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Henry McMaster
Governor

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Executive Director

STATE INSTRUCTION NUMBER 16-14

TO: Local Workforce Development Board Chairs
Local Workforce Area Signatory Officials
Local Workforce Area Administrators

SUBJECT: Rights to File a Grievance or Complaint Under WIOA

ISSUANCE DATE: May 26, 2017

EFFECTIVE DATE: Immediately

Purpose: To establish procedures for handling noncriminal complaints under the Workforce Innovation and Opportunity Act (WIOA) and to transmit the attached handout. Nothing contained in the handout shall be deemed to prejudice the separate exercise of other legal rights in pursuit of remedies and sanctions available outside of WIOA.

Background: Section 188 of WIOA prohibits discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, or (against any beneficiary, applicant, or participant in programs financially assisted under Title I of WIOA) on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

Section 181 of WIOA requires the establishment of procedures for grievances or complaints alleging violations of the requirements of Title I from participants and other interested or affected parties.

29 CFR 38.69 requires that any person or any specific class of individuals may file a written complaint who believe(s) that they have been or are being discriminated against on one or more prohibited bases or believe they have been or are being retaliated against (as described in 29 CFR 38.19). The SC Department of Employment and Workforce, Office of Equal Opportunity, develops and publishes the complaint processing procedures required in 29 CFR 38.72.

Notice of Equal Opportunity rights must be provided to each registrant, applicant, and participant and made part of each participant's file. It must be part of both paper and electronic files, if both are maintained. [29 CFR 38.36(a)(4) and 29 CFR 38.38(b)]

Policy: No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any program or activity because of race, color, religion, sex (including gender identity, gender expression, and sex stereotyping), national origin, age, disability, or political affiliation or belief. No beneficiary of programs receiving money under Title I of the WIOA will be discriminated against on the basis of citizenship/status as a lawfully admitted immigrant authorized to work in the United States or his or her participation in any program or activity receiving money from WIOA Title I.

Action: The Local Equal Opportunity Coordinator/Officer for the local workforce area must ensure programmatic staff provide initial and continuing notice to registrants, applicants and participants that the program does not discriminate on any prohibited ground and that they have the right to file a complaint of discrimination or grievance/complaint. Each Local Equal Opportunity Coordinator/Officer will ensure the attached handout is completed with the contact information applicable for the area. A signed copy of the handout must be placed in each applicant's/participant's file. Copies will be part of both paper and electronic files, if both are maintained. The handout must be provided in suitable formats to individuals with visual impairments (*e.g.*, san-serif fonts, audio files). Ensure that all appropriate staff, operators, and service providers receive and understand this policy guidance.

Inquiries: Questions may be directed to Stephani Frese at sfrese@dew.sc.gov or 803-737-2381.



Patricia Sherlock, Director
Policies and Procedures

Attachment

WORKFORCE INNOVATION AND OPPORTUNITY ACT

Rights Handout for
Registrants, Applicants, and Participants

EQUAL OPPORTUNITY IS THE LAW

Under the Workforce Innovation and Opportunity Act (WIOA), no individual may be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of, or in connection with, any program or activity because of race, color, religion, sex (including gender identity, gender expression, and sex stereotyping), national origin, age, disability, political affiliation or belief. It is also unlawful to discriminate against any beneficiary of programs receiving money under Title I of the WIOA on the basis of citizenship/status as a lawfully admitted immigrant authorized to work in the United States or his or her participation in any program or activity receiving money from WIOA Title I.

The program or activity 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.

HOW TO FILE A COMPLAINT OF DISCRIMINATION

You must file your complaint, in writing, within 180 days from the date you believe the alleged discriminatory action happened. You may file your complaint with the State-level EO Officer or the Director of the Civil Rights Center (CRC) of the US Department of Labor.

If you choose to file at the State level, you may use the Office of Equal Opportunity Complaint Form available at: <https://www.scworks.org/docs.asp>. Mail, email, or fax your complaint to:

Ms. Stephani Frese, EO Officer
S.C. Department of Employment and Workforce
Post Office Box 908
Columbia, SC 29202
Email: sfrese@dew.sc.gov
Fax: (803) 737-0124

If you choose to file at the CRC level, you may use the Complaint Information Form available at: <https://www.dol.gov/oasam/programs/crc/DL1-2014a-English.pdf>. Address your complaint to:

Director, Civil Rights Center (CRC)
US Department of Labor
200 Constitution Avenue NW, Room N-4123
Washington, DC 20210.

If you file your written complaint with the State-level EO Officer, you must wait until you receive a written Notice of Final Action or until 90 days have passed (whichever is sooner) before filing with the Civil Rights Center. In the event you receive a Notice of Final Action and are dissatisfied with the decision contained therein, you may file a written complaint with CRC within 30 days of the date on which you received the Notice of Final Action. In the event you do not receive a Notice of Final Action within 90 days of your complaint, you do not have to wait for the written 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, within 120 days after you filed your original complaint).

NOTE: You may request assistance in preparing your written complaint. You may have legal representation and/or witnesses to support your position. You may present evidence.

RIGHT TO FILE A GRIEVANCE/COMPLAINT

You also have the right to file a grievance/complaint over matters that do not involve discrimination. For example, you may file a grievance if you feel that you have been treated unfairly, denied access to any WIOA program or activity, or if you feel that there has been a violation of the WIOA, its regulations, or any applicable grant or training agreement.

HOW TO FILE A GRIEVANCE/COMPLAINT

If you wish to complain about your treatment during the registration, application, and certification process or as a WIOA program participant, you must file your written grievance/complaint within 180 days of the alleged occurrence. You should contact the following person for help in the use of the appropriate grievance/complaint procedures:

Name: _____ Title: _____

Service Provider/Operator: _____ Email: _____

Telephone Number: _____ TTY: _____

If your grievance/complaint is not resolved to your satisfaction, you can contact the Local EO Officer, as follows:

Name: _____ Title: _____

Address: _____ Email: _____

Telephone Number: _____ TTY: _____

If you don't receive a decision from the local EO officer within 60 days, you may file a written appeal to the State EO Coordinator within 15 days of the date the decision was due. If you are dissatisfied with the decision of the local EO Officer, you may file a written appeal to the State EO Coordinator within 15 days of receipt of the adverse decision. Use the Grievance/Complaint Form found at: <https://www.scworks.org/docs.asp>. Mail, email, or fax your complaint to:

Ms. Tudy Newsom, EO Coordinator
S.C. Department of Employment and Workforce
Post Office Box 908
Columbia, SC 29202
Email: tnewsom@dew.sc.gov
Fax: (803) 737-0124

The State EO Coordinator will issue a decision within 60 days after receiving your written appeal. If you do not receive a decision within 60 days after filing your appeal to the State EO Coordinator, you may appeal to the United States Department of Labor (USDOL). If you are dissatisfied with the decision of the State EO Coordinator, you may appeal to the USDOL within 60 days of receipt of the decision. You can contact the Department of Labor, as follows:

