

WIA EQUAL OPPORTUNITY & DISCRIMINATION COMPLAINT POLICY**WHO MAY FILE**

Any person, either by him/herself or through a representative, who believes that either he/she, or any specific class of individuals has been or is being subjected to discrimination prohibited by the nondiscrimination and equal opportunity provisions of the Workforce Investment Act (WIA), may file a written complaint. The discrimination may be on the basis of: color, religion, sex, national origin, age, disability, political affiliation or belief and against beneficiaries on the basis of citizenship/immigrant status to work in the United States, or participation in programs funded under WIA, or in connection with any WIA funded program or activity. Complaints may also be filed on the basis of alleged intimidation and retaliation in accordance with 29 CFR Part 37.11.

WHERE TO FILE

The State of Arizona uses a three-level system that allows a complainant to file a complaint at either the **local level** with the Local Workforce Investment Area (LWIA) Equal Opportunity (EO) Officer; at the **state level** with the State WIA EO Officer; or at **federal level** with the Director of Civil Rights Center (CRC).

1. LOCAL AREA COMPLAINTS

The complainant may file a complaint with the LWIA EO Officer. Contact information for the Local Area EO Officer will be made readily available at all Local Area offices, as well as through the Local Area sub-recipients and service providers.

2. STATE LEVEL COMPLAINTS

The complainant may file at the state level with the State WIA EO Officer:

State WIA EO Officer
Employment Administration/WIA Section
Arizona Department of Economic Security
1789 West Jefferson- Site Code 920Z
Phoenix, AZ 85007
(602) 542-2487 fax (602) 542-2491
TTY/TDD Services: 7-1-1
StateWIAEOOfficer@azdes.gov

3. FEDERAL LEVEL COMPLAINTS

If the complainant elects to file at the federal level, the complaint will be referred to:

Director, Civil Rights Center (CRC),
U.S. Department of Labor
200 Constitution Avenue NW, Room N-4123
Washington, DC 20210
Voice (202) 693-6502
TTY (202) 693-6515
CivilRightsCenter@dol.gov

Should the complainant choose to file directly with the CRC Director, the LWIA EO Officer will assist the complainant (if requested) in completing the Complaint Information Form. For those individuals not requesting assistance, but needing forms, addresses, etc., LWIA EO Officer will provide the necessary U.S. Department of Labor Discrimination Information Form. Forms may be found at the following website:

English: <http://www.dol.gov/oasam/programs/crc/Cife.pdf>
Spanish: <http://www.dol.gov/oasam/programs/crc/Cifs.pdf>

See page 4 for EOE/ADA/LEP/GINA disclosures

WHEN TO FILE

Generally, a complaint must be filed within 180 days of the alleged discrimination. However, for good cause shown, the CRC Director may extend the filing time. The time period for filing is for the administrative convenience of CRC, and does not create a defense for the respondent.

COMPUTATION OF TIME

In computing any time period as prescribed by these rules, the first day will be excluded and the last included to complete the period. In addition, the time periods are counted in calendar days, not work days.

DISCRIMINATION COMPLAINT CONTENTS

Each complaint must be filed in writing, and must contain the following information:

1. Complainant's name and address (or another means of contacting the complainant);
2. Identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination);
3. Description of the complainant's allegations. This description must include enough detail to allow the EO Officer or Director of CRC to decide whether:
 - (a) WIA jurisdiction over the complaint exists;
 - (b) The complaint was filed in time; and
 - (c) The complaint has apparent merit; in other words, whether the complainant's allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIA or 29 CFR Part 37; and
4. The complaint has been signed by either the complainant or the complainant's authorized representative.

The complaint may be filed on any form, including the State of Arizona WIA Discrimination Complaint Form (Attachment B), but the contents of the complaint must still contain the requirements listed in this section.

RIGHT OF REPRESENTATION

Both the complainant and the respondent have the right to be represented by an attorney or other individual of their choice. Each person will bear their own costs of representation.

DISCRIMINATION COMPLAINT PROCESSING PROCEDURES

All complaints will be date stamped upon receipt and forwarded to the appropriate EO Officer for processing.

