NH Nondiscrimination Plan

Appendix VII. Complaint Processing Procedures
WIOA POLICY ISSUANCE – 2018-005
Effective Date: October 1, 2018

EQUAL OPPORTUNITY

Background:


Policy: Section 188 of the workforce Innovation and Opportunity Act provides for equal opportunity within all WIOA funded programs.

POLICY: It is the policy of the New Hampshire Works Consortium and partner agencies to assure nondiscrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I- financially assisted program or activity.

PROCEDURES:

1. **Who may file:** Any covered individual who believes that he or she has been discriminated against based on race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I- financially assisted program or activity.

2. **When to file:** A formal complaint must be filed within 180 days of the alleged discriminatory act(s). Complaints initiated more than 180 days from the date of the alleged discrimination may be extended for good cause by the Director of CRC.

3. **Where to file:** Complaints may be filed with the Department of Business and Economic Affairs, Office of Workforce Opportunity (OWO) Equal Opportunity (EO) Officer, 1 Eagle Square, Concord, NH, 03301, Telephone: (603) 271-7275 TDD: 1-800-735-2964 relay 211. With respect to WIOA-funded organizations, complaints may also be filed with the One-Stop Partner or WIOA-recipient, who will forward it to the OWO EO Officer for proper logging and processing if appropriate.

Complaints may alternatively be filed directly with the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue, NW, Rm N-4123, Washington, D.C. 20210. Telephone: (202) 219-7026, TDD: 1-800-326-
4. **How to file:** Each complaint shall be in writing and shall:
   a) Be signed by the complainant or his/her authorized representative;
   b) Contain the complainant’s name and address, or specify another means of contact;
   c) Identify the person(s) and/or legal entity complained against (the respondent);
   and
   d) Describe the complainant’s allegations in sufficient detail to allow determination of whether the complaint
      - falls under OWO, One-Stop Partner, or WIOA-Recipient jurisdiction
      - was timely filed, and
      - has apparent merit.

e) Upon receipt of a written complaint alleging discrimination, the OWO EO Officer shall promptly log the complaint and forward it to the appropriate One-Stop Partner or WIOA-Recipient to
   - initiate review and/or investigation of the complaint, or;
   - provide notice, as appropriate, to all parties including the complainant and the respondent of the specific charges;
   - inform the complainant and respondent of their right to representation;
   - inform the complainant and respondent of their right to present evidence;
   - inform the complainant and respondent of their right to rebut evidence presented by others;
   - inform the complainant of their right to select an alternative method of dispute resolution, such as mediation; and
   - make a decision strictly on the evidence.

6. The identity of the complainant shall be kept confidential except to the extent necessary to carry out the purposes of 29 CFR 38, including the conduct of any investigation, hearing or judicial proceeding arising hereunder. When consent has been provided for release of complainant’s identity, disclosure should be under the conditions which will promote receipt of confidential information.

7. No person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Equal Opportunity policies or because he/she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing in this part.

8. OWO, the One-Stop Partner, or WIOA-Recipient shall process the complaint within 90 days and offer a resolution to the complainant. If by the end of 90 days, complaint processing has not been completed, or the complainant has not been notified of the resolution, the complainant or his/her representative may, within 30 days of the expiration of the 90-day period or upon notification of resolution, file with CRC.

9. OWO, the One-Stop Partner, or WIOA-Recipient shall notify the complainant immediately in writing upon determining that it does not have jurisdiction over a complaint that alleges a violation of the nondiscrimination and equal opportunity provisions of WIOA. The notification shall include the basis for such determination, as well as a statement of the complainant’s right to file a written complaint with the Director of CRC within 30 days of receipt of the notification.

