

**Region 2 Workforce Investment Board
Policy Letter #2**

GRIEVANCE AND COMPLAINT PROCEDURES

Effective Date: **June 15, 2017**

Purpose:

This document establishes the policy of West Virginia and Region 2 Workforce Investment Board on the development, maintenance and implementation of programmatic grievance and complaint procedures. This policy and related procedures covers complaints alleging noncriminal violations of the requirements of Workforce Innovation and Opportunity Act (WIOA) in the operation of WIOA programs and activities, and transmits policy governing WIOA Title I related grievance and complaint procedures at the local and State level.

Scope:

Title 20 Code of Federal Regulations (CFR) Subpart F Section 683.600 requires that Region 2 Workforce Investment Boards and sub-recipients of WIOA Title I grant funds comply with the grievance and complaint provisions of the WIOA. This policy applies to programmatic grievances and complaints pursuant to WIOA Section 181(c) and does not address the procedures for processing complaints alleging discrimination under WIOA Section 188 and/or Title 29 Code of Federal Regulations (CFR) Part 37. Information and complaints involving allegations of fraud, abuse, or other criminal activity must be reported directly to U.S. Department of Labor's (DOL) Office of Inspector General.

REFERENCES:

- WIOA Section 181 (c)
- Title 20 CFR Part 683.600
- Title 29 CFR Part 37

BACKGROUND:

Title 20 CFR Section 683.600 requires each LWDB, State, and direct recipient of funds under Title I of WIOA to establish and maintain a procedure for grievances and complaints from

participants and other interested parties affected by the local workforce development system, including One-Stop partners, service providers, and the statewide workforce development programs.

FILING INSTRUCTIONS:

This policy implements the requirements of WIOA Section 181(c) and 20 CFR Part 683.600. Retain this policy until further notice.

POLICY AND PROCEDURES:

Definitions:

Complainant means any participant or other personally interested or personally affected party alleging a non-criminal violation of the requirements of WIOA.

Complaint file is a file that is maintained in a central location within each office which includes a hard copy of each complaint filed along with pertinent documentation.

Days means consecutive calendar days, including weekends and holidays.

Grievance or complaint means a written expression by a party alleging a violation of WIOA, regulations promulgated under WIOA, recipient grants, sub-agreements, or other specific agreements under WIOA. All complaints, amendments, and withdrawals shall be in writing. This policy is intended to resolve matters which concern actions arising in connection with the WIOA Title I grant program.

Hearing Officer means an impartial party who shall preside at a hearing on a grievance or complaint.

Local Workforce Development Board includes the Local Workforce Development Area's/Region's administrative entity and any sub-recipients to which the administrative entity has delegated the complaint and grievance resolution process.

Participant means an individual who has been determined to be eligible to participate in, and who is receiving services under, a program authorized by WIOA.

Participant case file means either a hard copy or an electronic file.

Recipient means an entity to which a WIOA grant is awarded directly from DOL to carry out a program under Title I of WIOA. The State is the recipient of funds awarded under WIOA Sections 127 (b)(1)(C), 132(b)(1)(B), and 132(b)(2)(B).

Sub-recipient means an entity to which a sub-grant is awarded and which is accountable to the recipient (or higher tier sub-recipient) for the use of the funds provided.

Policy:

It is the policy of the State of West Virginia that:

- *The principles and procedures set forth in Policy 3-17 shall be used by Region 2 Workforce Investment Board in the development of local-level grievance and hearing procedures; and*
- *The principles and procedures set forth in Policy 3-17 shall govern the treatment and handling of all grievances or complaints in connection with all WIOA Title I grant programs and activities conducted by the State, or pursuant (directly or indirectly) to sub-grants from the State.*

The State Workforce Development Board (SWDB) and Region 2 Workforce Investment Board concurs with this policy and has approved the local policy and procedures contained in this document.

Procedures:

I. GENERAL PRINCIPLES AND REQUIREMENTS

These procedures will guide the receipt, hearing, and resolution of non-criminal grievances and complaints relating to WIOA Title I grant programs and activities that are funded with WIOA Title I grant monies provided to the Region 2 Workforce Investment Board by the State. These procedures will be available for use by all individuals and entities, including WIOA Title I grant participants, Region 2 Workforce Investment Board staff, sub-recipients of the Region 2 Workforce Investment Board, and other interested parties. Local procedures must include “a process which allows an individual alleging a labor standards violation to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties so provides.” [Title 20 CFR Section 683.600(c)(3)]. Additionally, Region 2 Workforce Investment Board and sub-recipients of WIOA Title I grant funds must make reasonable efforts to assure that information

About the content of the grievance and complaint procedures will be understood by affected participants and individuals, including youth and those who are limited English-speaking i
Such efforts must comply with the language requirements of Title 29 CFR Section 37.35.

At all levels of the grievance or complaint process, complainants have the right to be represented, at their own expense, by a person(s) of their choosing.

Grievances or complaints must be filed within *30 days* of the alleged violation. All grievances or complaints, amendments, and withdrawals must be in writing. All persons filing grievances or complaints shall be free from restraint, coercion, reprisal, or discrimination.

II. LOCAL GRIEVANCE AND COMPLAINT PROCEDURES

Pursuant to Title 20 CFR Sections 683.600 through 683.610, the State Workforce Development Board (SWDB) has established this procedure for resolving grievances and complaints alleging a violation of WIOA Title I, regulations, grants, or other agreements under WIOA. The following outlines the procedures for resolving issues arising in connection with WIOA Title I grant programs operated by the administrative entity for the Region 2 Workforce Investment Board and its sub-recipients. Any participant or other interested party adversely affected by a decision or action by the local workforce development system, including decisions by One-Stop partners and services providers, has the right to file a grievance or complaint with the Region 2 Workforce Investment Board.

