

South Carolina Department of Employment and Workforce
Office of Equal Opportunity

**PROCEDURES FOR FILING PROGRAMMATIC AND
DISCRIMINATION COMPLAINTS UNDER WIOA**

The complaint procedures allow for the resolution of violations of the Workforce Innovation and Opportunity Act (WIOA) Title I requirements at the most local level possible.

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I. PROGRAMMATIC OR DISCRIMINATION RELATED COMPLAINT?

The two types of complaints look very similar, both having an issue related to a recipient as defined under the WIOA laws. The differences are as follows:

- A **programmatic grievance or complaint** is governed by WIOA § 181 and 20 CFR Part 683. It is any complaint not alleging discrimination on a protected basis.

Within this guidance, this will be referred to as **programmatic complaints**.

- A **discrimination related complaint** is governed by WIOA § 188 and 29 CFR Part 38. The complaint alleges discrimination on one or more of the following bases:

- | | | |
|--------------------------------------|--------------------------------------|--|
| - Race | - Sex | - Citizenship |
| - Color | - Age | (participants only) |
| - National Origin
(Including LEP) | - Religion | - WIOA Participant Status
(participants only) |
| - Disability | - Political Affiliation
or Belief | |

Within this guidance, this will be referred to as **discrimination complaints**.

II. DEFINITIONS

The following terms, when used in this guidance, have the following meanings, unless otherwise indicated:

- **Complainant:** the person who filed a complaint or on whose behalf a complaint was filed by an authorized representative.
- **Recipient:** An entity that receives financial assistance under WIOA Title I, either directly from the Department of Labor (DOL) or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), and includes, but is not limited to:
 - An entity to which financial assistance under WIOA Title I is extended
 - One-Stop partners, as defined in WIOA § 121(b), to the extent that they participate in the one-stop delivery system
- **Respondent:** A grant applicant or recipient against which a complaint has been filed under the nondiscrimination and equal opportunity (EO) provisions of WIOA.
- **Participant:** an individual determined to be eligible to participate in, and who is receiving any aid, benefit, service, or training under a program or activity financially assisted in whole or in part under WIOA Title I. This includes, but is not limited to:

- Individuals receiving any service(s) under South Carolina Employment Services (ES) programs
- Claimants receiving any service(s) or benefits under South Carolina Unemployment Insurance (UI) programs.

III. WHO MAY FILE

All Department of Employment and Workforce (DEW), local workforce development area (LWDA), and sub-recipient employees are required to accept written programmatic or discrimination complaints submitted by a complainant or their designated representative. Under no circumstances should a complainant be asked to wait for another staff member to become available before their complaint can be received. All employees must promptly accept the complaint and ensure that the appropriate procedure is followed.

Programmatic Complaints:

Any individual or other interested party who alleges violations of the requirements of WIOA Title I or who wishes to complain about their treatment during the registration, application, and certification process or as a WIOA program participant. Individuals and other interested parties may include businesses, applicants, registrants, service providers, one-stop providers, eligible training providers, or customers of the SC Works centers.

Discrimination Complaints:

Any person, or specific class of individuals, who believes they have been or are currently being discriminated against on one or more prohibited bases or believes they have been or are currently being retaliated against have the right to file a complaint within 180 days of the alleged violation. Individuals may file the complaint themselves or through an authorized representative.

DID YOU KNOW? — EMPLOYMENT SERVICES COMPLAINT SYSTEM

The Wagner-Peyser Act has its own complaint system, as required by 20 CFR § 658.410, known as the Employment Services or ES Complain System. It can take complaints from individuals, employers, organizations, associations, and other entities (like partners). Complaints can be filed about the following:

- Employment services provided by a State Workforce Agency or SC Works center
- Employers involving employment-related laws

NOTE: LWDA EO Coordinators should be aware that the ES complaint process is separate from the WIOA process, has different regulatory time frames, and a different complaint form, found here: [Form ETA-8429](#).

An individual may file a complaint about violations of employment laws or an experience seeking job information, job referral services, or any other employment service through an SC Works center. Some complaints may overlap with WIOA complaints, so it's important to ensure both processes are coordinated to effectively address all issues and protect jobseekers' rights.

If the complaint impacts the delivery of employment services at the center or if you are unsure, please alert the LWDA ES Complaint System Representative. To find out who the LWDA ES Complaint System Representative is, please refer to the ES Complaint System poster or visit <https://scworks.org/escomplaint>. For more information about the ES Complaint System, please visit <https://www.dol.gov/agencies/eta/agriculture/monitor-advocate-system/resources>.

