



PIEDMONT REGION

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Title:	Equal Opportunity (EO) and Nondiscrimination Policy	Policy #:	8
Effective Date:	August 20, 2015	Revision Date:	October 16, 2019

Purpose:

The Workforce Innovation and Opportunity Act (WIOA) focuses on increasing access to, and opportunities for individuals in employment, education, training and support services to allow them to succeed in the labor market with a particular focus on those with disabilities or other barriers to employment. The purpose of the Equal Opportunity and Nondiscrimination Policy is to ensure compliance of the Virginia Career Works (VCW) – Piedmont Region with the WIOA sec. 188 requirements.

Policy:

The VCW-Piedmont Region shall ensure nondiscrimination and equal opportunity in admission or access to, opportunity or treatment in, or employment in, the administration of or in connection with any program or activity funded in whole or in part with WIOA funds. Any person who believes he or she has been subjected to discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, 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 or participation in any WIOA Title I-financially assisted program or activity, has the right to file a complaint within 180 days of the alleged discrimination. The person has the right to file a complaint at the local level with Helen Cauthen, Equal Opportunity Officer, Piedmont Workforce Development Board, 1001 Research Park Boulevard, Suite 301, Charlottesville, Virginia, 22911, or directly with the Director, Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-4123, Washington, D.C. 20210. If the complainant elects to file a complaint with the PWDB, the PWDB shall have 90 days to process a complaint and issue a decision. If the PWDB does not provide a written decision within 90 days of the filing of the complaint, the complainant need not wait for a decision to be issued, but may file a complaint with the Civil Rights Center (hereafter referred to as the “**CRC**”) within 30 days of the expiration of the 90-day period. If a complainant is not satisfied with the PWDB’s resolution, the complainant may file a complaint with the CRC. Such complaint must be filed within 30 days of the date the complainant received the Notice of Final Action from the PWDB.

The PWDB has designated Helen Cauthen, President, as its Equal Opportunity Officer (hereafter referred to as the “**EO Officer**”), who will be responsible for adopting and publishing

complaint procedures, and ensuring that they are followed. To communicate the discrimination complaint policy, "Equal Opportunity Is the Law" posters in English and Spanish shall be placed in prominent locations which are accessible to applicants for employment, applicants for program services and/or funding, participants, employees, terminated individuals, and other interested parties. The poster contains a nondiscrimination and equal opportunity statement, as well as information about filing a complaint.

The VCW-Piedmont Region's One Stop Centers, Program Operators, Service Providers, and Training Providers shall include in orientations to employees and/or participants a discussion of their rights under the nondiscrimination and equal opportunity provisions of the WIOA and the right to file a complaint of discrimination with either the local workforce development board or the CRC. Communication of policy shall be documented on a notification instrument for employees and applicants/participants, and shall be retained in individuals' files.

Intimidation and Retaliation Prohibited

Consistent with 29 C.F.R. § 37.11, intimidation and retaliation against individuals for having filed a complaint; opposing a prohibited practice; furnishing information; assisting or participating in any manner in an investigation, review, hearing or any other activity relate to administration of, exercise of authority under, or privilege secured by, the nondiscrimination and equal opportunity provisions, of the WIOA is prohibited. In accordance with 29 C.F.R. § 37.11, complaints may be filed alleging intimidation and retaliation.

Procedures

Filing a Discrimination Complaint at the Local Level

A complaint of discrimination may be filed with the PWDB EO Officer or the State WIOA EO Officer. A complaint must be filed within 180 days of the alleged discrimination. The complaint may be filed by the individual or on behalf of the individual by an authorized representative. A complaint must be filed in writing and signed by the complainant or by his or her authorized representative.

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

- The complainant's name and address (or another means of contacting the complainant);
- The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination);
- A description of the complainant's allegations, which must include enough detail to allow the recipient to decide whether:
 - The PWDB or the CRC, as applicable, has jurisdiction over the complaint;
 - The complaint was filed in time; and
 - The complaint has apparent merit—whether the complainant's allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of the WIOA or 29 C.F.R. Part 37; and
 - The complainant's signature or the signature of the complainant's authorized representative.

The PWDB EO Officer is responsible for ensuring publication of the name, title, address, telephone number, and TDD number of the EO Officers or other individuals responsible for receiving complaints.

Timeframes

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

The PWDB EO Officer shall notify complainants, in writing, of the specific time frames for processing a complaint of discrimination, as follows:

- If the complainant elects to file with the PWDB, the PWDB shall have 90 days to process the complaint and provide a determination. Virginia's discrimination complaint process includes 60 days for the PWDB to investigate and 30 days for a review at the State level, if warranted.
- If the complainant elects to file with both the CRC and the PWDB, the complainant shall be informed that the PWDB has 90 days to process the complaint and that the CRC shall not investigate the complaint until the 90-day period has expired.
- If by the end of 90 days from the date on which the complaint was filed, the PWDB fails to issue a Notice of Final Action, the complainant may file a complaint with the Director of the CRC within 30 days of the expiration of the 90-day period.
- If, during the 90-day period, the PWDB issues its Notice of Final Action, but the complainant is dissatisfied with the PWDB's decision on the complaint, the complainant or his/her representative may file a complaint with the Director of the CRC within 30 days after the date on which the complainant receives the Notice of Final Action.
- If the PWDB determines that it does not have jurisdiction over the complaint, the PWDB EO Officer shall notify the complainant, in writing, immediately. This Notice of Lack of Jurisdiction must include:
 - A statement of the reasons for the PWDB's determination that it does not have jurisdiction; and
 - Notice that the complainant has a right to file a complaint with the CRC within 30 days of the date on which the complainant receives the Notice of Lack of Jurisdiction.

