



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Labor and Training

Center General Complex
1511 Pontiac Avenue
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Donald L. Carcieri
Governor
Adelita S. Orefice
Director

WORKFORCE INVESTMENT NOTICE: 05-12
Workforce Investment Act

FROM: John J. O'Hare, Administrator- Workforce Investment Office

SUBJECT: Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998

DATE: April 26, 2006

PURPOSE

This policy replaces WIN Notice 99-26 only where reference is made to nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998. WIN Notice 99-26 policy regarding the requirement that each administrative entity must have policy to resolve alleged grievances against WIA activities and/or programs by participants and subrecipients/vendors remains in force. In addition, the applicant filing procedures for WIA activities and program complaints spelled out in WIN Notice 99-26 are still applicable.

Consistent with Section 188 of the Workforce Investment Act (WIA) of 1998, each administrative entity is required to establish internal grievance procedures regarding its programs or activities for all participants.

In order to enhance this requirement, the State Workforce Investment Office (SWIO) has developed a complaint procedure which will allow for uniformity throughout all Local Workforce Investment Area's (LWIA) and other WIA-funded agencies. This policy is broken down into two components: one for alleged discrimination complaints (WIN Notice 05-12) and the second for alleged grievances against WIA activities or programs (WIN Notice 99-26).

So that we could have one statewide nondiscrimination and grievance procedure, the SWIO is requesting that the LWIA's and the other WIA-funded agencies adopt this policy and/or ensure that their existing policy conform in all respects to state policy issuances.

Below you will find the discrimination complaint policy and procedures.

Any questions concerning this issue should be directed to me at (401) 462-8782.

Equal Opportunity Employer/Program

Auxiliary aids and services are available upon request
to individuals with disabilities

Recipient Complaint Processing Procedures (29 CFR §37.54(D) (1) (V))

The RI Department of Labor and Training, as a condition of receiving funds under the Workforce Investment Act Title I and III Subpart A (Wagner Peyser) funds certifies that it will comply with the nondiscrimination and equal opportunity requirements and procedures as it applies to the complaint processing procedures. (29 CFR 37.76 – 37.79)

Camille Vollaro, EO Officer will process discrimination complaints for the Department of Labor and Training, and all recipients of WIA funding.

The procedures include an initial, **written notice to the complainant** that contains the following information. The notice will be mailed to complainant within 10 business days.

- Acknowledgement that the Recipient has received the complaint.
- Notice that the complainant has the right to be represented in the complaint process
- A written statement of the issues, including a statement for each issue stating whether the Recipient will accept the issue for investigation or reject the issue and the reason for each rejection.
- A notice of final action will be issued to the complainant no longer than 90 days from the date of the complaint.
- A 30 day period for fact finding or investigation of the circumstances underlying the complaint.
- A 20 day period during which the Recipient attempts to resolve the complaint including the alternate dispute resolution which is described in the Complaint Procedures.
- At the time a complainant indicates to any member of the Recipient staff that they are dissatisfied on the basis of discrimination with an action of the Recipient, they will be informed by the staff member to whom they are speaking of their right to file a complaint with DLT or CRC (Civil Rights Center) or the right to use the ADR process (to follow).
- A written Notice of Final Action will be provided to the claimant within 90 days of the date on which the complaint was filed. The notice will include the Recipient's decision on the issue and an explanation of the reasons underlying the decision or a description of the way the parties resolved the issue; and notice that the complainant has the right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is issued if they are dissatisfied with the Recipient's final action on the complaint.

ADR Procedures (Alternative Dispute Resolution)

As an alternative to filing a discrimination complaint a individual may request an alternative dispute resolution/mediation (ADR).

The State EO Officer shall inform complainants of the opportunity to participate in the state level ADR process. If the complainant chooses to participate, the complainant shall notify the State WIA Equal Opportunity Officer within five (5) days of receipt of the statement of issues. The State WIA Equal Opportunity Officer shall coordinate the scheduling of mediation at a location convenient to both the complainant and the respondent. Within thirty (30) days of the date the complainant chooses to participate in ADR, the mediator shall provide a copy of the final agreement or notice of failure to reach an agreement to the State WIA Equal Opportunity Officer.

Process if parties fail to reach an agreement under ADR

If the parties are unable to reach an agreement under ADR, the State will resume its investigation of the complaint or the Complainant may file a complaint with CRC. In this instance, the State EO Officer shall issue a Notice of Final Action within fifty (50) days of the date the complaint is filed at the state level after utilizing the ADR process but no later than ninety (90) days after receipt of the original complaint. For each issue raised, the Notice of Final Action shall include the Department of Labor and Training's decision on the issue and the reasons for the decision or a description of the way the parties resolved the issue. The Notice of Final Action must also include a statement that the Complainant has the right to file a complaint with CRC within thirty (30) days of the date on which the notice of Final Action is issued if dissatisfied with the Department of Labor and Training's final action on the complaint.

Breach of ADR Agreement

If an agreement is reached under ADR but is breached, the party to an agreement reached under the ADR procedure may file a complaint with CRC following the process outlined in 29 CFR 37.76 (c)(2).

Workforce Investment Act Title IIB funding recipients, including the Local Workforce Investment Areas' Administrative entity and WIA Service Providers, and employers, including private-for-profit employers of Workforce Investment Act participants are required to have complaint procedures in place. In order to meet the complaint processing requirements in the Workforce Investment Act Equal Opportunity and Nondiscrimination Regulations at 29 CFR Part 37.77 recipients of Workforce Investment Act funds including Local Workforce Investment Areas service providers must adopt this complaint procedure alleging violations of any prohibited factor under the equal opportunity and nondiscrimination provisions of the Workforce Investment Act. Adoption of these elements should be noted in personnel handbooks.

