



LOCAL AREA  
LABOR DEVELOPMENT  
MAYAGUEZ/LAS MARIAS  
American Job Center

**PROCEDURE FOR RESOLVING COMPLAINTS OF A NON-CRIMINAL NATURE AND EQUAL  
EMPLOYMENT OPPORTUNITY ("EEO")**

**I. INTRODUCTION**

The Workforce Innovation and Opportunity Act, also known as WIOA for its English acronym, stipulates that all Local Areas for Labor Development shall establish a Procedure for Resolving Complaints of a Non-Criminal Nature and employment opportunities (EEO). These complaints may be filed by applicants, participants (adult, youth, and displaced persons), service providers or collaborating entities, employees, and members of the Labor Single Management Center and those individuals who understand their rights are covered under WIOA and its regulations have been violated.

The Local Area for Labor Development establishes this procedure to create uniformity in the processes where there may be complaints filed alleging discrimination by reason of race, color, religion, sex, national origin, age, handicap, affiliation or political belief, and by beneficiaries only, citizens or participants in subsidized programs under WIOA, according to Section 188(a)(1)(2)(3) and 181(c)(1) of the Act and Regulations, Subpart 20 CFR part onon7. on00 and 29 CFR 37; as well as complaints for violations of Contracts or Agreements or those actions taken by negative audits, reports of monitors or investigations and / or violations of the WIOA Act.

## II. DEFINITION OF TERMS

For the purposes of this procedure, the following terms shall have the meaning expressed as follows:

1. **WIOA** - Workforce Innovation and Opportunity Act, signed on July 22, 2014, by President Barack Obama. "Workforce Innovation and Opportunity Act" - (PC 113-128), implemented in the Labor Force Development Investment Act, passed on August 7, 1998.
2. **Local Labor Development Area** - Geographical area designated by the Governor, comprising the municipalities of the Mayagüez-Las Marías Local Labor Development Area, where programs are implemented and governed by a Local Investment Board in cooperation with the Board of Mayors of the Local Area of Labor Development Mayagüez-Las Marías.
3. **Local Area of Labor Development Mayagüez-Las Marías**, administrative entity designated by the Board of Mayors to serve as a sub-recipient of the WIOA funds and assist said Board in the implementation and operation of programs financed under WIOA.
4. **Equal Employment Opportunity Officer** - employee of the Local Labor Development Area appointed by the Executive Director to address complaints of a non-criminal nature, for discrimination in the first instance, and try to resolve them informally. The Local Labor Development Area may appoint an Equal Employment Opportunity Officer to deal with complaints filed by employees of the Local Labor Development Area or job applicants and another officer to attend to other complaints filed for violation of these provisions.
5. **Examining Officer** - person appointed by the Board of Mayors to preside over and hold formal hearings related to the complaints filed in accordance with this procedure. Such designation will not be fulfilled by any employee or officer of the Mayagüez-Las Marías Local Labor Development Area or of such municipalities and will be licensed by the Puerto Rico Bar Association.

### **III. INITIATION OF THE PROCEDURE TO FILE COMPLAINTS**

Any natural or legal person who understands that she or any specific class of individuals has been or is subject to discriminatory actions prohibited under WIOA may file a complaint in writing, by itself, or through a representative before the Local Labor Development Area or the Director of the DRC in Washington D.C., within 180 days of the alleged discriminatory act. However, this term is not unavoidable, so the term could be extended for just cause. This term does not create a defense for the defendant. See annex Notification to Guide People who feel they have been discriminated against under WIOA.

### **IV. CONTENT OF THE COMPLAINT**

The information that the complaints must contain is as follows:

1. Name of complainant, telephone, and address.
2. Identity of the person or entity against which makes the complaint.
3. Description of the allegations. This description should include sufficient details for the Local Labor Development Area to determine:
  - a. Whether the Local Labor Development Area has jurisdiction
  - b. If it has not prescribed
  - c. If the complaint has apparent merit, in other words, to determine whether the allegations of the complaint if true would violate any of WIOA's anti-discrimination and equal opportunity provisions; and
  - d. Signature of the complainant or his authorized representative.

