



State of Idaho

DIVISION OF HUMAN RESOURCES

Executive Office of the Governor

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August 28, 2019

Mr. Lee Perselay
Chief
Office of External Enforcement
Civil Rights Center
Office of the Assistant Secretary for Administration and Management
U.S. Department of Labor
200 Constitution Ave. NW,
Washington, DC 20210

RE: Response to Final Determination on CRC Case No. 10-ID-001
Dunnia Aplicano v. Idaho Department of Labor

Dear Mr. Perselay:

As required by the Final Determination on CRC Case No. 10-ID-001, please find the following enclosures:

1. Replacement of Element Eight Complaint Processing Procedures to the Idaho Non-Discrimination Plan. Element Eight has been wholly replaced with the enclosed policy and sample Notice of Receipt and Acceptance, Notice of Final Action, and Mediation Election Form;
2. Amendment to the Idaho Department of Labor Personnel Manual 1300 Complaint Procedure. The edits are provided to you in redline/strikeout for your convenience;
3. Updated Idaho Department of Labor WIOA Information Pamphlet;

The enclosures are submitted with the intent to comply with the actions required by the state of Idaho on page 12 (last paragraph) and page 13 (first paragraph) of the Final Determination of the above entitled matter.

Please do not hesitate to contact me if you have any questions or need additional information.

Best regards,

A handwritten signature in blue ink that reads "Susan E. Buxton".

Susan E. Buxton
Idaho State EO Officer

Cc: Jani Revier, Director, Idaho Department of Labor
Douglas A. Werth, Deputy Attorney General (IDOL)

ENCLOSURE 1

PURPOSE

The State and its recipients are complying with the requirements of 29 CFR § 38.69 through 29 CFR § 38.85 regarding complaint processing procedures. The State has revised and published procedures for processing complaints alleging discrimination by any program or activities funded under the WIOA Title I. These procedures provide the complainant with the option to file in the automated complaint system, or on a paper form (provided in English and Spanish), or directly with the CRC Director, U.S. Department of Labor (DOL). OSPs are required to include complaint procedures which comply with the requirements of 29 CFR § 38.72.

NARRATIVE

Recipients that are required to do so (see 29 CFR § 38.73) have developed and published complaint procedures. (See 29 CFR § 38.72)

The State has issued a WIOA Nondiscrimination and EO policy which sets forth the complaint procedures for all OSPs and sub-recipients, and it includes the State's Equal Opportunity Nondiscrimination Complaint Form. All recipients must comply with these procedures, which meet the requirements of 29 CFR § 38.70-38.78. Complaints may be filed at the federal level, the state level or at the local level. The agency EO Officers document each complaint filed that alleges discrimination on the bases set forth in 29 CFR § 38.41(c) on an EO Discrimination Complaint Log which is forwarded to the State EO Officer for review.¹ The Discrimination Complaint Log contains the name and address of the complainant, the basis of the complaint, a description of the complaint, the date the complaint was filed, the disposition, the date of the disposition, and any other pertinent information relating to the complaint. Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential.²

The agency EO Officers inform the State EO Officer about complaint investigations and submit the Discrimination Complaint Logs on a quarterly basis. Upon request from the CRC, the State EO Officer will provide the Discrimination Complaint Logs.

¹ "Each recipient must maintain, and submit to CRC upon request, a log of complaints filed with the recipient that allege discrimination on the basis(es) of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIOA Title I-financially assisted program or activity." 29 CFR § 38.41(c).

² 29 CFR § 38.41(c)

At a minimum, a recipient's complaint processing procedures must provide for the issuance of a written Notice of Final Action within 90 days of the date on which the complaint is filed. (See 29 CFR § 38.72(a))

The Idaho WIOA Equal Opportunity and Discrimination Complaint Policy provides for written Notice of Final Action within 90 days of the date on which the complaint is filed.