IV. WHEN AND HOW TO FILE

Individuals seeking to file a complaint must do so **within 180 days** of the alleged violation. The complainant or complainant's representative must complete, sign, and submit the *Unified Complaint Information Form* available at: <https://scworks.org/about-us/legal>.

Programmatic Complaints:

A. Local Level

1. The LWDA EO Coordinator must review the submitted *Unified Complaint Information Form* and remain responsible for the integrity of the process.
2. If complaints are received by the State but can be addressed locally, the State-level EO Officer will:
 - a. Return the complaint to the LWDA with written notice **within 10 days** of receipt of the complaint
 - b. Provide a copy of the notice to the complainant
3. If no resolution is reached **within 60 days** of submitting the *Unified Complaint Information Form*, or either party is dissatisfied with the LWDA decision, the party can file an appeal to the State-level EO Officer.

B. State Level

1. The State-level EO Officer will review the following:
 - a. Appeals of decisions made at the local level during the complaint process
 - b. Complaints filed by parties unable to use the LWDA complaint process
 - c. Complaints from training providers denied eligibility or adversely affected by a LWDB or an SC Works center operator
2. Appeal must be filed in writing **within 15 days** from the date on which the Notice of Final Action is received from the LWDA.

NOTE: Appeals must include all original complaint documentation submitted to the LWDA. Only information received during the initial investigation will be allowed in the appeal process.

Discrimination Complaints:

1. All discrimination complaints are investigated at the State level.
 - a. The State-level EO Officer must review the submitted *Unified Complaint Information Form*.
2. A discrimination complaint must include the following:
 - a. The complainant's name, mailing address, and, if available, email address or other means of contacting the complainant
 - b. The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination)
 - c. Information to show when the alleged discrimination occurred and when this complaint was filed
 - d. Enough detail in the allegations of discriminations to indicate, if true, a violation of the nondiscrimination and EO provisions of WIOA
 - e. The written or electronic signature of the complainant or the complainant's representative
3. The complainant may also file directly with the DOL Civil Rights Center (CRC) at: <https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/external/how-to-file-complaint>.
4. The complaint can be filed by contacting one of the following:

Office of Equal Opportunity SC Department of Employment and Workforce P.O. Box 908 Columbia, SC 29202 complaints@dew.sc.gov Fax: (803) 737-0124	South Carolina Human Affairs Commission 1026 Sumter Street, Suite 101 Columbia, SC 29201 information@schac.sc.gov Fax: (803) 737-7835
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Director, Civil Rights Center ATTENTION: Office of External Enforcement US Department of Labor 200 Constitution Avenue NW, Room N-4123 Washington, DC 20210 Email: CRCEXternalComplaints@dol.gov Fax: (202) 693-6505	U.S. Equal Employment Opportunity Commission Greenville Local Office 301 N. Main Street, Suite 1402 Greenville, SC 29601 Phone: 1-800-669-4000 https://publicportal.eeoc.gov/
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V. INITIAL REVIEW OF WRITTEN COMPLAINTS

Programmatic Complaints:

A. Local Level

1. The LWDA EO Coordinator will provide written acknowledgement to all affected parties **within 10 days**, which must include these elements:
 - a. A summary of the allegations submitted
 - b. The date, time, and place of the meeting or hearing with the reviewer
 - c. Notice of the following:
 - i. The complainant may be represented by an attorney.
 - ii. The complainant may present testimonial and documentary evidence and that this is the only opportunity to do so.
 - iii. If the LWDA does not reach a decision **within 60 days**, the complainant may file an appeal to the State-level EO Officer.
2. The LWDA may provide for **an informal resolution** of a complaint, which may be completed before the hearing date.

B. State Level

1. The State-level EO Officer will provide written acknowledgement to all affected parties **within 10 days**, which must include these elements:
 - a. A summary of the allegations submitted
 - b. The date, time, and place of the meeting or hearing with the reviewer
 - c. Notice of the following:
 - i. The complainant may be represented by an attorney.
 - ii. For complaints filed directly with the State, the complainant may present testimonial and documentary evidence. A hearing will be held **within 60 days**, if an informal resolution has not been reached.
 - iii. For appeals of the LWDA decision, the State-level EO Officer will give Notice of Final Action based on the already-presented evidence.

- iv. If the State-level EO Officer does not issue a State-level Notice of Final Action **within 60 days**, the party may file an appeal to DOL.

NOTE: Individuals in complaint investigations are protected from retaliation. Limited English Proficiency (LEP) individuals and individuals with disabilities can have translators, interpreters, readers, and/or a representative of their choice during the complaint process.

Discrimination Complaints:

1. All discrimination complaints are forwarded to the State-level EO Officer **within 24 hours** from when the complaint was received.
2. The LWDA EO Coordinator will record all complaints passing through the LWDA on the Local Discrimination Complaint Log, including:
 - a. The complainant's name and address
 - b. The basis of the complaint
 - c. A brief description of the complaint
 - d. The disposition of the complaint (ex: "forwarded to the State-level EO Officer")
 - e. The date of the disposition (the date forwarded)
3. The State-level EO Officer will record the complaint on the State Discrimination Log and verifies the complaint includes the following:
 - a. The complainant's name, address, and other contact information
 - b. The identity of the individual or entity the complainant alleges is responsible for the discrimination
 - c. A description of the alleged discrimination in enough detail to permit an initial determination of jurisdiction, timeliness, and apparent merit of the claim
 - d. The signature of the complainant or authorized representative

VI. COMPLAINT INVESTIGATIONS

Programmatic Complaints:

A. Local Level

1. The LWDA EO Coordinator will issue a Notice of Final Action to the complainant **within 60 days** from receipt of the complaint.
2. If an informal resolution was agreed upon, the decision must summarize the resolution. If no informal resolution was reached, the decision must also contain the following:
 - a. The reasons supporting the decision
 - b. A brief description of the investigation process used to reach the decision

- c. Notice that the decision does not preclude the complainant from pursuing a remedy authorized under federal, state, or local law
- 3. If the Notice of Final Action is not given or if either party disagrees with the Notice, that party may file an appeal to the State-level EO Officer **within 15 days**.

B. State Level

- 1. The State-level EO Officer will issue a Notice of Final Action to the complainant **within 60 days** from receipt of the appeal.
- 2. If an informal resolution was agreed upon, the Notice of Final Action must summarize the resolution. If no informal resolution was reached, the Notice of Final Action must contain the following:
 - a. The reviewer's decision and the reasons supporting the decision
 - b. A brief description of the investigation process used to reach the decision
 - c. Notice that the complainant may seek a remedy authorized under another federal, state, or local law
- 3. If the Notice of Final Action is not given or if either party disagrees with the Notice, that party may file an appeal to the U.S. Secretary of Labor **within 60 days**.
 - a. The Secretary of Labor must make a final decision on an appeal **no later than 120 days** after receiving the appeal.
 - b. Appeals to the Secretary of Labor must be sent to the DOL National Office via certified mail with return receipts requested. Copies must be provided to the DOL Employment and Training Administration (ETA) Regional Administrator and DEW at:

Secretary, U.S. Department of Labor Attn: Assistant Secretary of ETA 200 Constitution Avenue, NW Washington, DC 20210	ETA Regional Administrator Office of Regional Administrator U.S. Department of Labor 61 Forsyth St. SW, Room 6M12 Atlanta, GA 30303
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Discrimination Complaint:

- 1. The State-level EO Officer is responsible for determining the appropriate jurisdiction over the complaint. Jurisdiction refers to who has the authority to decide whether or not discrimination has occurred.

NOTE: Discrimination complaint investigations cannot be resolved through informal resolution.

- a. No Jurisdiction: When the State-level EO Officer determines that they do not have jurisdiction over the complaint or the complaint has been filed after 180 days from the alleged discrimination, the State-level EO Officer must notify the complainant(s) in writing **within 5 business days** and include the following information:
 - i. A statement of the reason(s) for that determination
 - ii. Notice that the complainant has a right to file an appeal with the CRC **within 30 days** of the date on which they received notice
 - b. Yes Jurisdiction: When the State-level EO Officer determines that they have jurisdiction over the complaint, the State-level EO Officer must provide an initial, written notice to the complainant containing the following information:
 - i. An acknowledgement that DEW has received the complaint
 - ii. The “Equal Opportunity Is the Law” Notice
 - iii. Notice that, during the complaint process, the complainant has these rights:
 - a. May be represented by an attorney
 - b. Is protected from retaliation
 - c. LEP individuals and individuals with disabilities can have translators, interpreters, readers and/or a representative of their choice.
 - iv. A written statement of the issue(s) that will include the following:
 - a. A list of the issues raised in the complaint
 - b. For each issue, a statement of whether DEW will accept or reject the issue for investigation, and the reasons for each rejection
2. The State-level EO Officer has **90 days** to resolve the complaint.
- a. Options for resolution must include alternative dispute resolutions (ADR), at the complainant’s choice, with the following information:
 - i. The complainant can pursue ADR any time after filing the complaint, as long as a Notice of Final Action has not been issued.
 - ii. If an agreement reached under ADR is breached, the non-breaching party may notify the Director of the CRC **within 30 days** on the information of the alleged breach.
 1. If the agreement has been breached, the complaint will be reinstated and processed in accordance with Office of Equal Opportunity (OEO) procedures.
 - iii. If the parties do not reach an agreement under ADR, the complainant may file an appeal with the CRC.