### **V. PROCEDURAL ELEMENTS OF THE COMPLAINTS PROCEDURE**

1. A Final Notice of Action (written) will be issued within 90 days of the complaint being filed.
2. The Initial Written Notification to the complainant stating that:

- a. The Local Area of Labor Development has received the complaint.
  - b. The complainant has the right to be represented in the process.
3. It will additionally issue within this or in a separate document, the following information:
  - a. List of the controversies raised in the complaint.
  - b. For each controversy, the determination to accept or reject and the reason for each rejection.
4. There will be a period of discovery of evidence or investigation into the circumstances in which the complaint arises .
5. The period of time in which the Local Labor Development Area expects to resolve the complaint will be specified. Methods of resolving it should include "alternative dispute resolution" (ADR).
6. A Letter of Notification of Final Action will be issued (within 90 days of filing the complaint), it must include the following:
  - a. The Local Labor Development Area decision and an explanation of the reasons for the decision.
  - b. Description of the way in which the controversy was resolved.
  - c. Right to file an appeal with the CRC within 30 days of the NAF's notification, if the complainant does not agree with the decision.
7. Alternative Dispute Resolution (ADR):
  - a. The decision to use the "ADR" is the complainants. If the complainant chooses to resolve the complaint using the "ADR" procedure, the Equal Opportunity Officer must immediately send the complaint to the State Officer with a copy to the Executive Director of the Local Area.
  - b. The State Officer will assign an auditor and coordinate a mediation section.
  - c. If the procedure is successful, a mediation agreement will be filed at the end of the session and signed by the involved parties.

- d. If the mediation is not successful, the complainant will be advised of his or her rights to file his or her original complaint with USDOL/CRC within thirty (30) days after the Final Action Notice is issued.
- e. Likewise, in the event that a mediation agreement is not complied with, the injured party may file a complaint with USDOL/CRC within thirty (30) days in which it became aware of non-compliance, expressly indicating the alleged facts about non-compliance with the determination of the Director of the CRC.
- f. It should be indicated that in the event that the mediation agreement is not complied with, the defendant may file his original claim with the CRC and the Director of the CRC will annul in these cases the term of filing.
- g. The "ADR" procedure is not appropriate in cases involving legal issues, public policy, novel issues, or impacting protected groups.

## **VI. PROCESSING OF COMPLAINTS OF NON-CRIMINAL NATURE**

1. It will be the responsibility of each Local Director and / or the Single Management Center and the Service Providers to receive written complaints and send them to the Executive Director of the Local Area of Labor Development Mayagüez-Las Marías within the two (2) days subsequent to its receipt. Each Director of the local office will prepare and include a report on the relevant facts of the complaint and recommendations for the solution of the complaint.
2. Once a written complaint is received from the Office of the Executive Director of the Local Area of Labor Development, he/she will refer it to the Equal Opportunities Officer (OIO), who will proceed to open a file in the name of the complainant and will be assigned a case number to it.
3. The Equal Opportunity Officer (EOO) will perform the following actions:
  - a. Ensure that Service Providers have their own complaint procedure or that they adopt the one established by the Mayagüez-Las Marías Local Labor Development Area.

- b. If it is a complaint against a Service Provider, the complainant has to inquire and clarify if he/she have previously gone to this entity and the action taken in the case.
  - c. If there are complaint procedures by the Service Provider; if the participant has not used it, he will return the case to the Provider giving him the opportunity to resolve it, following their established complaint procedure.
    - 1. If the Service Provider has a Collective Agreement, in this case, if there is any violation of labor standards, the complaint may be submitted to arbitration proceedings if the collective agreement so establishes.
  - d. He should study the complaint to familiarize himself with the situation involved.
  - e. The Equal Opportunity Officer will hold an informal hearing with the parties, within five (5) days after the receipt of the complaint, to discuss the situation and try to informally reach an agreement or a resolution of the case.
  - f. If an agreement has been reached between the parties, a report will be prepared, signed by the complainant, stipulating the satisfaction about the manner in which the complaint was resolved.
  - g. If the complaint is resolved informally, the case will be closed.
  - h. Within twenty-four (24) hours after the informal hearing of the complaint that could not be satisfactorily resolved, the Equal Opportunity Officer will refer the complaint to the Examining Officer to hold and preside over a formal hearing in the case.
4. Once the Examining Officer receives the file of the formal complaint, he will notify all the parties. The notice will include the following information:
- a. Date and time of the hearing
  - b. Place of hearing
  - c. Purpose of hearing

d. The convenience of attending the hearing

Procedural rights such as: right to be represented by a lawyer or any other person of the complainant's selection, to cross-examine and to present testimonial and / or documentary evidence in his/her favor.

e. The right or opportunity to amend the complaint prior to the holding of the hearing.