Initial, written notice to the complainant that contains an acknowledgment that the recipient has received the complaint, notice that the complainant has the right to be represented in the complaint process, notice of the rights contained in 29 CFR § 38.35, and notice that complainant has the right to request and receive, at no cost, auxiliary aids and services, language assistance services, and that this notice will be translated into the non-English languages as required in 29 CFR §§ 38.4(h) and (i), 38.34, and 38.36. (See 29 CFR § 38.72(b)(1))³

The Idaho WIOA Equal Opportunity and Discrimination Complaint Policy provides for the issuance of a written Notice of Receipt and whether or not the complaint will be accepted. The Idaho WIOA Equal Opportunity and Discrimination Complaint Policy also provides that the complainant will be given notice of their right to be represented in the complaint process, notice of the rights contained in 29 CFR § 38.35, and notice that complainant has the right to request and receive, at no cost, auxiliary aids and services, language assistance services, and that this notice will be translated into the non-English languages as required in 29 CFR §§ 38.4(h) and (i), 38.34, and 38.36.

A written statement, provided to the complainant, that contains a list of the issues raised in the complaint and, for each issue, a statement whether the recipient will accept the issue, and the reasons for each rejection. (See 29 CFR § 37.72(b)(2))

The Idaho WIOA Equal Opportunity and Discrimination Complaint Policy ensures the complainant will receive a written statement, which lists the issues raised in the complaint, along

³ Part 38 requires that complaint processing procedures include, at a minimum:

“(iii) Notice of rights contained in § 38.35 [Equal opportunity notice/poster required text]; and

(iv) Notice that the complainant has the right to request and receive, at no cost, auxiliary aids and services, language assistance services, and that this notice will be translated into the non-English languages as required in §§ 38.4(h) and (i), 38.34, and 38.36.”

29 C.F.R. § 38.72(b)(1).

with a statement on each issue from the State EO Officer on whether it will accept the issue or the reasons for rejecting it.

A period of fact-finding or investigation of the circumstances underlying the complaint. (See 29 CFR § 37.72(b)(3))

The Idaho WIOA Equal Opportunity and Discrimination Complaint Policy provides that, upon receipt of a complaint or information alleging discrimination, the recipient EO Officer will initiate an investigation or fact-finding of the circumstances underlying the complaint.

The period during which the recipient attempts to resolve the complaints. The methods available to resolve the complaint must include alternative dispute resolution (ADR). (See 29 CFR § 37.72(b)(4) and (c))

The Idaho WIOA Equal Opportunity and Discrimination Complaint Policy provides that the recipient EO Officer will contact the complainant in writing after receipt of the complaint to determine the complainant's willingness to mediate using Alternative Dispute Resolution (ADR) procedures of recipient.

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, either a statement of the recipient's decision on the issue raised in the complaint and an explanation of the reasons underlying the decision, or a description of the way the parties resolved the issue. (See 29 CFR § 38.72(b)(5)(i))

The Idaho WIOA Equal Opportunity and Discrimination Complaint Policy assures that complainants receive written Notice of Final Action within 90 days of the date on which the complaint was filed. The notice contains, for each issue raised, either a statement of recipient's decision on the issue raised in the complaint and an explanation of the reasons underlying the decision, or a description of the way the parties resolved the issue.

Notice that the complainant has a right to file a complaint with CRC Director, USDOL, within 30 days of the date on which the Notice of Final Action is received⁴ if the complainant is dissatisfied with the recipient's final action on the complaint. (See 29 CFR § 38.72(b)(5)(ii))

The Idaho WIOA Equal Opportunity and Nondiscrimination Complaint Policy provides that the Notice of Final Action also contains information as to the complainant's right to file a complaint with the CRC within 30 days of the date on which the Notice of Final Action is received if the complainant is dissatisfied with recipient's final action on the complaint.

⁴ The pertinent CFR provisions require "[n]otice 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." 29 C.F.R. § 38.72(5)(ii) (emphasis added). Use of "issued" date is inconsistent with the regulation.

Provide that if, by the end of 90 days from the date on which the complainant filed the complaint, the recipient has failed to issue a Notice of Final Action, the complainant or the complainant's representative may file a complaint with the CRC within 30 days of the expiration of the 90-day period. In other words, the complaint must be filed with the CRC within 120 days of the date on which the complaint was filed with the recipient. (See 29 CFR 38.76)

29 C.F.R. § 38.76.

The Idaho WIOA Equal Opportunity and Discrimination Complaint Policy provides that if there is no final resolution of the complaint within 90 days of the date the complaint is filed, the complainant or the complainant's representative are notified that a complaint may be filed with the CRC within 30 days of the expiration of the 90 day period.

Recipients follow the established procedures.