A. Notice to Affected Parties

Initial and continuing notice of the local grievance and complaint procedures and instructions on how to file a complaint must be:

- Posted in a public location and be made available to any interested parties and members of the public.
- Made available to each participant. A copy of the written description of the local grievance and complaint procedure shall include (1) Notification that the participant has the right to file a grievance or complaint at any time within *30 days* of the alleged violation; (2) Instructions and timeline for filing a grievance or complaint; and (3) Notification that the participant has the right to receive technical assistance. Such information shall be modified, as needed, whenever the procedures are changed.

Region 2 Workforce Investment Board has the responsibility to provide technical assistance to the complainants, including those grievances or complaints against the Region 2 Workforce Investment Board. Such technical assistance includes providing instructions on how to file a grievance or complaint, providing

relevant copies of documents such as the Act, regulations, local rules, contracts, etc., and providing clarifications and interpretations of relevant provisions. This requirement shall not be interpreted as requiring the Region 2 Workforce Investment Board to violate rules of confidentiality.

B. Form and Filing of Grievance or Complaint

The official filing date of the grievance or complaint is the date the written grievance or complaint is received by the R2WIB, its service providers, One-Stop partners, or sub-recipients. The filing of the grievance or complaint will be considered a request for a hearing, and the R2WIB shall issue a written decision within 60 days for the filing of the grievance or complaint.

The grievance or complaint must be writing, signed, and dated. For resolution purposes, the SWDB requires that the following information be obtained or provided for all complaints:

- Full name, telephone number, and mailing address of the complainant;
- Full name, telephone number, and mailing address of the respondent;
- A clear and concise statement of the facts and dates describing the alleged violation;
- The provisions of the WIOA, the WIOA regulations, grant, or other agreements under the WIOA, believed to have been violated;
- Grievances or complaints against individuals, including staff or participants, shall indicate how those individuals did not comply with the law, regulations, or contract; and
- The remedy sought by the complainant.

The absence of any of the requested information shall not be a basis for dismissing the grievance or complaint.

A grievance or complaint may be amended to correct technical deficiencies at any time up to the time of the hearing. The 30 day time period in which a grievance or complaint may be filed is not extended for grievances or complaints that are refiled with amendments. Grievances or complaints may be withdrawn at any time prior to the issuance of the hearing officer's decision. The R2WIB shall send a copy of the grievance or complaint to the respondent.

C. Informal Resolution

The Region 2 Workforce Development Board shall notify the complainant and the respondent of the opportunity for an informal resolution. Respondents must make good faith efforts to resolve all grievances or complaints prior to the scheduled hearing. Failure on the part of either party in the grievance or complaint to exert good faith efforts shall not constitute a basis for dismissing the grievance or complaint, nor shall this be considered to be a part of the facts to be judged in the resolution process. Where a complaint alleges a violation of WIOA Title I, grant or any agreements under WIOA, the R2WIB must assure that every grievance or complaint not resolved informally or not withdrawn is given a hearing, regardless of the grievance or complaint's apparent merit or lack of merit.

When the complaint has been resolved through the informal resolution process, the R2WDB shall attempt to contact the complainant and have him or her provide a written withdrawal of the complaint within 10 days of the receipt of the notice of resolution or impasse where a complainant decides not to proceed to an administrative hearing. The R2WIB shall maintain copies of correspondence in the local office complaint file.

D. Notice of Hearing

Hearings on any grievance or complaint shall be conducted within 30 days of filing of a grievance or complaint. The complainant and the respondent must be notified in writing of the hearing 10 days prior to the date of the hearing. The 10-day notice may be shortened with the written consent of both parties. The hearing notice shall be in writing and contain the following information:

- The date of the notice, name of the complainant, and the name of the party against whom the grievance or complaint is filed.
- The date, time, and place of the hearing before an impartial hearing officer.
- A statement of the alleged violations. These statements must accurately reflect the content of the grievance or complaint as submitted by the complainant. However, clarifying notes may be added to assure that the grievance or complaint is addressed accurately.
- The name, address, and telephone number of the contact person issuing the notice.

E. Conduct of Hearings

An impartial hearing officer shall conduct the hearing. Region 2 Workforce Investment Board will seek impartial hearing officers from among the staff of legal offices or personnel departments of municipalities or counties that will not be directly affected by, or will not implement the final resolution of, a specific grievance or complaint.

The hearing will be conducted in an informal manner with strict rules of evidence not being applicable and according to the procedures established by the LWDB. Both parties will have the right to present written and/or oral testimony and arguments; the right to call and question witnesses in support of their position; the right to examine records and documents relevant to the issues; and the right to be represented. The hearing will be recorded electronically or by a court reporter.

F. Decision

Not later than 60 days after the filing of the grievance or complaint, the hearing officer shall mail a written decision to both parties by first class mail. The hearing officer's 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 decision and the reasons for the decision;
- A statement of corrective action or remedies for violations, if any, to be taken; and
- Notice of the right of either party to request a review of the decision by the State Review Panel within 10 days of the receipt of the decision.

G. Appeal

If a complainant does not receive a decision at the LWDB level within 60 days of the filing of the grievance or complaint, or receives an adverse decision, the complainant then has the right to file an appeal with the State.

The complainant may request a State hearing by submitting a written notice of appeal to:

WorkForce West Virginia
Deputy Executive Director, Federal Programs 112
California Avenue, Room 613
Charleston, WV 25305

III. STATE-LEVEL GRIEVANCE AND COMPLAINT PROCEDURES

Title 20 CFR Section 683.600(d) requires the State to provide a process for dealing with grievances and complaints from participants or interested parties affected by the statewide workforce development programs, resolving appeals of decisions issued at the Region 2 Workforce Investment Board, remanding grievances and complaints related to the local WIOA Title I programs to the Region 2 Workforce Investment Board grievance process, and affording an opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint.