5. Notifications must be made no less than seven (7) days before the date indicated for the holding of the hearing, which must be held within thirty (30) days, after filing the complaint.
6. If any of the parties are interested in suspending any scheduled hearing, they must file a request for this purpose, at least three (3) days before the date indicated for the hearing. A copy of such request will be sent to the other party.
7. Any party who has requested the suspension of a hearing shall appear before the Examining Officer on the date and time indicated for the holding of the hearing, unless it has previously received notification from the Examining Officer granting the requested suspension. If the requested suspension has not been granted, the Examining Officer may hold the hearing.
8. At any formal hearing to be held, the Examining Officer shall assure all parties as follows:
  - a. Opportunity for a hearing to be held.
  - b. Written Notification of the day, place, and time of the hearing.
  - c. Right to attend the hearing, alone, accompanied and / or represented by a lawyer or any other representative of his/her selection.
  - d. Right to hear all testimonial evidence and to see any documentary evidence presented at the hearing.
  - e. Right to examine and to cross-examine witnesses and to refute the evidence provided.
  - f. Right that all determinations taken by the Examining be written and

based on the oral and documental evidence presented at the hearing.

- g. Right to present all testimonial and documentary evidence relevant to the complaint.
- h. Right or opportunity to amend the complaint prior to the holding of the hearing.

1. Notification of the Right of Appeal at the level of the Labor Development Program and the Department of Economic Development

- 9. For any hearing that is carried out before the Examining Officer there must be a record, whether it is turned into shorthand, recorded or by means of stenotype.
- 10. The Examining Officer will begin the hearing by giving a summary of the controversies involved in the complaint and shall explain how the hearing will be conducted.
- 11. The complainant shall initiate the presentation of the evidence at the hearing. Once the presentation of the complainant's evidence has been completed, the defendant will present its evidence. It is provided, however, that the Examining Officer may alter this order, if and when he believes it to be convenient depending on the circumstances of the case.
- 12. All parties appearing to file a statement at any hearing shall take the oath before the Examining Officer. Once the witnesses have been sworn in, they will withdraw from the session's room until the time has come for each of them to testify, unless the parties stipulate that the witnesses, or any of them, remain in the session's room while others declare.
- 13. The Examining Officer will be obliged to issue his decision within fifteen (15) days following the date of the hearing, unless the parties in writing and mediating just cause, request that the term be extended.
  - a. The complainant may appeal at the State level (PDL), if a decision is not issued within sixty (60) days from the date of filing the complaint.
- 14. It will be the responsibility of the Examining Officer to send a copy of the decision



to the Executive Director, which must have the following information:

- a. Date and place on which the hearing took place, and the parties and witnesses who appeared at it.
  - b. The controversy or controversies that generated the complaint, exposed in a clear and concise way.
  - c. The factual determinations based on the record of the hearing.
  - d. The conclusions of law.
  - e. Resolution based on fact determinations and legal conclusions.
  - f. The recommendation of the Examining Officer will be adopted, modified, or rejected by the Board of Mayors and will constitute a final and firm decision of the controversy at the level of the Local Area of Labor Development.
15. A final decision will be issued no later than sixty (60) days from the date on which the complaint was filed.
16. The decision issued by the Board of Mayors, according to the alternatives previously established, will be final. **If the parties do not agree with them, they may request a review within ten (10) days of receipt at the Economic Development Department (DDEC) through its Laboral Development Program (PDL), a certified copy to the Mayagüez-Las Marías Local Labor Development Area.**

## VII. RULES OF CONFIDENTIALITY IN THE HANDLING OF COMPLAINTS

The Equal Opportunity Officer (EOO) will have to guarantee the confidentiality in the handling of the information and the content of the facts of the complaints and of any evidence that is collected during the process of resolution of the complaint.

The complaint and its disposition may not be disclosed to third parties unless

there is an authorization from the complaint and / or information is requested by a relevant authority.