Consistent with 29 CFR § 38.69 through 29 CFR § 38.72, the State will maintain compliance according to the Idaho WIOA Equal Opportunity and Discrimination Complaint Policy, which provides for prompt and equitable resolution of complaints and includes the following elements:

- **Initial Written Notice;**
IDAPA 09.01.60.012(8) – “The State EO Officer shall send written notice to the complainant stating that the complaint has been received.”
- **An Acknowledgment of Receipt;**
IDAPA 09.01.60.012(8) – “The State EO Officer shall send written notice to the complainant stating that the complaint has been received.”
- **Notice of Right to Representation;**
IDAPA 09.01.60.012(8)(b) – “The notice must advise that the complainant has the right to be represented by an attorney or another person of the complainant's choice.”
- **Issues raised in complaint;**
IDAPA 09.01.60.012(8)(a) – “The notice must list the issues raised in the complaint and state for each issue whether it has been accepted for investigation or rejected and the reason for its rejection.”
- **A period for Fact-Finding that includes ADR; and**
IDAPA 09.01.60.012(8)(b) – “The Notice must also give the complainant the right to choose between an ADR process or a hearing.”

- A Written Notice of Final Action.

IDAPA 09.01.60.012(11) – “The Department shall review the recommendation of the hearing officer and shall issue a Notice of Final Action within ninety (90) days from the date the discrimination complaint was filed.”

Each recipient is required to comply with the Equal Opportunity and Discrimination Complaint Policy process for resolving complaints in connection with WIOA Title I programs operated by recipients. Utilizing this complaint procedure, each WIOA Title I recipient shall provide for local level processing of complaints. Recipients will be monitored to ensure they are complying with this requirement.

Date

XXXXXXXXXX
XXXXXXXXXX
Boise, ID 83735

RE: Notice of Receipt and Acceptance of Discrimination Complaint

Dear XXXXXX:

Your written complaint of discrimination was received by the _____ ("Department") on _____ XX, 20XX, and deemed filed on that date. In your complaint, you raised the following issue:

- _____

We have determined that this issue is within our jurisdiction. Your complaint will be processed in accordance with our complaint processing procedure. You have the right to be represented, at your own expense, by an attorney of your choice during this process.

You also may choose to use our alternative dispute resolution (ADR) procedure rather than the complaint processing procedure. The ADR procedure involves mediation of the complaint at no expense to you. If you elect to use the mediation process, please notify Department in writing of your election, preferably within ten (10) calendar days of receipt of this notice. (Please note that under federal regulations, you may attempt mediation at any time before our Notice of Final Action.) Whether or not you elect mediation, we will issue you a Notice of Final Action within 90 days from the date on which we received your complaint.

I have included a copy of the Department Mediation Election form with this Notice. The form includes an explanation of the Department mediation process. In the event you elect to use the mediation process, all parties will be notified in writing as to the date, time, and location of the mediation session.

If you have questions, please contact me at (XXX) XXX-XXXX.

Sincerely,

Equal Opportunity Officer

Date

XXXXXXXXXX
XXXXXXXXXX
Boise, ID 83735

Dear XXXXXX:

We have completed a review of your complaint against the _____ ("Department") filed on _____. Your complaint alleges that the Department discriminated against you in the terms and conditions of your employment because of your _____ [protected category] by _____. Our review included an assessment of all the information/documentation submitted by you and by the Department.

Based on our review of the available evidence, we have determined that it cannot be established that the Department discriminated against you as alleged in your complaint. The available evidence indicates that _____.

This letter is our **Notice of Final Action** regarding your complaint.

If you are dissatisfied with our determination, you may file a complaint with the US Department of Labor, Civil Rights Center ("CRC"). You must file your complaint with CRC within 30 days of receipt of this notification. The address for the CRC is as follows:

Director, Civil Rights Center
U.S. Department of Labor
200 Constitution Ave. NW
Room N-4123
Washington, DC 20210

If you have any questions, please contact me at (XXX) XXX-XXXX.

Sincerely,

Equal Opportunity Officer

State of Idaho
Department of _____
MEDIATION ELECTION FORM

The _____ ("Department") offers mediation as an Alternate Dispute Resolution ("ADR") procedure for complaints of discrimination brought under Section 188 of the Workforce Innovation and Opportunity Act ("WIOA") and its implementing regulations.