10. The complainant has the choice of an Alternative Dispute Resolution rather than the customary process. The complainant must request ADR within 10 days of filing the complaint. If an agreement is not reached under ADR, the complainant may file with the CRC. In the event that the ADR agreement is breached, the non-breaching party may file a complaint with the CRC within 30 days of the date on
which the party learns of the alleged breach. If the CRC determines that there has been a breach, the complainant may file a complaint with the CRC based upon his/her original allegation(s), and the CRC will waive the time deadline for filing such a complaint.

**ACTION:** All staff must be knowledgeable of the contents of this directive
FORMS TO BE USED FOR FILING A CIVIL RIGHTS/EO COMPLAINT WITH

N H DEPARTMENT OF

BUSINESS AND ECONOMIC AFFAIRS (BAE)

OFFICE OF WORKFORCE OPPORTUNITY (OWO)

A. HOW TO REGISTER A CIVIL RIGHTS COMPLAINT
B. COMPLAINT FORM FOR BAE’s OFFICE OF WORKFORCE OPPORTUNITY
C. SAMPLE LETTER OF ACKNOWLEDGEMENT
D. NOTICE OF HEARING
E. NOTICE OF HEARING FINAL DISPOSITION OUTLINE
F. NOTICE OF RIGHT TO APPEAL
G. COMPLAINT APPEAL FORM(S)
H. MEMORANDUM OF HEARING

FORMS TO BE USED FOR FILING A CIVIL RIGHTS/EO COMPLAINT WITH U.S. DEPT. OF LABOR, DIRECTORATE OF CIVIL RIGHTS

Director
Directorate of Civil Rights
Department of Labor
200 Constitution Avenue, NW N-4123
Washington, DC 20210

1. DIRECTORATE’S COMPLAINT INFORMATION FORM, and
2. PRIVACY ACT CONSENT FORM
ATTACHMENT A

HOW TO REGISTER A FORMAL CIVIL RIGHTS COMPLAINT WITH
NH Department of Business and Economic Affairs
Office of Workforce Opportunity

Any applicant, client, potential contractor, contractor or other aggrieved party who seeks to file a civil rights complaint as a result of equal opportunity discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I- financially assisted program or activity must follow this procedure if choosing to file the complaint with the Office of Workforce Opportunity.

1) A written complaint, detailing the specific action deemed to be discriminatory, must be prepared and submitted to the EO Officer. This should be done by completing an OWO Civil Rights Complaint Form which includes the following information:
   a. Your address, business and/or home phone
   b. Nature of the complaint,
   c. Date and detailed description of discriminatory act, and
   d. Name and title of others involved in the situation (if any).

2) All Civil Rights Complaints must be submitted within 180 days of the alleged unfair or discriminatory act. An extension may be provided for good cause by the Director, CRC.

3) The Office of Workforce Opportunity shall investigate and offer a resolution to the complainant within ninety (90) days from the date of receipt of the Civil Rights Complaint.

4) If the complainant is dissatisfied with OWO’s resolution of the Civil Rights complaint, the complainant may file a complaint with the Director of the Civil Rights Center, U.S. Department of Labor within 30 days of the receipt of the final resolution or 90-day resolution period.

5) The complainant has the option of choosing mediation as an alternative method of dispute resolution (ADR). If the complainant wishes to pursue mediation, and resolution is not reached, the complainant may file a complaint with the Director of the Civil Rights Center, U.S. Department of Labor within 30 days of the date the of ADR meeting, or 90-day resolution period.
**ATTACHMENT B**

*WIOA/OWO Civil Rights Complaint Form*

<table>
<thead>
<tr>
<th>Complainant:</th>
<th>Respondent: (the agency or person against whom you believe discriminated)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
<td>Name:</td>
</tr>
<tr>
<td>Address:</td>
<td>Address:</td>
</tr>
<tr>
<td>Telephone Number:</td>
<td>Telephone Number:</td>
</tr>
</tbody>
</table>

Provide Details of the Complaint and indicate the discriminatory action.

Include relevant names, dates, and locations of incidents. If additional space is required, attach a sheet of paper with the complainant's signature.