REFERENCES

Regulations at 29 CFR 37.76 (c)(2), WIA Section 188 and WIN Notice 99-26.

ACTION

The RI WIA System including Local Workforce Investment Boards must adopt and implement this policy within 30 days. A copy of the local policy must be forwarded to SWIO and the RIDLT EEO Officer identified on Attachment I (Equal Opportunity is the Law in English and Spanish).

Attachment I:

EQUAL OPPORTUNITY IS THE LAW

It is against the law for this recipient of Federal financial assistance to discriminate on the following basis:

Against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and

Against any beneficiary of programs financially assisted under Title 1 of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status, as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in a WIA Title 1 financially assisted program or activity.

The recipient must not discriminate in any of the following areas:

Deciding who will be admitted, or have access, to any WIA Title 1 financially assisted program or activity;

Providing opportunities in, or treating any person with regard to, such program or activity; or

Making employment decisions in the administration of, or in connection with, such a program or activity.

WHAT TO DO IF YOU BELIEVE YOU HAVE EXPERIENCED DISCRIMINATION

If you think you have been subjected to discrimination under a WIA Title 1 financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either: The recipient's **Equal Opportunity Officer, Department of Labor and Training; or The Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210.**

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 do not have to wait for the recipient to issue that 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 the day on which you filed your complain with the recipient.).

If 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

For information or to file a complaint, contact:

Camille Vollaro, EO Officer

Department of Labor and Training

1511 Pontiac Avenue

Cranston, R.I. 02920

(401) 462-8815

TDD (401) 462-8006

The Department of Labor and Training is an Equal Opportunity Employer/Program.

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Attachment II:

La Ley Es Igualdad De Oportunidad

Es contra la ley que el recipiente quien recibe asistencia federal discrimine por las siguientes equire:

En contra de cualquier individuo en los Estados Unidos por, raza, color, equire, sexo, equir nacional, edad, incapacidad, afiliación política o credo; y

En contra de cualquier beneficiario de programas financiados bajo El Título I de " Workforce Investment Act" del 1998 (WIA), por razón del status de ciudadanía del beneficiario como un inmigrante legalmente autorizado para trabajar en los Estados Unidos, o que equire en cualquier programa o actividad financiada por WIA Título I.

El Recipiente, No Discriminara En Ninguna De Las Siguietes Áreas:

Decidiendo quien equ admitido o tendrá acceso a cualquiera de los programas o actividades financiada bajo WIA, Título I;

Proveyendo oportunidades o tratando a cualquier persona con relación a, algún programa o actividad; o equire equirer de empleo en la administración de o en conexión con semejante programa o actividad.

QUÉ HACER SI USTED CREE QUE USTED HA EXPERIMENTADO LA DISCRIMINACIÓN

Si usted cree que ha sido discriminado bajo cualquier programa o actividad financiada bajo WIA, Título I, usted puede equirer una queja dentro de los primeros 180 días de la fecha cuando la alegada violación ocurrió, con:

El Oficial de Oportunidad de Igualdad (the Equal Opportunity Officer) del recipiente, Department of Labor and Training; o The Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210.

Si presenta su queja con el recipiente, tendrá que esperar hasta que el recipiente emita una Notificación de Acción Final por escrito, o hasta que pasen 90 días (lo primero que suceda), antes de equirer la queja al Centro de Derechos Civiles (Civil Rights Center) (CRC) (vea la dirección arriba).

Si el recipiente no le equi una Notificación de Acción Final por escrito dentro de 90 días de la fecha cuando usted presentó su queja, usted no tiene que esperar que el recipiente emita la notificación antes de equirer su queja al CRC.

Sin embargo, usted deberá equirer su queja con el CRC dentro de 30 días del 90 día limite. (En otras palabras, 120 días después del día de haber presentado su queja con el recipiente).

Si el recipiente le equi una Notificación de Acción Final por escrito respondiendo a su queja, equirer no está satisfecho/a con la equire o resolución, usted puede equirer su queja con CRC. Usted tiene que equirer su queja a CRC, dentro de 30 días de la fecha en que usted recibió Notificación de la Acción Final.

PARA MAS INFORMACION O PARA REGISTRAR UNA QUEJA, COMUNIQUESE CON:

Camille Vollaro, EO Officer
Department of Labor and Training
1511 Pontiac Avenue
Cranston, R.I. 02920

Phone: (401) 462-8815 TDD: (401) 462-8006

The Department of Labor and Training asegura Igualdad y Oportunidad
de empleo equir servicios de empleo y entrenamiento.

Si lo equire, diferentes servicios (ayudantes auxiliares) están disponible para personas con incapacidades.

Attachment III:

Mediation as an Alternative Dispute Resolution Process

The Department of Labor and Training (DLT) has been designated by the Governor of Rhode Island as the agency to comply with Section 188 of the Workforce Investment Act (WIA) and its implementing regulations. In carrying out these duties, DLT conducts both compliance reviews and discrimination complaint investigations.

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 decision to mediate is completely voluntary for the complainant. The mediation process is designed to assist the parties in agreeing on a mutually acceptable resolution.

Mediation Election Form

I have read the information on the role of the State of Rhode Island Department of Labor and Training Equal Opportunity and Complaint Resolution Process under the Workforce Investment Act (WIA), including the offer of Mediation as an alternative to the formal complaint investigation procedure.

Based on the information provided to me, I have voluntarily and freely made 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 DLT's 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 within 5 days of receipt to:

**Camille Vollaro, EO Officer
Department of Labor And Training
1511 Pontiac Ave.
Cranston, RI 02920
Phone 401-462-8815
TTY 401-462-8006**

Complainant Name (Please Print)

Signature of Complainant

Date

Equal Opportunity Employer/Program

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