1. The EO Officer will provide a written acknowledgment of receipt of the complaint to the complainant within 5 days with notice that the complainant has the right to be represented in the complaint process.
2. Upon receipt of a complaint or information alleging discrimination, the EO Officer will:
 - i) Review the complaint for accuracy and completeness;
 - ii) Initiate an investigation or fact-finding of the circumstances underlying the complaint that shall last at least 14 calendar days;
 - iii) Provide written notice to all parties of the specific issues raised in the complaint;
 - iv) Provide a statement for each issue, either accepting the issue for investigation or rejecting the issue, and the reasons for each rejection;
 - v) Inform all parties of their right to representation by an attorney or other individual of their choice;
 - vi) Inform all parties of their right to present evidence;
 - vii) Inform all parties of their right to rebut evidence presented by others;
 - viii) Provide for a decision made strictly on the documented evidence.
3. The EO Officer will contact the complainant in writing no later than 14 calendar days of receipt of the complaint to determine the complainant's willingness to mediate using the following alternative dispute resolution (ADR) procedures:
 - a) The choice whether to use the ADR or the customary process rests with the complainant;
 - b) A party to any agreement reached under ADR may file a complaint with the CRC Director in the event the agreement is breached. In such circumstances, the following rules will apply:
 - i) The non-breaching party may file a complaint with the CRC Director within 30 days of the date on which the nonbreaching party learns of the alleged breach;

ARIZONA DEPARTMENT OF ECONOMIC SECURITY
Employment Administration • Workforce Investment Act (WIA)

- ii) The CRC Director will evaluate the circumstances to determine whether the agreement has been breached. If he/she determines that the agreement has been breached, the complainant may file a complaint with CRC Director based upon his/her original allegation(s), and the CRC Director may waive the time deadline for filing such a complaint.
 - c) If the parties do not reach an agreement under ADR, the complainant may file a complaint with the CRC Director as described in Section CFR Section 37.71 through 37.74.
4. The EO Officer will 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 information:
- i) For each issue raised in the complaint, a statement of either:
 - A) The decision on the issue and an explanation of the reasons underlying the decision, or
 - B) A description of the way the parties resolved the issue; and
 - ii) Notice that the complainant has a right to file a complaint with CRC Director within 30 days of the date on which the Notice of Final Action is issued if he/she is dissatisfied with the recipient's final action on the complaint.

ALTERNATIVE DISPUTE RESOLUTION (ADR)/MEDIATION PROCESS

During the 90 calendar day period, complainants may elect to participate in mediation. If the complainant selects mediation, it allows disputes to be resolved in a less adversarial manner.

The EO Officer will coordinate with a preapproved mediator. The individual conducting the mediation must be a neutral and impartial third party who will act as a facilitator. The mediator must be a person who is acceptable to all parties including the EO Officer and who will assist the parties in resolving their disputes.

1. If the complainant chooses to participate in mediation, he/she or the authorized representative must respond to the EO Officer in writing within 10 calendar days of the date of the request. This written acceptance must be dated and signed by the complainant or authorized representative and must also include the relief sought.
2. A written confirmation identifying the date, time and location of the initial mediation conference will be sent to all appropriate parties.
3. A consent form will be signed by all parties at the initial mediation conference affirming that the contents of the mediation will be kept confidential.
4. If resolution is reached under ADR/mediation, the agreement will be in writing. A copy of the signed agreement will be sent to the EO Officer.
5. If an agreement is reached under ADR/mediation but a party to the agreement believes his/her agreement has been breached, the non-breaching party may file a complaint with the CRC Director.
6. If the parties do not reach resolution under ADR/mediation, the complainant will be advised of his/her right to file a complaint with the CRC/U.S.DOL; however, the EO Officer will continue with the investigation. The mediation process should be completed within 45 calendar days of receipt of the complaint. This will assist in keeping within the 90 calendar day timeframe of the written Notice of Final Action if the mediation is not successful.