In cases where the State has imposed either administrative or financial/monetary sanction(s) resulting from monitoring, investigations, or audits, the complainant may file an appeal with the State through the procedures established in their Audit Resolution guidance.

A. State-Level Informal Resolution and Hearing Procedures

All complaints of noncriminal violations of the requirements of WIOA by the State, or complaints by individuals or interested parties affected by the statewide workforce development program shall be filed in writing with the Deputy Executive Director of Federal Programs, WorkForce West Virginia. All requests for State hearings shall include the same basic elements necessary for local level hearings. These are:

- Full name, telephone number, and mailing address of the complainant;
- Full name, telephone number, and mailing address of the respondent;
- A clear and concise statement of the facts and dates describing the alleged violation;
- The provisions of the WIOA, the WIOA regulations, grant, or other agreements under the WIOA, believed to have been violated;
- Grievances or complaints against individuals, including staff or participants, shall indicate how those individuals did not comply with the WIOA law, regulation, or contract; and

- The remedy sought by the complainant.

Upon receipt of the request for a State hearing, the Deputy Executive Director of Federal Programs or his/her designee shall review the grievance or complaint and shall provide an opportunity for an informal resolution. The Deputy Executive Director of Federal Programs shall notify the complainant and the respondent within 10 days of receipt of the grievance or complaint and proceed with the informal resolution process. If the State cannot resolve the grievance or complaint informally, then a hearing will be held.

Hearings on any grievance or complaint shall be conducted within 30 days of the filing of a grievance or complaint. The complainant and the respondent shall be notified in writing of the hearing 10 days prior to the date of hearing. The hearing notice shall advise the following:

- The date, time, and place of the hearing before an impartial hearing officer.
- The pertinent sections of the WIOA or any other federal regulations involved.
- A statement of the alleged violations. These statements must accurately reflect the content of the grievance or complaint as submitted by the complainant. However, clarifying notes may be added to assure that the grievance or complaint is addressed accurately.
- The name, address, and telephone number of the contact person issuing the notice.

B. Appeals of LWDB Decisions or Requests for WFWV Review

1. A complainant may file a request for review with WFWV if no decision has been issued at the R2WIB level within the 60-day time limit. A complainant may file an appeal if the R2WIB has issued an adverse decision. The request for a WFWV review or appeal shall be filed or postmarked (if mailed) within 10 days from the date on which the complainant received an adverse decision from R2WIB or 15 days from:
 - The date on which a complainant should have received a decision regarding a locally filed complaint, which is defined as five days from the date the decision was due, or
2. All requests for review or appeals shall include the following:
 - The full name, telephone number, and mailing address of the complainant;

- The full name, telephone number, and mailing address of the LWDB;
 - A statement of the basis of the request or appeal; and
 - Copies of relevant documents, such as the complaint filed at the LWDB and the local decision, if any.
3. WFWV shall request the record of the hearing from the R2WIB and shall review the record. WFWV shall notify the concerned parties and the R2WIB by first class mail, certified with a return receipt, of the following information at least 10 days before a scheduled hearing:
- The date of the notice, name of the complainant, and the name of the party against whom the complaint is filed.
 - The date, time, and place of the hearing before a hearing officer.
 - A statement of the alleged violations. This statement shall accurately reflect the content of the complaint as submitted by the complainant.
 - The name, address, and telephone number of the contact person issuing the notice.

C. Hearing

1. The WFWV hearing shall be conducted in an informal manner with strict rules of evidence not being applicable. Both parties shall have the right to present written and/or oral testimony under oath and arguments; the right to call and question witnesses; the right to request and examine records and documents relevant to the issues, and the right to be represented. The hearing shall be recorded.
2. The WFWV hearing officer shall be an Administrative Law Judge (ALJ).

D. Referral of Local Grievances or Complaints

Grievances or complaints filed directly with the State related to the local WIOA programs will be remanded to the LWDB grievance process in accordance with LWDB Grievance and Complaint Procedures.

E. Remedies

1. Remedies that may be imposed for a violation of any requirement under WIOA Title I shall be limited to:
 - Suspension or termination of payments under WIOA Title I;
 - Prohibition of placement of a participant with an employer that has violated any requirement under WIOA Title I;
 - Reinstatement, where applicable, of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and
 - Where appropriate, to other equitable relief.
2. Nothing in paragraph 1 shall be construed to prohibit a complainant from pursuing a remedy authorized under another federal, State, or local law for a violation of WIOA Title I.

F. Federal-Level Appeal Process

Under Title 20 CFR Section 683.610(a)(1), if the State or Local Workforce Development Board has not issued a decision within the required 60-day time limit, the complainant can file an appeal to the Secretary of Labor. The appeal must be filed with the Secretary of Labor no later than 120 days of the filing of the grievance or complaint with the State, or the filing of the appeal of a local grievance or complaint with the State.

In cases where a decision has been reached and the State issued an adverse decision, the complainant can file an appeal to the Secretary of Labor within 60 days of the receipt of the decision being appealed.

The request for appeal must be submitted by certified mail, return receipt to:

Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210
Attention: ASET

A copy of the appeal must be simultaneously provided to the Region 2 ETA Regional Administrator, U.S. Department of Labor—Employment and Training Administration, Suite 825 East, The Curtis Center, 170 South Independence Mall West, Philadelphia, PA 19106 and the opposing party.

ACTION:

All recipients and sub-recipients of WIOA Title I funding through the Workforce Development Board of West Virginia shall utilize the grievance and complaint procedures specified in this policy or ensure that any policies or procedures established by the recipient or sub-recipient are in accordance with these requirements.