Mediation is an informal process that is offered as an alternative to the traditional investigative or litigation process. Mediation is a voluntary, strictly confidential, non-adversarial dispute resolution process or conference that allows people who have a dispute to come together to talk and decide for themselves how to end their dispute. The sessions are not tape recorded or transcribed. Mediation gives the parties the opportunity to discuss the issues raised in the allegation(s), clear up misunderstandings, determine the underlying interests or concerns, find agreements and reach a resolution. The mediation process is designed to assist the parties in agreeing on a mutually acceptable resolution. The decision to mediate is voluntary for the complainant and if you elect to mediate, you may change your mind at any time about mediation. You have the right to be represented, at your own expense, by an attorney of your choice during the mediation process.

I have read the information on the role of the Department and its Complaint Resolution Process under WIOA, including the mediation process.

Based on the information provided to me, I voluntarily and freely make the following election with regard to mediation.

Yes, I elect to avail myself of the mediation option of complaint resolution. I agree to participate in the mediation efforts led by the Department EO office and to attempt to settle the issues in dispute between the respondent and me.

No, I elect not to use mediation as an alternative method of dispute resolution, and request that the formal complaint investigation process begin as soon as this form is received in the EO office.

This completed form must be returned to IDOL within 10 days of receipt.

Complainant Name (Please Print)

Signature of Complainant

Date

ENCLOSURE 2

(MENU C) ANTI-HARASSMENT

- [1300 COMPLAINT PROCEDURE](#)

- [1310 ACCESS TO REGULAR PROBLEM-SOLVING PROCEDURE](#)

- [1320 COMPLAINT PROCEDURE UNDER WIOA TITLE I - FINANCIALLY ASSISTED PROGRAM OR ACTIVITY](#)

1300 [EMPLOYEE](#) COMPLAINT PROCEDURE (12/2000)

Upon receipt of a complaint of discrimination, the Human Resource Officer or an individual designated by the Director will conduct a thorough and impartial investigation and submit a report to the Director within fifteen (15) working days. The Director shall notify the employee in writing of his/her decision within six (6) working days, excluding days the Director is away on business or leave. In reviewing the facts, the Director will consider all the circumstances, including the nature of the charges and the context in which they occurred. If warranted, the Director will take immediate and appropriate corrective action.

1. If it appears the allegation is unsupported by the evidence, no record will be made in either party's personnel file.
2. If it appears the allegation is supported by the evidence, disciplinary action up to and including dismissal, will be taken against the offending employee. In addition, appropriate relief will be provided to the complainant.

The Department will protect the confidentiality of discrimination allegations to the extent possible. Employees are encouraged to report discrimination concerns through the most confidential and direct means available. The investigation of reported allegations will be kept confidential to the extent possible, consistent with the Department's duty to conduct an effective investigation. Persons interviewed will be instructed not to discuss the matter with co-workers and persons not directly responsible for investigating the matter. The Human Resource Officer will maintain the investigative records in a secure place and manner. Only those persons who need to know the information will have access to confidential records.

The Department forbids retaliation of any kind against any employee who complains about alleged discrimination or who assists in any inquiry about such a complaint. The Department will take disciplinary action, up to and including dismissal, against anyone who attempts to retaliate.

Employees also have the right to file a complaint directly with the Idaho Human Rights Commission ([IHRC](#)) and/or the Equal Employment Opportunity Commission ([EEOC](#)). A complaint must be filed with the Idaho Human Rights Commission within one (1) year of the incident (or the last incident in a pattern of discrimination). A complaint must be filed with the Equal Employment Opportunity Commission within three hundred (300) days of the incident (or the last incident in a pattern of discrimination). Employees who believe they have been subjected to discrimination under a WIOA Title I-financially assisted program or activity also may file a complaint within one hundred eighty (180 days) from the date of the alleged violation with either the State Department's Equal Opportunity Officer, pursuant to the Department's WIOA complaint procedure, or with the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW., Room N-4123, Washington, DC 20210 or electronically as directed on the CRC Web site at www.dol.gov/crc. Once a complaint of discrimination is received, the Department will inform the employee of their right to file a complaint directly with the IHRC, EEOC, and CRC.