**VIII. PROCEDURE OF COMPLAINTS FOR DISCRIMINATION BY REASON OF RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, IMPEDIMENT, AFFILIATION OR POLITICAL BELIEF, AND IN THE CASE OF BENEFICIARIES ONLY, CITIZENS OR PARTICIPANTS IN SUBSIDY PROGRAMS UNDER THE WIOA (SECTION 188 AND 29 CFR PARTS 37 AND 20 CFR onon7. on00)**

1. The complainant may file his complaint with the Service Provider at the Program level, the Equal Opportunity Officer ("EEO"), or at his discretion may file it directly with the Director of the Civil Rights Directorate (DCR). The Local Labor Development Area will help complete the DCR/DOL complaint information sheet and *Privacy Act* compliance and send it to DCR.
2. If the complainant wishes to send it directly, he may do so to the following address:

**U.S.DEPARTMENT OF LABOR  
DIRECTORATE OF CIVIL RIGHTS  
200 CONSTITUTION AVENUE N.W. ROOM N-4123  
WASHINGTON, D.C. 20210**

3. If you choose to file the complaint in writing with the Opportunity Officer of the

#### Local Labor Development Area

- a. The Equal Opportunities Officer will conduct an investigation of the complaint filed and write a report on findings.
  - b. The Office of Equal Opportunities will hold an informal hearing within thirty (30) days of its filing. If it is not resolved informally, then the Equal Opportunities Officer will immediately refer the complaint to an Examining Officer.
  - c. The Examining Officer will hold a formal hearing and reach a resolution of the complaint within the next thirty (30) days of filing the complaint.
  - d. The recommendation of the Examining Officer may be notified, amended, or rejected by the Board of Mayors.
4. The complainant may appeal the decision to the Director of the Office of the Civil Rights (CRC) Civil Rights Center U.S. Department of Labor, 200 Constitution Ave. N.W. Room 4123, Washington D.C. 20210, immediately if in disagreement with the decision or has not received the decision of the Local Area of Labor Development within the nineties (90) days of filing the complaint.

#### **IX. SANCTIONS**

The Examining Officer may determine violations of Section 188 WIA and 29 CFR 3 7, may recommend the following sanctions:

1. Pay wages/benefits lost or not received by discriminatory action (federal funds cannot be used)
2. Provide the service that was denied in a discriminatory manner.

3. Remove any discriminatory information from the complainant's file.
4. Development and publication of equal opportunity policies.
5. Equal opportunities training for surveyors, interviewers, office staff, among others.
6. Formal follow-up mechanism, to ensure compliance with equal opportunity commitments.

**X. POLICY TO ADDRESS COMPLAINTS FOR KNOWN CASES OR SUSPECTED OF FRAUD, MISUSE, ABUSE OF FUNDS, OR ANY OTHER CRIMINAL ACTIVIDAD**

1. Any information or complaints involving fraud, abuse, misuse, or any criminal activity shall be immediately reported to the Office of the Executive Director or may be notified directly to the following address:

**DEPARTMENT INCIDENT REPORTING SYSTEM  
DOL OFFICE OF INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS ROOM S-5514 ZOO  
CONSTITUTION AVENUE NW WASHINGTON DC  
20210  
HOT LINE 1-800-347-3750**

## **XI. ADMINISTRATIVE PROVISIONS**

### **1. Obligations of the Local Area of Labor Development Mayagüez-Las Marías**

- a. Make public the name of the "EEO", its position, address, telephone number.
- b. Ensure that the identity of the EEO and information of the contact appears in all internal and external communications about "EEO".
- c. Allocate sufficient staff and resources to the "EEO" and provide necessary support from senior management, to ensure compliance with the anti-discrimination and equal opportunity provisions of **WIOA**.
- d. Ensure that the EEO and its staff has been given the opportunity to receive the necessary and appropriate training to maintain their competence.

### **2. Small Sites Obligations (Less than fifteen employees)**

- a. Although they do not need to appoint an EEO, they must designate an individual who will be responsible for conducting and publishing the complaint procedures, as well as the processing of the complaint, according to Federal Regulation 37.70n and 37.79.

### **3. Obligations of Service Providers-EEO**

- a. Service Providers shall be governed by this procedure in accordance with the Federal Civil Rights Act. The obligation to ensure compliance by service providers lies with the Governor and the Local Labor Development Area.

### **4. Dissemination and Communication**

- a. The Local Labor Development Area must notify continuously that it will

not allow discrimination under any basis or reason prohibited by law. The notification shall be provided to:

- i. Solicitants, participants
- ii. Job Applicants and Employees
- iii. Professional unions or organizations with collective agreements or professional agreements with the Local Area of Labor Development.
- iv. Subsidiary offices
- v. Members of the general public, including the specifies writing that must contain the anti-discrimination notification (29 CFR 37.30).
- vi. Service Providers.