<table>
<thead>
<tr>
<th>Date of Alleged Discrimination:</th>
</tr>
</thead>
<tbody>
<tr>
<td>_______________________________</td>
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</table>

**OTHER PROCEDURES:**

Have you filed an action with U.S. Department of Labor, court or other agency based on the incidents noted in your complaint? If so, where and with whom?

<table>
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<tr>
<th>Where:</th>
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<td>_______________________________</td>
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<tr>
<th>Who:</th>
</tr>
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<tr>
<td>_______________________________</td>
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</table>

Date Complaint Received: __________

<table>
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<tr>
<th>Complainant's Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>________________________</td>
</tr>
</tbody>
</table>

Date: ________________________
DATE


RE __________________________ vs. __________________________

Dear __________________________

This is to acknowledge the receipt of your Equal Opportunity/Civil Rights Complaint dated __________

Investigation, which may include a hearing, will be conducted and a decision will be rendered within ninety (90) days from the date your complaint was filed.

If you have any additional information or questions concerning your complaint, please do not hesitate to contact me at:

NH Department of Business and Economic Affairs
Office of Workforce Opportunity
1 Eagle Square
Concord, NH 03302-1856
Phone: 603-271-7275
Relay NH 1-800-735-29541

Sincerely,

Equal Opportunity Officer
ATTACHMENT D

NOTICE OF HEARING

COMPLAINANT: (Name and Address)

__________________________________________

__________________________________________

__________________________________________

Respondent: (Name and Address)

__________________________________________

__________________________________________

YOU ARE HEREBY NOTIFIED THAT A HEARING WILL BE HELD:

Date ____________ Time ____________

______________________________

Place

BEFORE A HEARING OFFICER

CONCERNING:

_________________________________________________________________

_________________________________________________________________

You are entitled to appear, with witnesses, if any, at the above scheduled hearing to offer evidence as to the issue(s) raised in an Equal Opportunity/Civil Rights Complaint. You should bring to the hearing this notice and all documents previously received relative to this matter. The hearing will be conducted informally. Technical rules of evidence or procedures will not apply. You may have the Hearing Officer question the witnesses if you wish. If you prefer you may, at your own expense, be represented by an attorney. If a party having received notice fails to appear, the hearing will nevertheless proceed and the Hearing Officer will review and consider such evidence as is available. A decision will be made within ninety (90) days from the date on which the complaint was filed.

Inquiries can be addressed to:
Name: Equal Opportunity Officer
Address: NH Department of Business and Economic Affairs
1 Eagle Square
Concord, NH 03301

Telephone: 603-271-7275
Relay NH 1-800-735-2964
ATTACHMENT E

FINAL DISPOSITION OUTLINE

COMPLAINANT:

RESPONDENT:

DISPOSITION:

"SUMMARY OF EQUAL OPPORTUNITY COMPLAINT:

FACT FINDINGS:

REGULATIONS AND/OR POLICIES RELIED ON:

CONCLUSION:

EO OFFICER:

APPROVAL:

DATE:
ATTACHMENT F

NOTICE OF RIGHT TO APPEAL

Complainant: ____________________________________________

vs.

Respondent: ____________________________________________

Any party to the Equal Opportunity Complaint listed above who is not satisfied with the Office of Workforce Opportunity’s resolution of the issue or who has not received a decision within ninety (90) days of filing of the complaint may file with the Secretary, U.S. Department of Labor, utilizing the process previously outlined and the following forms:

1. COMPLAINT INFORMATION FORM, and
2. PRIVACY ACT CONSENT FORM.

U.S. Department of Labor
200 Constitution Avenue, NW., Room: N-4123
Washington DC 20210
ATTN: ASET

within ten (10) days from the date of receipt of the OWO's disposition. Filing with the US Dept. of Labor must be within 30 days of the 90-day resolution period.
ATTACHMENT G