INQUIRIES:

Please direct inquiries about this directive to Region 2 Workforce Investment Board (304) 508 - 2696.

Policy 2A

South Western West Virginia Region 2 Workforce Investment Board, Inc.

Workforce Innovation and Opportunity Act

Equal Opportunity Discrimination Complaint Policy and Procedures

GENERAL PROVISIONS

Section 188 of the Workforce Innovation and Opportunity Act (WIOA), and the implementing regulations at 29 CFR Part 37, prohibits discrimination because of race, color, religion, sex, national origin, age, disability or political affiliation or belief, in both participation and employment. The WIOA nondiscrimination regulations prohibit discrimination in all aspects of the administration, management, and operation of WIOA programs and activities. The State of West Virginia has adopted the following procedures for processing complaints alleging violations of the nondiscrimination and equal opportunity provisions in a WIOA Title I-financially assisted program or activity.

DEFINITIONS

Beneficiary – Individual or individuals intended by Congress to receive (and benefit from) aid, benefits, services, or training from a recipient of Federal financial assistance under a program or activity established by Federal statute.

CRC – U.S. Department of Labor / Office of Assistant Secretary for Administration and Management / *Civil Rights Center*.

Complainant – Individual filing discrimination complaint based on race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, on the basis of either citizenship as a lawfully admitted immigrant authorized to work in the United States, or participation in a WIOA Title I financially assistance program or activity.

Federal Financial Assistance – Refers to more than just dollars and cents. It can include nonmonetary forms of assistance, such as the provision of personnel at the grant making /recipient agency's expense, or the grant or donation of property, among other things.

Mediation – A process of alternative dispute resolution whereby negotiation of issues are facilitated by a neutral party. It is a voluntary and confidential process, and can result in a binding agreement.

Recipient – Any entity that receives financial assistance under WIOA Title I, either directly from the US Department of Labor or through the Governor or another recipient. American Job Center Partners are considered recipients to the extent that they participate in the one-stop delivery system.

Respondent – A grant applicant or recipient against whom a complaint has been filed under the nondiscrimination and equal opportunity provisions of WIOA.

BACKGROUND

This policy is intended to ensure that the Workforce Development Boards (WDBs) and other grant recipients/program providers implement complaint policies and procedures in compliance with guidelines provided by the Director, Civil Rights Center, U.S. Department of Labor (CRC), regarding the nondiscrimination/equal opportunity provisions of Title I of the Workforce Innovation and Opportunity Act (WIOA).

Section 188 of Title I of WIOA prohibits discrimination on the basis of: race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, on the basis of either citizenship as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I financially assisted program or activity. Each Workforce Development Area has designated a Local Equal Opportunity Officer who is responsible for adopting and publishing policies and complaint procedures, and ensuring compliance. A recipient/program provider must provide initial and continued notice that it does not discriminate on any prohibited ground. A copy of the "Equal Opportunity is the Law" notice is provided to each participant and made a part of each participant's file per the regulations. If a complaint is filed, a copy of this Equal Opportunity (EO) Discrimination Complaint Processing Policy and Procedures is to be provided to the complainant.

POLICY AND PROCEDURE

Discrimination Complaint and Filing

All grant recipient's /program providers under Title I of WIOA are responsible for complying with the discrimination complaint procedures consistent with 29 CFR Part 37, as outlined in this policy: Any person who believes that he or she, or any specific class of individuals, has been or is being subjected to discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in WIOA

Title I, has the right to file a complaint within one hundred and eighty (180) calendar days of the alleged discrimination. The filing period may be extended for good cause in some limited circumstances. However, only the Director of CRC may extend the filing time.

Receipt of Complaint

A complainant must file a complaint within 180 days of the alleged act(s) of discrimination. If the complainant elects to file with an employee in a WorkForce West Virginia American Job Center, that employee will immediately accept the complaint and forward the complaint to the WorkForce West Virginia EO Officer. The complainant may file with WorkForce West Virginia or the Department of Labor, Director, Civil Rights Center (Federal). Filing a complaint with WorkForce West Virginia does not affect a complainant's right to file a complaint with the Civil Rights Center if he or she is not satisfied with the resolution provided by WorkForce West Virginia. The WorkForce West Virginia EO Officer is responsible

for determining if the complaint is covered by 29 CFR Part 37, and for resolving jurisdictional issues, if any. Complaints may be submitted to:

STATE	FEDERAL
Vickie Elkins, EO Officer Workforce West Virginia Equal Opportunity Office 112 California Avenue Charleston, WV 25305 Phone: 304.558.1600 TDD: 304.558.1549	Naomi M. Berry-Perez, Director U.S. Department of Labor Civil Rights Center (CRC) 200 Constitution Avenue Room N-4123 Washington, DC 20210 Phone: 202.693.6502 TDD: 202.693.6515

Forms Used to File Complaint

State- An individual may file a complaint at the state level by completing and submitting the WorkForce West Virginia Discrimination Complaint Form which may be obtained from any local Workforce Development Board, WorkForce West Virginia American Job Center, or the WorkForce West Virginia Equal Opportunity Officer. The choice whether to use mediation or the customary investigative process rests with the complainant. The Mediation process is outlined in the section, “Mediation”, discussed later in this policy.

(EDITOR NOTE: access to form and procedures will be incorporated on the WFWV website that is currently being updated)

Federal – An individual may file a complaint by completing and submitting the Civil Rights Center’s Complaint Information and Privacy Act Consent Forms, which may be obtained from the WorkForce West Virginia Equal Opportunity Office, or from the U.S. Department of Labor’s Civil Rights Center website at <http://www.dol.gov/oasam/programs/crc/external-enforc-complaints.htm>.