**5. PUBLICATION OF EEO POLICY (CFR 37.31)**

- a. Prominently in public places (e.g., Bulletin Board).
- b. Disseminate internal memoranda and other written and electronic communications.
- c. Manuals
- d. Make them accessible to each participant and make them part of the participant's file.
- e. The "policy" should be provided in appropriate formats to those individuals with vision impairments. In such cases, it must be part of the participant's record.

**6. DISPOSITION OF FILES**

- a. The files shall be retained as follows:
  1. For a period of not less than five (5) years from the end of the applicable program year:

1. Records of eligible and registered eligible applicants, completed participants, employees, and employment applications.
2. Any other document that is required under Section 37.39 or by the Director of the Directorate of Civil Rights.
3. Records generated by plaintiffs and actions taken on the complaints will be maintained for a period of not less than three (3) years from the date of the resolution of the complaint.

## 7. ELIGIBILITY TO SERVE AS EEO

- a. The Designated Officer will be required to meet the following requirements:
  1. High-level employee in the company.
  2. Depending on the size of the company, the number of Title **1-B** programs and activities of applicants/participants, the EEO may be assigned other responsibilities. However, the other responsibilities may not create a conflict of interest or appearance of a conflict the "EEO" responsibilities.

## 8. RESPONSIBILITIES OF AN EEO

- a. The EEO Officer will have the following responsibilities:
  - I. Coordinate the obligations of the retainer on anti-discrimination and equal opportunity.
  - II. Serve as a liaison with the Civil Rights Center in Washington, DC.
  - III. Monitor and investigate the activities of the container and of the entities receiving Title I-WIOA data from the site, to ensure that the site and sub-sites do not violate anti-discrimination and equal opportunity obligations under WIOA.
  - IV. Review recipient policies to make sure they do not discriminate.
  - V. Develop and publish procedures to process anti-discrimination complaints and ensure that they are complied with.

V1. Report directly to the Executive Director of the Local Area of Labor Development on this matter.



ANNEX

WHAT TO DO WHEN YOU FEEL YOU WERE OBJECT OF  
DISCRIMINATION UNDER WIOA-Title I-B

File a complaint within 180 days from the date of the alleged violation before the EEO: submit the filing to the following address:

The Director Civils Right Center  
U.S. Department of Labor 200  
Constitution Avenue NW  
RoomN-4123  
Washington, DC 20210

If you have filed a complaint with the Local Labor Development Area, you must wait until the Final Action Notification (NAF) is issued or if 90 days have passed since the complaint is filed, provided that the Local Labor Development Area has issued the NAF (no need to exhaust). However, you must file with the CRC within 30 days from the deadline of 90 days, understood within 120 days from the filing of the original complaint with the Local Area of Labor Development.

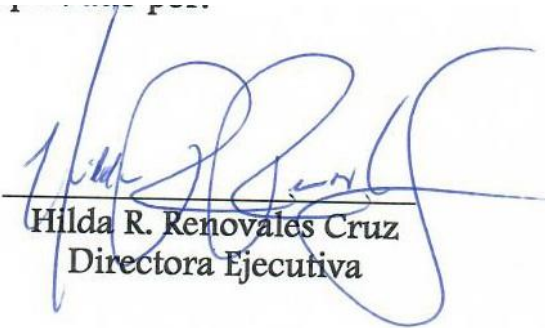
If the Local Labor Development Area issues a NAF of the complaint, but the complainant disagrees with the resolution, it may file the complaint with the CRC within 30 days from the date on which received the NAF.

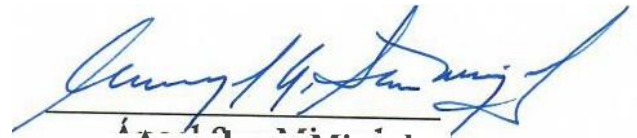
Receive training, through the Local Area of Labor Development Mayagüez-Las Marías to maintain their competence.

**XII. VALIDITY**

This procedure will be in effect immediately upon its approval.

5 de diciembre de 2017  
Fecha

  
Hilda R. Renovales Cruz  
Directora Ejecutiva

  
Ángel Sañ Miguel  
President of the Local Board