Processing a Discrimination Complaint

It is the responsibility of PWDB's EO Officer to determine which Workforce entity has jurisdiction over the complaint. Upon determining that a Workforce partner has jurisdiction, the complaint shall be recorded in the complaint log (see "Record keeping" below) and referred to the appropriate Workforce partner for resolution in accordance with that partner's complaint processing procedures. Where the PWDB EO Officer has jurisdiction for a complaint, he or she shall notify complainants, in writing, of the specific time frames for the processing of a discrimination complaint.

If the complainant elects to file with the PWDB, the PWDB shall have 90 days to process the complaint and provide a determination.

Alternate Dispute Resolution

During the 90-day period, complainants may elect to participate in mediation. The choice whether to use mediation or the customary investigation process rests with the complainant.

Requests for mediation shall be referred to the PWDB's EO Officer. If the complainant elects mediation and there is no resolution, the complaint will be referred for investigation or the complainant may file a complaint with the Director of the CRC.

A party to any agreement reached under mediation may file a complaint with the Director of the CRC in the event that the agreement is breached. In such circumstances, the following rules will apply:

- The non-breaching party may file a complaint with the Director of the CRC within 30 days of the date on which the non-breaching party learns of the alleged breach;
- The Director of the CRC must evaluate the circumstances to determine whether the agreement has been breached. If he or she determines that the agreement has been breached, the complainant may file a complaint with the CRC based upon his/her original allegation(s), and the Director of the CRC will waive the time deadline for filing such a complaint.

Investigation Procedures

If mediation is not elected, the complaint shall be investigated in accordance with the PWDB's complaint-processing procedures. Such complaint procedures shall include the following elements:

- Initial, written notice to the complainant, and a notice that the complainant has the right to be represented by an attorney in the complaint process;
- 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 PWDB will accept or reject the issue, and the reasons for each rejection;
- A period for fact-finding or investigation of the issues;
- A 15-day period during which the PWDB will attempt to resolve the complaint through mediation; and
- A written Notice of Final Action containing the PWDB's determination, provided to the complainant within 90 days of the date on which the complaint was filed.

Discrimination Complaint Investigation Procedure

Within 90 days of the date a discrimination complaint is filed, an investigation shall be conducted by the PWDB's EO Officer or by a designee under the direction of the EO Officer, consistent with the Discrimination Complaint Investigation procedure. This procedure shall be used for any discrimination complaint for which a written and signed complaint has been received. All activities and records related to an investigation shall ensure the confidentiality of the complaint and any resulting actions. The investigation must be managed in a manner that does not have an adverse effect on the complainant or any other party related to the complaint.

Responding to a Discrimination Complaint

The PWDB's EO Officer shall sign the investigation, including the determination and recommendation. The PWDB shall provide a written determination (Notice of Final Action) of the complaint and offer resolution within 90 days of the date the complaint was filed. For each issue filed, the Notice of Final Action will include:

- The PWDB's decision on the issue and an explanation of the reasons underlying the decision,
- a description of the way the parties resolved the issue, and
- a notice that the complainant has the right to file a complaint with the Director of the CRC within 30 days of the Notice of Final Action if he or she is dissatisfied with the PWDB's final action on the complaint.

Determinations

The PWDB's EO Officer shall determine at the conclusion of the investigation of a complaint whether there is reasonable cause to believe that a violation occurred.

If an investigation results in a "reasonable cause" finding, the PWDB's EO Officer shall submit the signed investigative report, including the determination and recommendation, to the State EO Officer for review within 60 days of the filing date. Based on review of the determination, the State EO Officer will determine if further review by the Attorney General's Office and the Virginia Community College System (hereafter referred to as the "VCCS") Vice Chancellor of Workforce Development Services, or his designee, is warranted. If the VCCS concurs with the determination, the PWDB's EO Officer shall

issue a written determination. The determination shall notify the complainant of the specific findings, the proposed remedial or corrective action, and the time in which corrective action must be completed.

If an investigation results in a “no cause” finding, the complainant shall be notified in writing. Such a determination represents the final action of the PWDB’s EO Officer. The PWDB’s EO Officer shall notify the complainant of his or her right to file a complaint (not an appeal) with the CRC if he or she believes the PWDB’s resolution is unsatisfactory. The complainant shall be informed that this right must be exercised within 30 days.

Corrective Action

If discrimination is found through the process of a complaint investigation, the respondent shall be requested to voluntarily comply with corrective action(s) or conciliation agreement to correct the discriminatory actions or conditions. Actions to correct discrimination deficiencies may include any of the following:

- back pay, or other monetary relief (Federal funds shall not be used to provide monetary relief);
- hire or reinstatement;
- promotion;
- benefits or other services denied; and
- any other remedial or affirmative relief such as outreach, recruitment, and training to ensure equal opportunity.

Record Keeping Requirements

The PWDB shall maintain an automated or manual log of discrimination complaints, which shall include:

- the name and address of the complainant;
- the basis of the complaint (i.e., race, sex, age, etc.),
- a description of the complaint;
- the date the complaint was filed;
- the disposition and date of disposition of the complaint; and
- other pertinent information.

Records pertaining to discrimination complaints, investigations, or any other such actions shall be retained for a minimum of three (3) years from the date of resolution. Information pertaining to the identity of any persons providing information related to, or assisting in, an investigation or a compliance review shall be maintained in a confidential manner to the extent possible. In the event that it is necessary that a person’s identity be disclosed, the person(s) shall be protected from retaliation.