3. The State-level EO Officer must provide a written Notice of Final Action to the complainant within **90 days** of the date on which the complaint was filed, that contains the following:
 - a. For each issue raised in the complaint, a statement of either:
 - i. The State's decision and an explanation of the reason
 - ii. A description of the way the parties resolved the issue
 - b. Notice that the complainant has a right to file a complaint **within 30 days** with CRC if either of the following is true:
 - i. No decision is issued after the 90-day period
 - ii. The complainant is dissatisfied with the State's decision as stated in the Notice of Final Action

VII. CORRECTIVE ACTIONS

If a complaint is confirmed during the investigation, the respondent will be asked to voluntarily take corrective actions or agree to a resolution to address the issue. It is the responsibility of OEO to provide technical assistance and evaluate progress made toward the completion of corrective actions.

NOTE: In a discrimination investigation, if a respondent fails to comply, DEW will proceed with State-issued sanctions procedures.

Actions to correct both complaint deficiencies may include the following:

- Rewriting policies
- Reinstatement to program or employment
- Granting benefits or other services denied
- Any other remedial or affirmative relief, such as outreach, recruitment, and training to ensure equal opportunity

VIII. REMEDIES/SANCTIONS THAT MAY BE IMPOSED

Remedies are defined as the potential level of consequences for any programmatic or discrimination violation.

Programmatic Complaints:

Remedies that may be imposed for a violation (WIOA § 181(c)(3)):

- a. Suspension or termination of payments under WIOA Title I
- b. The prohibition of placement of a participant with an employer that has violated any WIOA § 181(c) requirement

- c. Where applicable, the reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment
- d. Where appropriate, other equitable relief

Discrimination Complaints:

Remedies that may be imposed for a violation (WIOA § 188(b), (c)):

- a. Injunctive Relief: a remedy which restrains a party from doing certain acts or requires a party to act a certain way
- b. Restitution: a remedy that involves payment made, or giving of an equivalent value, to compensate for damages or loss
- c. Damages: a remedy of monetary compensation awarded by a court to an injured party

IX. RECORDKEEPING

DEW will include the following information in a log of complaints:

- Name and address of complainant
- The basis of the complaint
- A description of the complaint
- The date the complaint was filed
- The final decision of a complaint and the date of decision
- Any other relevant information

All records pertaining to complaints, investigations, or any other such actions will be retained for **a minimum of 3 years** from the date of the resolution.

The identity of anyone who provides information or assistance in an investigation or review will be kept as confidential as possible. If their identity must be disclosed, steps will be taken to protect them from retaliation. Their information can only be used for the following purposes:

- a. Recordkeeping and reporting
- b. Assessing whether an entity operates its WIOA-funded programs or activities in a nondiscriminatory way
- c. Other uses allowed under WIOA's nondiscrimination and EO provisions

X. INTIMIDATION AND RETALIATION ARE PROHIBITED

WIOA and DEW's OEO prohibits intimidation and retaliation against individuals for the following reasons:

- Filing a complaint
- Opposing a prohibited practice
- Providing information
- Helping with an investigation, review, hearing, or any other related activity

Recipient programs or activities that engage in retaliation or fail to prevent it may face penalties as outlined in WIOA §§ 181(c)(3) and 188(b), (c).

XI. RELEVANT CONTACT INFORMATION

DEW Office of Equal Opportunity SC Department of Employment and Workforce P.O. Box 908 Columbia, SC 29202 Email: complaints@dew.sc.gov Fax: (803) 737-0124	Office of Internal Audit / State Monitor Advocate SC Department of Employment and Workforce P.O. Box 995 Columbia, SC 29202 Email: SMA@dew.sc.gov
SC Human Affairs Commission 1026 Sumter Street, Suite 101 Columbia, SC 29201 Email: information@schac.sc.gov Fax: (803) 737-7835	ETA Regional Administrator Office of Regional Administrator U.S. Department of Labor 61 Forsyth St SW, Room 6M12 Atlanta, GA 30303
U.S. Equal Employment Opportunity Commission Greenville Local Office 301 N. Main Street, Suite 1402 Greenville, SC 29601 Phone: 1-800-669-4000 https://publicportal.eeoc.gov/	Director, Civil Rights Center Attn: Office of External Enforcement US Department of Labor 200 Constitution Avenue NW, Room N-4123 Washington, DC 20210 Email: CRCExternalComplaints@dol.gov Fax: (202) 693-6505
Secretary of Labor Attn: Assistant Secretary of ETA U.S. Department of Labor 200 Constitution Avenue, NW Washington, DC 20210	