The complaint document must contain the following information: Complainant’s name and address, or other means by which the complainant can be contacted; Identification of individual(s) or organization(s) responsible for the alleged discrimination; and a description of the complainant’s allegations, which must include enough details to determine:

- Recipient’s jurisdiction of the complaint.
- If the complaint was filed timely (within 180 days).
- Specific prohibited bases of the alleged discrimination (i.e., race, sex, etc.).

- Apparent merit of the complaint.
- Complainant's or authorized representative's signature.

Right to Representation – Both the complainant and respondent have the right to be represented by an attorney or other individual of their choice. The complainant will be offered the option to participate in mediation, or follow the customary state level complaint process. Any person electing to file at the state level shall allow WorkForce West Virginia 90 days (from the date of receipt) of complaint to process the complaint.

If it is determined that the recipient does not have jurisdiction over a complaint, the complainant will be notified in writing by the EO Officer of WorkForce West Virginia of one or more of the following reasons:

- The basis for the complaint is not covered by the prohibitions set forth by 29 CFR Part 37.
- The complaint was not filed within the prescribed 180 days of the alleged violation.
- The complaint is against an entity that is not a recipient of WIOA Title I financial assistance as defined under 29 CFR Part 37.

If the recipient does have jurisdiction, the WorkForce West Virginia EO Officer will provide written notice to the complainant within 10 working days from the date of receipt of complaint. The written notice will contain the following:

- 1) Acknowledgment that the complaint has been received, and that the Respondent was been notified that a complaint has been filed.
- 2) Notice that complainant has the right to be represented in complaint process.
- 3) A written statement of the issue(s) provided by the complainant, including a statement as to whether the recipient will accept or reject the issues, and the reasons for rejection.
- 4) A period of fact finding or investigation of the circumstances underlying the complaint, which May take about 20 working days.
- 5) A brochure explaining the mediation process will be attached. The option to meditate rests with the complainant. The complainant will be requested to notify the WorkForce West Virginia EO Officer within 5 days of receipt of the written notice if he/she wishes to participate in mediation. If the complainant elects mediation, the process outlined below, captioned "Mediation", shall be followed.
- 6) Respondent will be notified that a complaint alleging discrimination has been filed and is being processed. A summary of the complaint and a notice that retaliation is against the law will be provided to respondent. The respondent will also be notified if mediation has been chosen by the complainant as a means of resolution.

- 7) If, at the end of the 90 days, WorkForce West Virginia has not completed its fact finding or investigation, or failed to issue a Notice of Final Action, the complainant or his/her representative may, within 30 days of the expiration of the 90- day period, file a complaint with the Civil Rights Center.
- 8) Notice that if the Notice of Final Action is issued during the 90-day period, and the complainant is dissatisfied with the decision, the complainant has a right to file a complaint with the Civil Rights Center, within 30 days of the date on which the complainant receives the Notice of Final Action.

Mediation

The choice whether to use mediation or the customary investigative process rests with the complainant. If the complainant chooses mediation the respondent will be notified. WorkForce West Virginia mediation procedures are as follows:

- 1) If mediation is elected, the WorkForce West Virginia EO Officer will notify the mediator within 2 days of the receipt of the Mediation Election Form. The session will begin no later than 15 calendar days after the mediator is notified.
- 2) Parties will receive notice of where and when the mediation will be conducted.
- 3) Two (2) calendar days will be allowed for the mediation session to achieve a resolution. If the parties do not reach an agreement within the two-day mediation session, a notice will be issued within 15 calendar days from the end of the two-day mediation session, outlining the facts or circumstances relevant to the attempt to settle the issues. Notice will be given that the complaint has been referred for investigation.
- 4) If mediation was used successfully, a description of the resolution will be provided. A copy of the Settlement Agreement will be provided to the complainant and respondent within 15 days from the conclusion of the mediation session and the agreement will contain the following:
 - Signatures of mediator, complainant and respondent.
 - Description of the settlement of the issues.
 - Future responsibilities of both parties.
 - Notice of rights, to both complainant and respondent, that if either party to the agreement breaches the agreement, then the non-breaching party may file a complaint with the CRC within 30 days of learning the agreement was breached.
- 5) If the parties do not reach an agreement under mediation, the complaint will be referred for investigation.

Breach of Settlement Agreement

A party to any agreement reached under mediation may file a complaint with the Civil Rights Center in the event the agreement is breached.

The non-breaching party may file a complaint with the Civil Rights Center within 30 days of the date on which the non-breaching party learns of the alleged breach.

If the Civil Rights Center determines that the respondent has breached the agreement, the complainant may file a complaint with the Civil Rights Center based upon his or her original allegations and the Civil Rights Center will waive the time deadline for filing such a complaint.

Notice of Final Action

The complainant shall allow WorkForce West Virginia 90 days from the date the complaint was received to process the complaint and issue a written Notice of Final Action. The complainant and respondent will be notified of the decision. The following will be covered in the notice:

- 1) An explanation of each issue that was accepted for investigation and the resolution.
- 2) The respondent will be notified if action needs to be taken, what that action is, and when that action needs to be completed.
- 3) If the Notice of Final Action is issued during the 90-day period, and the complainant is dissatisfied with the decision, the complainant, or his or her representative, has a right to file a complaint with the Civil Rights Center within 30 days of the date on which the complainant receives the Notice of Final Action. Only the Director of the Civil Rights Center may extend the 30-day time limit for good cause shown. The complainant has the burden of proving, to the Director, Civil Rights Center, that the time limit should be extended.
- 4) If, at the end of the 90 days, WorkForce West Virginia has not completed its processing of the complaint or failed to issue a Notice of Final Action, WorkForce West Virginia will notify the complainant, or his or her representative, that the processing of their complaint is not completed, WorkForce West Virginia will advise the complainant of their right to file with the CRC within 30 days of the expiration of the 90-day period. In other words, the complaint must be filed with the Civil Rights Center within 120 days of the date on which WorkForce West Virginia received the complaint.