1310 ACCESS TO REGULAR PROBLEM-SOLVING PROCEDURE (12/2001)

All employees who have filed a written complaint also have the right to use the Department's regular problem-solving procedure in matters involving charges of discriminatory harassment or other discrimination as an alternative to the above complaint procedure, which is an optional procedure for employees who wish to report allegations of discriminatory harassment or other discrimination directly to the Human Resource Officer in Personnel. ~~Discriminatory harassment or other discrimination because of race, national origin, color, sex, age, religion, or disability are issues covered under the problem-solving procedure.~~ To initiate the regular problem-solving procedure, an employee must first make a reasonable attempt to meet with and resolve the matter with the employee's immediate supervisor or, if that individual is the subject of the complaint, with the next highest supervisor. If the matter is not resolved, the employee must may file a Problem-Solving Request Form with the immediate supervisor within ten (10) working days of the alleged discrimination (or the last incident in a pattern of discrimination).

1320 COMPLAINT PROCEDURE UNDER WIOA TITLE I-FINANCIALLY ASSISTED PROGRAM OR ACTIVITY (12/2001)

Individuals who believe they have been subjected to discrimination under a WIOA Title I-financially assisted program or activity may file a complaint within 180 days from the date of the alleged violation with either the State Department's Equal Opportunity Officer, pursuant to the Department's WIOA complaint procedure, or with the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW., Room N-4123, Washington, DC 20210 or electronically as directed on the CRC Web site at www.dol.gov/crc ~~Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210.~~

ENCLOSURE 3

**Workforce Innovation and Opportunity Act 2017
(WIOA)**

INFORMATION PAMPHLET

Applicants Signature of Receipt of WIOA 10

X _____

Date _____

I. Introduction to WIOA

WIOA stands for the Workforce Innovation and Opportunity Act of 2014. Title I of WIOA establishes program activities to prepare adults, dislocated workers and disconnected youth with the skills and knowledge for successful entry or reentry into the labor force. The goal of WIOA is to increase the employment, retention, and earnings of participants and increase occupational skill attainment by participants.

II. Program activities

Career services are classified into three categories

- Basic career services must be made available through the American Job Center network to all job seekers and include services such as labor exchange services, labor market information, job listings, and information on partner programs.
- Individualized career services are those that involve intensive staff assistance and are provided as appropriate for an individual to obtain or retain employment. These services include career guidance counseling, intensive assessment, development of the Individual Service Strategy (ISS), and short-term pre-vocational services to develop soft skills and job seeking skills.
- Follow-up services must be made available for a minimum of 12 months following the first day of employment to participants who are placed in unsubsidized employment. Services include tracking progress on the job, referral to community resources, and assistance with job/work related problems. Follow up services for Adult and Dislocated Workers does NOT include financial supportive services
- Follow-up services must be provided to all youth participants for a minimum of 12 months unless the participant declines to receive follow-up services or the participant cannot be located or contacted. Following a youth's exit from the program, these critical services help ensure the youth is successful in employment and/or postsecondary education and training. The types of services provided and the duration of services must be determined based on the needs of the individual and therefore, the type and intensity of follow-up services may differ for each participant. Follow-up services must include more than only a contact attempted or made for securing documentation in order to report a performance outcome.

Training services – Customers, who after assessment and career planning, have been prioritized by the program partner to 1) be unlikely or unable to obtain or retain employment that leads to economic self-sufficiency through career services alone; 2) in need of training services to obtain or retain employment that leads to economic self-sufficiency; and 3) have the skills and qualifications to successfully participate in the selected program of training services, are linked to job opportunities in their communities, including occupational skills training. Participants may use an "individual training account" to select an appropriate training program from a qualified training provider.

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Training Services include:

- Occupational skills training, including training for nontraditional employment
- Work-based learning opportunities such as On-the-job training (OJT), including registered apprenticeship
- Skill upgrading and retraining
- Entrepreneurial training
- Job readiness training provided in combination with other training described above
- Adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, in combination with training described above

Supportive services - If needed for an individual to participate in WIOA activities, assistance with supportive services such as transportation, childcare, dependent care, or housing needs may be available under certain circumstances.

III. Adult and Dislocated Worker services

The WIOA Adult and Dislocated Worker Program is designed to provide quality employment and training services to assist eligible individuals in finding and qualifying for meaningful employment, and to help employers find the skilled workers they need to compete and succeed in business.