MEMORANDUM OF AGREEMENT

COMPLAINANT:

Vs

RESPONDENT:

DATE FILED:

We hereby agree to the provisions listed below in settlement of the Equal Opportunity Complaint:

<table>
<thead>
<tr>
<th>EO Officer</th>
<th>Date</th>
<th>Respondent</th>
<th>Date</th>
</tr>
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Director, Office of Workforce Opportunity

<table>
<thead>
<tr>
<th>Date</th>
<th>Complainant</th>
<th>Date</th>
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</tbody>
</table>
ATTACHMENT H

EQUAL OPPORTUNITY COMPLAINT FILING WITH:

U.S. Department of Labor
Director, Civil Rights Center
200 Constitution Avenue, NW., Room N-4123
Washington DC 20210

Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA) prohibits any individual from being excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any organization or program receiving WIOA financial assistance on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I- financially assisted program or activity.

Any covered individual who believes that he or she has been discriminated against has the right to register a formal complaint with the OWO EO Officer or the Director, Civil Rights Center.

Should the complainant elect to file with Director of Civil Rights Center, U.S. Department of Labor, the Complaint Information Form and Notice about Investigatory Uses of Personal Information and Privacy Act forms must be completed and submitted to

U.S. Department of Labor
Director, Civil Rights Center
200 Constitution Avenue, NW. Room: N-4123
Washington DC 20210

within 180 days of incident. CRC can waive the 180 day requirement if CRC finds extenuating circumstances existed.

Filing with CRC can occur:

1) Upon the decision to file an Equal Opportunity Complaint and waive OWO Equal Opportunity Complaint options.

2) If the complainant elected to file with OWO, then OWO must be allowed to process the complaint within 90 days prior to filing with CRC.

3) If by the end of 90 days, Office of Workforce Opportunity has not completed its processing of the complaint or has failed to notify the complainant of the resolution, the complainant may within 30 days of the expiration date of the 90-day period, file with the Director of CRC, U.S. Department of Labor.

Assistance in the completion of these forms can be provided by the EO Officer at Office of Workforce Opportunity (603-271-7275 or TDD: Relay 211).
1. Complainant Information:

State your name and address:


Your telephone number(s):

Home Number: (  ) -

Work Number: (  ) -

2. Respondent Information:

Provide name and address of agency involved:

Telephone Number: (  ) -

3. What is the most convenient time and place for us to contact you about this complaint?

4. To your best recollection on what date(s) did the discrimination take place?

Date of first occurrence:

Date of most recent occurrence:

5. Have you ever attempted to resolve this complaint at the local Level? □ No or □ Yes
   a. Have you been provided with a final decision at the local level regarding your complaint?
      □ No    □ Yes
      Date of final decision (if any)
   b. Have 90 days elapsed since you filed or attempted to file this complaint at the local level?
      □ No    □ Yes
      Date you filed or attempted to file your complaint at the local level.

6. Explain as briefly and clearly as possible what happened and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently from you. Also attach any written material pertaining to your case.

For DOL use only

CLF Received by CRC: _____Accepted _____ Not Accepted

Case Number _____

By: Date:

OMB Control Number 1225-0077 Exp. Date 5/31/2011 DL 1-2014a (Rev'6/87)
7. To the best of your knowledge, which of the following Department of Labor programs were involved? (Check one)

☐ Workforce Innovation Opportunity Act (WIOA)
☐ OSHA
☐ Unemployment Insurance
☐ New Directions
☐ MSHA
☐ Job Service WIN
☐ Job Corps
☐ Displaced Worker
☐ Welfare to Work
☐ Youth
☐ Apprenticeship
☐ Other: Specify
☐ Older Americans

8. Basis of Complaint: Which of the following best describes why you believe you were discriminated against? (Check)

☐ Race: Specify
☐ Color: Specify
☐ Religion: Specify
☐ National Origin: Specify
☐ Sex: Specify [ ] Male [ ] Female
☐ Age: Specify Date of Birth:
☐ Disability: Specify
☐ Political Affiliation: Specify
☐ Citizenship: Specify
☐ Reprisal/Retaliation: Specify
☐ Other: Specify

9. Do you think the discrimination against you involved? (Check one)

☐ Your job or seeking employment?
  or
☐ Your using facilities or someone providing/not providing you with services or benefits?