June, 2017

STATE OF WEST VIRGINIA

NOTICE ABOUT INVESTIGATORY USES OF PERSONAL INFORMATION

Two Federal laws govern personal information submitted to Federal agencies, including the Civil Rights Center (CRC): the Privacy Act of 1974 (5 U.S.C. 552), and the Freedom of Information Act (5 U.S.C. 552), or “FOIA.” Please read this description of how these laws apply to information connected with your complaint. After reading this notice, please sign and return the consent agreement printed on the back of this notice, along with your complaint form.

THE PRIVACY ACT protects individuals from misuse of personal information held by the Federal Government. The law applies to records that are kept and can be located by the individual’s name, social security number, or other personal identification system. Anyone who submits information to WorkForce West Virginia in connection with a discrimination complaint should know the following:

- WorkForce West Virginia has been authorized to investigate complaints of discrimination on the basis of race, color, national origin, age, and handicap, and in some programs on the basis of sex, religion, citizenship, and political affiliation or belief, in programs that receive Federal funds through the Department of Labor. WorkForce West Virginia is also authorized to conduct reviews of federally funded programs to assess their compliance with civil rights laws.
- Authorized personnel within the agency analyze information that WorkForce West Virginia collects. This information may include personnel or program participant records, and other personal information. WorkForce West Virginia staff may need to reveal some of the personal information to individuals outside the office in order to verify facts related to the complaint, or to discover new facts which will help WorkForce West Virginia to determine whether the law has been violated. Such information could include, for example, the physical condition or age of a complainant. WorkForce West Virginia may also have to reveal personal information to a person who submits a request for disclosure authorized by the Freedom of Information Act.
- Information submitted to WorkForce West Virginia may also be revealed to personnel outside of WorkForce West Virginia because it is necessary in order to complete enforcement proceedings against a program that WorkForce West Virginia finds to have violated the law or regulations. Such information could include, for example, the name, income, age, marital status or physical condition of the complainant.
- Any personal information you provide may be used only for the specific purpose for which it was requested. WorkForce West Virginia requests personal information only for the purpose of carrying out authorized activities to enforce, and determine compliance with, civil rights laws and regulations. WorkForce West Virginia will not release personal information to any person or organization unless the person who submitted the information gives written consent, or unless release is required by the Freedom of Information Act.

No law requires that a complainant reveal personal information to WorkForce West Virginia, and no action will be taken against a person who denies a request for personal information. However, if WorkForce West Virginia cannot obtain the information needed to fully investigate the allegations in the complaint, the case may be closed.

- Any person may ask for, and receive, copies of all personal materials WorkForce West Virginia keeps in his or her file for investigatory use.

AS A POLICY, WORKFORCE WEST VIRGINIA DOES NOT REVEAL NAMES AND OTHER IDENTIFYING INFORMATION ABOUT INDIVIDUALS, UNLESS IT IS NECESSARY TO COMPLETE INVESTIGATION OR ENFORCEMENT ACTIVITIES AGAINST A PROGRAM WHICH HAS VIOLATED THE LAW. WorkForce West Virginia never reveals to the program under investigation the identity of the person who filed the complaint, unless the complainant first gave written permission to do so.

THE FREEDOM OF INFORMATION ACT (FOIA) gives the public maximum access to Federal Government files and records. Persons can request, and receive, information from many types of records kept by the Government – not just materials that apply to them personally. WorkForce West Virginia must honor most requests for information submitted under FOIA, but there are exceptions:

- WorkForce West Virginia is usually not required to release information during an investigation or an enforcement proceeding if that release would limit WorkForce West Virginia’s ability to do its job effectively; and
- WorkForce West Virginia can refuse to disclose information if release would result in a “clearly unwarranted invasion” of a person’s privacy.

**STATE OF WEST VIRGINIA
WORKFORCE INNOVATION AND OPPORTUNITY ACT
DISCRIMINATION COMPLAINT FORM**

This form is to be used by persons alleging discrimination prohibited by the Workforce Innovation and Opportunity Act and administered by the State of West Virginia.

1. Name and address of complainant

Telephone Number

2. Name and address of respondent

Telephone Number

3. Name, Address and Telephone Number of Agency/Service Provider/Employer

Name:

Telephone Number

Address:

4. Which of the following best describes why you believe you were discriminated against.

☐ Age ☐ Race ☐ Disability ☐ Political Affiliation ☐ Citizenship
☐ Sex ☐ Color ☐ Religion ☐ National Origin ☐ Retaliation

5. To the best of your knowledge which program was involved?

☐ Unemployment Compensation ☐ Workforce Innovation & Opportunity Act
☐ Employment Service ☐ Wagner-Peyser ☐ Other

6. On what date(s) did the alleged discrimination take place?

 If there was continuing discrimination indicate the date(s) of the most recent act(s).

(Department of Labor regulations require that complaints of discrimination must be filed with 180 days of the alleged discrimination)

7. Explain, as briefly and clearly as you can what happened and how you believe you were discriminated against. Be sure to include how you believe you were treated differently than other persons under the same situation. (If necessary, attach additional sheets) Also attach any written documentation pertaining to this matter.

8. Why do you believe these events occurred?

9. Please list any persons (witnesses, employees, supervisors or others) you believe had direct knowledge of your allegation that we may contact for additional information to support or clarify your complaint.