Eligibility for Adult Program

- All adults, 18 years and older, are eligible for basic services.
- Priority for individualized and training services must be given to recipients of public assistance and other low-income/basic skills deficient individuals.

Eligibility for Dislocated Worker Program is an individual who:

- Has been terminated or laid off, or has received a notice of termination or layoff from employment;
- Is eligible for or has exhausted unemployment insurance;
- Has demonstrated an appropriate attachment to the workforce, but not eligible for unemployment insurance and unlikely to return to a previous industry or occupation;
- Has been terminated or laid off or received notification of termination or layoff from employment as a result of a permanent closure or substantial layoff;
- Is employed at a facility, where the employer has made the general announcement that the facility will close within a 180 days;
- Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community or because of a natural disaster; or
- A displaced homemaker who is no longer supported by another family member

IV. Youth services

The WIOA Youth program delivers a comprehensive array of services for out-of-school youth with one or more barriers to employment. These services help disconnected youth prepare for post-secondary education and employment opportunities, attain educational and/or skills training credentials, and secure employment with career/promotional opportunities.

V. Veteran priority

A veteran or the qualifying spouse of a veteran is entitled to, and will be given priority over, a non-veteran when the veteran/qualifying spouse meets WIOA eligibility and priority requirements.

For purposes of WIOA eligibility, a **veteran** is defined as a person who:

- Served on active duty for more than 180 days and was discharged with other than a dishonorable discharge, or
- Was discharged from active duty because of a service connected disability, or
- As a reservist, was called to active duty and served during a period of war or qualifying campaign and was discharged with other than a dishonorable discharge.

A **qualifying spouse** is the spouse of any of the following:

- Any veteran who died of a service connected disability, or
- Any member of the Armed Forces who is listed in one of the following categories for at least 90 days: missing in action; captured in the line of duty; forcibly detained by a foreign government, or
- Any veteran who has a total disability resulting from a service connected disability.

VI. Rights and benefits of participants

The WIOA work-based training participant is not required or permitted to work in buildings, surroundings or under working conditions that are unsanitary, hazardous, or dangerous to health or safety. If the participant works at a work site that is inherently dangerous (e.g., fire or police jobs), work will be assigned in accordance with reasonable safety procedures, including adherence to child labor requirements under FLSA.

All WIOA participants are covered by Worker's Compensation Insurance or comparable injury and accident insurance. In case of injury on the job or while in training, the participant should contact the work or training site supervisor for the procedure for filing a claim.

Participants cannot be required to contribute to any organization, including the work site, nor may any representation be made that obtaining or keeping the job is dependent on such a contribution. Prospective participants should not feel compelled or obligated to make such contributions. If asked, they should report such requests immediately to the WIOA Service Provider.

VII. Nondiscrimination and Equal Opportunity

~~WIOA (29 CFR Part 38) prohibits discrimination.~~ **Equal Opportunity Is the Law**

~~It is against individuals in any WIOA Title I financially assisted program or activity, which includes job training the law for adults, dislocated workers and youth, and programs or activities provided by recipients at American Job Centers (one-stop centers). These programs or activities may not refuse to offer or provide services to individuals because of their~~ **this recipient of Federal financial assistance to discriminate on the**

~~following bases: Against any individual in the United States, on the basis of race, color, religion, sex (includesincluding pregnancy, childbirth, and related medical conditions; and, sex stereotyping, transgender status, and gender identity, and sex stereotyping), national origin (includesincluding limited English proficiency), age, disability, or political affiliation or belief. Beneficiaries, applicants, and participants— as defined by the Final Rule— cannot be denied services because of their, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status, and cannot be denied their rights because of or participation in any WIOA Title I— financially assisted program or activity. The rule applies to any recipients of WIOA Title I financial assistance and to programs and activities that are operated by American Job Center Network partners, such as Unemployment Insurance, Temporary Assistance for Needy Families, adult education, Trade Adjustment Assistance, and others.~~

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 of federal financial assistance must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

What To Do If You Believe You Have Experienced Discrimination

~~If you think that you have been subjected to discrimination byunder a WIOA service provider or American Job CenterTitle I-financially assisted program or activity, you may file a complaint according to the Discrimination Complaint Procedures contained at the end of this document.~~