IF NO WIA JURISDICTION OVER A COMPLAINT EXISTS

Based on information provided by the complainant, the EO Officer may declare that there is no jurisdiction over the complaint for one of more of the following reasons:

1. The basis for the complaint is not covered by the prohibitions of 29 CFR Part 37.
2. The complaint is against an agency, employer, organization, program, or individual within an entity that is not a recipient of WIA Title 1 financial assistance as defined in 29 CFR Part 37.4. The EO Officer will provide contact information of the appropriate agency or agencies which may have jurisdiction over the complaint, if known.

A Notice of Lack of Jurisdiction (with one or more of the above reasons) will be provided in writing immediately upon the EO Officer discovering the lack of jurisdiction. This written notice shall also inform the complainant that he/she has the right to file a complaint with CRC within 30 days from the date of receiving the notice.

IF THE EO OFFICER ISSUES A NOTICE OF FINAL ACTION WITH WHICH THE COMPLAINANT IS DISSATISFIED

If, during the 90 day period, the EO Officer issues its Notice of Final Action, but the complainant is dissatisfied with the decision on the complaint, the complainant or his/her representative may file a complaint with the CRC Director within 30 days after the date on which the complainant receives the Notice of Final Action.

IF THE EO OFFICER FAILS TO ISSUE A NOTICE OF FINAL ACTION WITHIN 90 DAYS OF WHEN COMPLAINT WAS FILED

If, by the end of 90 days from the date on which the complaint was filed, the EO Officer has failed to issue a Notice of Final Action, the complainant or his/her 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 CRC Director within 120 days of the date on which the complaint was filed with the EO Officer.

CONFIDENTIALITY

The EO Officer is required to keep the following information confidential to the maximum extent possible, consistent with applicable law and fair determination of the complaint:

1. The fact that the complaint has been filed;
2. The identity of the complainant(s);
3. The identity of individual respondents to the allegations; and
4. The identity of any person(s) who furnished information relating to, or assisting in, a complaint investigation or a compliance review will only be released to the extent necessary to investigate and fairly determine the issues raised in the complaint or as otherwise required by law.

CONFIDENTIALITY OF COMPLAINT

All parties against whom the complaint is filed, will receive a copy of the complaint during the course of the investigation or alternative dispute resolution in order to allow the individual or entity the opportunity to respond to the allegation(s). The name of the complainant will only be released to the extent necessary to investigate and fairly determine the issues raised in the complaint.

INTIMIDATION AND RETALIATION PROHIBITED

It is prohibited to discharge, intimidate, retaliate, threaten, coerce or discriminate against any person because such person has:

- filed a complaint alleging a violation of WIA or the regulations;
- opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of WIA or the regulations;
- furnished information to, assisted or participated in any manner in, an investigation, review, hearing or any other activity related to administration of, or exercise of authority under, or privilege secured by, the nondiscrimination and equal opportunity provisions of WIA or the regulations; or
- exercised authority under or privileges secured by the nondiscrimination and equal opportunity provisions of WIA or the regulations.

The sanctions and penalties contained in Section 188(b) of WIA or the regulations will be imposed against any LWIA that engages in any such retaliation or intimidation, or fails to take appropriate steps to prevent such activity.

Equal Opportunity Employer/Program • Under Titles VI and VII of the Civil Rights Act of 1964 (Title VI & VII), and the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Title II of the Genetic Information Nondiscrimination Act (GINA) of 2008; the Department prohibits discrimination in admissions, programs, services, activities or employment based on race, color, religion, sex, national origin, age, disability, genetics and retaliation. The Department must make a reasonable accommodation to allow a person with a disability to take part in a program, service or activity. Auxiliary aids and services are available upon request to individuals with disabilities. For example, this means if necessary, the Department must provide sign language interpreters for people who are deaf, a wheelchair accessible location, or enlarged print materials. It also means that the Department will take any other reasonable action that allows you to take part in and understand a program or activity, including making reasonable changes to an activity. If you believe that you will not be able to understand or take part in a program or activity because of your disability, please let us know of your disability needs in advance if at all possible. To request this document in alternative format or for further information about this policy, contact your local office manager; TTY/TDD Services: 7-1-1. • Free language assistance for DES services is available upon request. Disponible en español en línea o en la oficina local.