Name

Address

Telephone Number

10. What remedies do you seek?

11. Have you filed a complaint on this matter with any of the following?

☐ Civil Rights Division, U.S. Dept. of Justice ☐ WV Human Rights Commission
☐ Civil Rights Center, U.S. Dept. of Labor ☐ Federal or State Court
☐ U.S. Equal Employment Opportunity Commission

12. For each item checked in #11 above, please provide the following information:

Court or Agency _____
Case Or Docket Number _____
Date(s) Filed _____ Trial/Hearing Date _____
Name of Investigator _____
Status of Case _____

13. Do you have an attorney or other representation? ☐ Yes ☐ No If yes, please provide the name, address and telephone number _____

I attest that the information provided is true and accurate to the best of my knowledge.

Signature of Complainant or Representative

Date Signed

Any questions should be directed to:

Vickie Elkins, EO Officer
WorkForce West Virginia
112 California Avenue
Charleston, West Virginia 25305
Telephone: (304) 558-1600
TDD (304) 558-1549
Vickie.H.Elkins@wv.gov

If you elect to file your complaint with WorkForce West Virginia you must wait until WorkForce West Virginia issues a decision, or until 90 days have passed, whichever is sooner, before filing with the US Department of Labor, Civil Rights Center (CRC), 200 Constitution Avenue, NW, Room N-4123, Washington DC 20210. If WorkForce West Virginia has not provided you with a written decision within 90 days of the filing of the complaint, you need not wait for a decision to be issued, but may file a complaint with the CRC within 30 days of the expiration of the 90-day period. If you are dissatisfied with the resolution of your complaint, you may file a complaint with the CRC. Such complaints must be filed within 30 days of the date you received notice of the resolution.

STATE OF WEST VIRGINIA

NOTICE ABOUT INVESTIGATORY USES OF PERSONAL INFORMATION

Two Federal laws govern personal information submitted to Federal agencies, including the Civil Rights Center (CRC): the Privacy Act of 1974 (5 U.S.C. 552), and the Freedom of Information Act (5 U.S.C. 552), or “FOIA.” Please read this description of how these laws apply to information connected with your complaint. After reading this notice, please sign and return the consent agreement printed on the back of this notice, along with your complaint form.

THE PRIVACY ACT protects individuals from misuse of personal information held by the Federal Government. The law applies to records that are kept and can be located by the individual’s name, social security number, or other personal identification system. Anyone who submits information to WorkForce West Virginia in connection with a discrimination complaint should know the following:

- WorkForce West Virginia has been authorized to investigate complaints of discrimination on the basis of race, color, national origin, age, and disability, and in some programs on the basis of sex, religion, citizenship, and political affiliation or belief, in programs that receive Federal funds through the Department of Labor. WorkForce West Virginia is also authorized to conduct reviews of federally funded programs to assess their compliance with civil rights laws.
- Authorized personnel within the agency analyze information collected by WorkForce West Virginia. This information may include personnel or program participant records, and other personal information. WorkForce West Virginia staff may need to reveal some of the personal information to individuals outside the office in order to verify facts related to the complaint, or to discover new facts which will help Workforce West Virginia to determine whether the law has been violated.
- Information submitted to WorkForce West Virginia may also be revealed to personnel outside of WorkForce West Virginia because it is necessary in order to complete enforcement proceedings against a program that WorkForce West Virginia finds to have violated the law or regulations. Such information could include, for example, the name, income, age, marital status or disability of the complainant.
- Any personal information you provide may be used only for the specific purpose for which it was requested. WorkForce West Virginia requests personal information only for the purpose of carrying out authorized activities to enforce, and determine compliance with, civil rights laws and regulations. WorkForce West Virginia will not release personal information to any person or organization unless the person who submitted the information gives written consent, or unless release is required by the Freedom of Information Act.

No law requires that a complainant reveal personal information to WorkForce West Virginia, and no action will be taken against a person who denies a request for personal information. However, if WorkForce West Virginia cannot obtain the information needed to fully investigate the allegations in the complaint, the case may be closed.

- Any person may ask for, and receive, copies of all personal materials Workforce West Virginia keeps in his or her file for investigatory use.

AS A POLICY, WORKFORCE WEST VIRGINIA DOES NOT REVEAL NAMES AND OTHER IDENTIFYING INFORMATION ABOUT INDIVIDUALS, UNLESS IT IS NECESSARY TO COMPLETE INVESTIGATION OR ENFORCEMENT ACTIVITIES AGAINST A PROGRAM WHICH HAS VIOLATED THE LAW. Workforce West Virginia never reveals to the program under investigation the identity of the person who filed the complaint, unless the complainant first gave written permission to do so.

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- WorkForce West Virginia is usually not required to release information during an investigation or an enforcement proceeding if that release would limit Workforce West Virginia’s ability to do its job effectively; and
- WorkForce West Virginia can refuse to disclose information if release would result in a “clearly unwarranted invasion” of a person’s privacy.

NOTICE ABOUT INVESTIGATORY USES OF PERSONAL INFORMATION

PLEASE READ AND SIGN SECTION A OR SECTION B OF THE CONSENT FORM.

CONSENT FORM

I have read the Notice about Investigatory Uses of Personal Information, printed on the front of this form. I understand the following provisions of the Privacy Act and Freedom of Information Act, which apply to personal information I reveal to WorkForce West Virginia in connection with my complaint:

In the course of investigating my complaint, WorkForce West Virginia may have to reveal my identity to staff of the program, named in my complaint, in order to obtain facts and evidence regarding my complaint:

I do not have to reveal any personal information to WorkForce West Virginia, but WorkForce West Virginia may close my complaint if I refuse to reveal information needed to fully investigate my complaint;

I may request and receive a copy of any personal information WorkForce West Virginia keeps in my complaint file for investigatory uses; and

Under certain conditions, WorkForce West Virginia may be required by the Freedom of Information Act to reveal to others personal information I have provided in connection with my complaint.