~~Auxiliary aids and services are available upon request to individuals with disabilities. WIOA recipients, including service providers, are responsible for providing reasonable accommodations to the known physical or mental limitations of qualified applicants, eligible applicant/registrants, participants, and employees. WIOA funds may be used to meet a recipient's obligation to provide physical and programmatic accessibility and reasonable accommodation with regard to WIOA programs, as required by Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities (ADA) Act of 1990, and as amended in 2008.~~

~~VIII. Sexual harassment policy~~

~~It is the policy of the Idaho Department of Labor to prohibit the sexual harassment of any WIOA employee, participant, eligible applicant/recipient or applicant, as noted in 29 CFR 38.10. Additionally, a person who is qualified for but denied an employment or training benefit because of another's submission to sexual harassment is protected by this policy.~~

Unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in a training program; or
2. Submission to or rejection of such conduct by an individual is used as the basis for a decision affecting that individual's status as an employee or as a participant in a training program; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's performance as an employee or as a participant in a training program, or creating an intimidating, hostile, or offensive work or training environment.

Any participant who feels he/she has been the victim of sexual harassment should bring the matter to the attention of his/her immediate supervisor or WIOA career planner and may file a complaint according to the Discrimination Complaint Procedures contained at the end of this document. A complaint form may be obtained from your service provider or WIOA career planner.

IX. — Complaints

Complaints may occur for a number of reasons and can arise from anyone being served by the workforce investment system. Complaints generally fall into three categories:

- Program complaints involving the proper application of WIOA regulations and policies
- Discrimination
- Fraud, abuse, or other criminal activity

Details regarding processes for each of the three complaint categories are provided in sections below. All complaints, no matter what type, should utilize the complaint system found at <http://labor.idaho.gov/dnn/idl/JobSeekers/Complaints.aspx>

A. Program complaints

Program complaints are nondiscriminatory, non-criminal complaints involving the proper application of the Workforce Innovation and Opportunity Act regulations and policies at both the local service provider and state level.

Who may file: WIOA recipients which includes any entity to which financial assistance under WIOA Title I is extended, applicants, state-level agencies financed with WIOA Title I funds, state and local WIOA Boards, WIOA grant recipients, One-Stop Operators, Eligible Training Providers, On the Job Training Employers, program participants, One-Stop Partners, service providers, and other interested parties.

Time and place for filing: The complainant, representative, or service provider complaint specialist must file program complaints in writing within 180 days from the date of the event or condition that is alleged

~~to be in violation. Each WIOA service provider must have a complaint specialist available to provide assistance:alleged violation with either:~~

~~A complaint may be amended to correct technical deficiencies prior to a scheduled hearing or withdrawn by the complainant at any time prior to the issuance of the hearing officer's decision. Complaints may not be revised to add new issues. If the complainant identifies additional issues, complainants should either withdraw the previously submitted complaint and file a new complaint with the added issues or file an additional complaint.~~

~~Step 1 – Submitting the Complaint~~

~~Complaints will be taken from the complainant, representative, or service provider complaint specialist using the form found on the Idaho Department of Labor website. The online form can be accessed by the complainant and/or staff at:~~

~~<http://labor.idaho.gov/dnn/idl/JobSeekers/Complaints.aspx>~~

~~The automated system allows complainants to enter information independently and ensures the required fields have been entered before submission. The system logs the complaint and generates a reference number for the complainant to keep for their records. The date logged upon submission is the official filing date of the complaint.~~

~~If the complainant is unable to complete the online complaint without assistance, the service provider complaint specialist may provide technical assistance to the complainant. This includes, instructions on how to file a complaint, relevant copies of documents, and clarifications and interpretations of relevant provisions. When submitting, indicate assistance has been provided in the appropriate area of the complaint form. If the complainant does not have an email address, include a note indicating the best way for the administrative entity to communicate with the complainant.~~

~~The recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose); or~~

~~The~~

~~If a complaint is received via email or on a paper form, the internet form should be completed by the designated complaint specialist using information submitted and indicate the form was based on information submitted by the complainant. The received document should be attached to the internet form at submission.~~

~~Step 2 – Assignment of Complaints~~

~~All complaints received through the internet complaints system are screened by the Idaho Department of Labor Triage Specialist and assigned to the appropriate organization for resolution.~~

~~Step 3 – Initial Review~~

Upon receipt of a WIOA program complaint, the complaint is assigned for resolution to the Administrative Services Division. A complaint file is established and should contain:

- All application and enrollment forms
- The written complaint statement and form
- Chronological log of events
- Relevant correspondence from the complainant, career planner, and employer (or training provider?)
- Record of any resolution attempted. This review is an attempt to gather information about the complaint and determine if informal resolution may be possible.

