@kauai.gov

Right to Representation

Both the complainant and the respondent have the right to be represented by an attorney or other individual of their choice.

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 29 C.F.R. 38.4(h) and (i), 38.34, and 38.36.

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; and
4. Otherwise exercised any rights and privileges under the nondiscrimination and equal opportunity provisions of WIOA or this part.

When a complaint is received, the State-Level or Local-Level EO Officer shall:

1. Provide a written acknowledgment of the complaint within five working days that will include:
 - a. Notice that the complainant has the right to be represented in the complaint process,
 - b. Notice of the options available for redress and given a Notice to Individuals Filing Discrimination Complaints (*Appendix A*), and
 - c. Notice 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 29 C.F.R. 38.4(h) and (i), 38.34, and 38.36
2. A written statement of the issue(s), provided to the complainant, that includes the following information:
 - a. A list of the issues raised in the complaint; and
 - b. For each such issue, a statement whether the recipient will accept the issue for investigation or reject the issue, and the reasons for each rejection.
3. Conduct fact-finding or investigation of the circumstances underlying the complaint, not to exceed 60 days.
4. Attempt to resolve the complaint, not to exceed 75 days, including through the option of alternative dispute resolution (ADR). ADR procedures shall provide that:
 - a. The complainant may attempt ADR at any time after the complainant has filed a written complaint with the recipient, but before a Notice of Final Action has been issued.
 - b. The choice whether to use ADR or the customary process rests with the complainant.
 - c. A party to any agreement reached under ADR may notify the Director in the event the agreement is breached. In such circumstances, the following rules will apply:
 - i. 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.
 - ii. The CRC Director must evaluate the circumstances to determine whether the agreement has been breached. If the Director determines that the agreement has been breached, the complaint will be reinstated and processed in accordance with these procedures.
 - iii. If the parties do not reach an agreement under ADR, the complainant may file a complaint with the CRC.

5. Issue a written Notice of Final Action to the complainant within 90 days from the date the complaint was filed, that will include the following information:
 - a. For each issue raised in the complaint, a statement of either:
 - i. The recipient's decision on the issue and an explanation of the reasons supporting (or justifying) the decision, or
 - ii. A description of the way the parties resolved the issue; and
 - b. 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 received if the complainant is dissatisfied with the recipient's final action on the complaint.

If the EO Officer determines that they do not have jurisdiction over a complaint, it must notify the complainant, in writing, within five (5) business days of making such determination. This Notice of Lack of Jurisdiction must include:

1. A statement of the reasons for that determination, and
2. Notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the complainant receives the Notice.

When the EO Officer issues a Notice of Final Action before the 90-day period ends, but the complainant is dissatisfied with the decision on the complaint, the complainant or the complainant's representative may file a complaint with the CRC Director within 30 days after the date on which the complainant receives the Notice.

If, by the end of 90 days from the date on which the complainant filed the complaint, the EO Officer has failed to issue a Notice of Final Action, the complainant or the complainant's representative may file a complaint with the CRC Director within 30 days of the expiration of the 90-day period. In other words, the complaint must be filed with the Director within 120 days of the date on which the complaint was filed with the EO Officer.

State of Hawai'i
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; Titles 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), may 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) 586-8842

STATE OF HAWAI'I
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

- | | | |
|---|--|--------------------------------------|
| <input type="checkbox"/> Race | <input type="checkbox"/> Color | <input type="checkbox"/> Religion |
| <input type="checkbox"/> Sex | <input type="checkbox"/> National Origin | <input type="checkbox"/> Age |
| <input type="checkbox"/> Political Affiliation/Belief | <input type="checkbox"/> Genetic Information | <input type="checkbox"/> Disability |
| <input type="checkbox"/> WIOA Participation | <input type="checkbox"/> Citizenship/Status | <input type="checkbox"/> 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:*

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
<hr/>	

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

Notes:

**State of Hawai'i
Department of Labor and Industrial Relations**

**WITHDRAWAL/RELEASE OF
EQUAL OPPORTUNITY COMPLAINT**

Name *(Please print)*

Complaint number

Nature of complaint

Date filed

STATEMENT

I hereby withdraw my complaint of discrimination. I further release and forever discharge the State of Hawai'i, 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.

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.

Signature of complainant

Date

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?