SECTION A

_____ YES, WORKFORCE WEST VIRGINIA MAY DISCLOSE MY IDENTITY IF NECESSARY TO INVESTIGATE MY COMPLAINT. I have read and understand the notice, and I consent for WorkForce West Virginia to process my complaint.

Name (Please print)

Signature

Date

SECTION B

_____ NO, WORKFORCE WEST VIRGINIA MAY NOT DISCLOSE MY IDENTITY, EVEN IF NECESSARY TO PROCESS MY COMPLAINT. I have read and understand the notice, and I do not consent for WorkForce West Virginia to disclose my identity during investigation of my complaint. I request that WorkForce West Virginia process my complaint, however, I understand that WorkForce West Virginia may cancel my complaint if it cannot fully investigate without disclosing my identity.

Name (Please print)

Signature

Date

Privacy Consent/Denial Form

Consent Form

I have read the Notice about Investigatory Uses of Personal Information and I understand the following provisions of the Privacy act and Freedom of Information Act, which apply to personal information which I reveal to R2WIB in connection with my complaint.

*In the course of investigating my complaint, R2WIB may have to reveal my identity to staff of the program named in my complaint. This may be done in order to obtain evidence regarding my complaint.

*I do not have to reveal any personal information, but my complaint may be closed if I refuse to reveal information needed to fully investigate my complaint.

*I may request and receive a copy of any personal information which is kept in my complaint file for investigatory purposes.

*Under certain conditions, R2WIB may be required by the FOIA to reveal to others personal information I have provided in connection with my complaint.

SECTION A

_____ Yes, R2WIB May disclose my identity if necessary to investigate my complaint. I consent to this disclosure in order for my complaint to be investigated.

Name : Please Print

Signature

SECTION B

_____ NO, R2WIB may not disclose my identity, even if necessary to process my complaint. I request that R2WIB process my complaint, however, I understand that R2WIB may cancel my complaint if it cannot fully investigate without disclosing my identity.

Name: Please Print

Signature

SEXUAL AND OTHER UNLAWFUL HARASSMENT

South Western West Virginia Region 2 Workforce Investment Board (Region 2 WIB) is committed to the maintenance of an environment free of discrimination and all forms of coercion that impede the professional freedom or diminish the dignity of any member of the staff. Region 2 WIB emphasizes this policy specifically as it pertains to prevention of sexual harassment and to the obligations of male and female staff in this regard. Other unlawful harassment such as racial or otherwise is prohibited and subject to the following provisions as applicable.

It is the policy of Region 2 WIB that no staff member--may sexually harass any other member of the staff. Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute harassment when:

- Submission to such conduct is made or threatened to be made, either explicitly or implicitly, a term or condition of an individual's employment or education;
- Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for employment decisions affecting that individual; or
- Such conduct has the purpose or effect of substantially interfering with an individual's professional performance or creating what a reasonable person would sense as an intimidating, hostile, or offensive employment, educational, or living environment.

The following is a partial list of sexual harassment examples:

- Unwanted sexual advances.
- Offering employment benefits in exchange for sexual favors.
- Making or threatening reprisals after a negative response to sexual advances.
- Visual conduct that includes leering, making sexual gestures, or displaying of sexually suggestive objects or pictures, cartoons or posters.
- Verbal conduct that includes making or using derogatory comments, epithets, slurs, or jokes.
- Verbal sexual advances or propositions.
- Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, or suggestive or obscene letters, notes, or invitations.
- Physical conduct that includes touching, assaulting, or impeding or blocking movements. Unwelcome sexual advances (either verbal or physical), requests for sexual favors, and other verbal or 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 employment;
 - (2) Submission or rejection of the conduct is used as a basis for making employment decisions; or, (3) the conduct has the purpose or effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment.

If you experience or witness sexual or other unlawful harassment in the workplace, report it immediately to the Equal Opportunity Officer, Melissa A. Bias. If the Equal Opportunity Officer is unavailable, immediately contact the Executive Director, Claude J. Hunt. You can raise concerns and make reports without fear of reprisal or retaliation.

All allegations of sexual harassment will be quickly and discreetly investigated. To the extent possible, your confidentiality and that of any witnesses and the alleged harasser will be protected against unnecessary disclosure. When the investigation is completed, you will be informed of the outcome of the investigation.

Any supervisor or manager who becomes aware of possible sexual or other unlawful harassment must immediately advise the Equal Opportunity Officer, Melissa A. Bias, or Claude J. Hunt, Executive Director, or any member of management so it can be investigated in a timely and confidential manner. Anyone engaging in sexual or other unlawful harassment will be subject to disciplinary action, up to and including termination of employment.

Region 2 Workforce Investment Board Policy Letter # 2 B

South Western West Virginia Region 2 Workforce Investment Board Policy on Sexual Harassment

South Western West Virginia Region 2 Workforce Investment Board (Region 2 WIB) is committed to the maintenance of an environment free of discrimination and all forms of coercion that impede the professional freedom or diminish the dignity of any member of the staff. Region 2 WIB emphasizes this policy specifically as it pertains to prevention of sexual harassment and to the obligations of male and female staff in this regard.

It is the policy of Region 2 WIB that no staff member--may sexually harass any other member of the staff. Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute harassment when:

- submission to such conduct is made or threatened to be made, either explicitly or implicitly, a term or condition of an individual's employment or education;
- submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for employment decisions affecting that individual; or
- such conduct has the purpose or effect of substantially interfering with an individual's professional performance or creating what a reasonable person would sense as an intimidating, hostile, or offensive employment, educational, or living environment.

Melissa A. Bias/Equal Opportunity Officer

Date

Signature of Employee

Date

Board Approval 6.15.17