Step 4—Informal Resolution

An attempt is made to informally resolve the complaint to the satisfaction of all parties. Informal resolution must be completed within **10 calendar** days from the date the complaint was filed. If all parties are satisfied, the complaint is considered resolved and a letter outlining the terms and conditions of the resolution is attached to the complaint and sent to the complainant and service provider. The file is marked completed in the complaint system and reviewed by the Equal Opportunity Officer (EOO) for accuracy before closing.

Step 5: Formal Resolution

When no informal resolution is possible, information is documented in the complaint system and returned to the Administrative Services Division for further investigation. A determination letter will be issued within **20 days** from the date the complaint was filed and sent to the complainant and service provider. If the determination is not contested, the complaint will be considered resolved. The file is marked completed in the complaint system and reviewed by the EOO for accuracy before closing.

Step 6: Request for Hearing

Any party dissatisfied with the determination may appeal in writing within **10 days** of the date of the determination. The request for a hearing must be filed with:

Idaho Department of Labor
Attn: Appeals Bureau
317 W. Main St
Boise, ID 83735

Step 7—Hearing

The hearing officer will schedule a formal hearing by a written notice mailed to all interested parties at least **7 days** prior to the hearing. The notice will include the date, time and location for the hearing, which must be conducted within **45 calendar** days from the date the complaint was filed. Parties may present witnesses and documentary evidence and question others who present evidence and witnesses. Parties may be represented by an attorney or another designated representative (at their own expense) and may request that records and documents be produced. All testimony will be taken under oath or affirmation. The hearing will be recorded. The hearing officer's recommended resolution will include a summary of factual evidence given during the hearing and the conclusions upon which the recommendation is based.

Step 8 – Final Decision

The Idaho Department of Labor Director will review the recommended resolution of the hearing officer and will issue a final decision within **60 calendar days** from the date the complaint was filed.

The decision shall contain the following information:

- The names of the parties involved;
- A statement of the alleged violation(s) and issues related to the alleged violation;
- A statement of the facts;
- The hearing officer's recommended resolution and the reasons for the resolution;
- A statement of corrective action or remedies for violations, if any, to be taken; and
- Notice of the right of either party to file a Federal appeal.

Step 9 – Federal Appeal

WIOA allows for a formal appeal to the Civil Rights Center (CRC), U.S. Department of Labor (USDOL) if the state has not issued a decision within **60 days** after a complaint is filed or the party to such decision received an adverse decision. Federal appeals must be made within **60 calendar days** of the receipt of the decision being appealed. USDOL will make a final decision no later than **120 days** after receiving a formal appeal. USDOL will only investigate complaints arising through the established procedures. Appeals submitted to USDOL must be submitted by certified mail, return receipt requested to:

Secretary U.S. Department of Labor

Attention: _____ ASET
200 Constitution Avenue NW., Room N-4123, Washington, DC 20210 or electronically as directed on the CRC Web site at www.dol.gov/crc.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).

If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you may file a complaint with CRC before receiving that Notice. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).

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B. Discrimination complaints

Who may file: Any person who believes that either he or she, or any specific class of individuals, has been or is being subjected to discrimination prohibited by the Workforce Innovation and Opportunity Act (WIOA) or its implementing regulations may file a written complaint, either by him/herself, through a representative or service provider complaint specialist.

Discrimination prohibited by WIOA includes discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for discrimination on the basis of either citizenship or status as a lawfully admitted immigrant authorized to work in the United States or

~~participation in any WIOA Title I financially assisted program or activity; Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin; Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities; the Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.~~

~~C. Criminal Fraud, Waste or Abuse Complaints~~

~~Complaints involving allegations of fraud, abuse, or other criminal activity must be reported through the department's on-line system. As referenced above in Step 1 (Submitting the Complaint). Or contact the office of the Inspector General directly at <https://oig.state.gov/>~~

the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.