If so, which of the following are involved?

☐ Hiring
☐ Transition
☐ Wages
☐ Job Classification
☐ Discharge/Termination
☐ Promotion
☐ Training
☐ Transfer
☐ Qualification/Testing
☐ Grievance Procedure
☐ Layoff/Furlough
☐ Recall (From Layoff-Furlough)
☐ Seniority
☐ Other: Specify

☐ Harassment
☐ Access/Accommodation
☐ Union Representation
☐ Union Activity
☐ Application
☐ Enrollment
☐ Referral
☐ Exclusion
☐ Placement
☐ Benefits
☐ Performance Appraisal
☐ Discipline/Reprimand
☐ Intimidation/Reprisal

10. Why do you believe these events occurred?
11. What other Information do you think is relevant to our investigation?

12. If this complaint is resolved to your satisfaction, what remedies do you seek?

13. Please list below any persons (witnesses, fellow employees, supervisors, or others) that we may contact for additional information to support or clarify your complaint:

Name ___________________________ Address ___________________________ Telephone Number

14. Do you have an attorney?

☐ Yes  ☐ No

If yes, please provide name, address and phone:

Attorney Name ___________________________ Address ___________________________ Telephone Number

15. Have you filed a case or complaint with any of the following?

☐ Civil Rights Division, U S Dept of Justice
☐ U S Equal Employment Opportunity Commission
☐ Federal or State court
☐ Your State or local Human Relations/Rights Commission

16. For each item checked in #15 above, please provide the following Information:

Agency:
Data Filed:
Case or Docket Number
Date of Trial or Hearing:
Location of agency or court
Name of Investigator:
Status of Case:
Comments:

17. Sign (Complaint NOT VALID unless signed)

Name: ___________________________ Date: ______________
Two Federal laws govern personal information 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 the 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 CRC in connection with a discrimination complaint should know the following:

- CRC 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, CRC is also authorized to conduct reviews of federal funded program to assess their compliance with civil rights laws.

- Information that CRC collects is analyzed by authorized personnel with CRC. This information may include personnel or program participant records, and other personal information. CRC staff may want 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 CRC determine whether the law has been violated. Such information could include, for example, the physical condition or age of a complainant. CRC 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 CRC may also be revealed to persons outside of CRC because it is necessary in order to complete enforcement proceedings against a program that CRC 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. CRC requests personal information only for the purpose of carrying out authorized activities to enforce, and determine compliance with, civil rights laws and regulations. CRC 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 CRC, and no action will be taken against a person who denies CRC's request for personal information. However, if CRC cannot obtain the information needed to fully investigate the allegations in the complaint, CRC may close the case.

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

AS A POLICY, CRC 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. CRC never reveals to the program under investigation the identity of the person who filed the complaint, unless the complainant first gave CRC 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 Federal government-not just materials that apply to them personally. The Civil Rights Center must honor most requests for information submitted under FOIA, but there are exceptions.

- CRC is usually not required to release information during an investigation or an enforcement proceeding if that release would limit CRC's ability to do its job effectively; and

- CRC can refuse to disclose information if release would result in a "clearly unwarranted invasion" of a person's privacy.

PLEASE READ AND SIGN SECTION A OR SECTION B OF THE CONSENT FORM PRINTED ON THE BACK OF THIS NOTICE, AND RETURN IT TO THE CIVIL RIGHTS CENTER WITH YOUR SIGNED COMPLETED COMPLAINT INFORMATION 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 the Civil Rights Center in connection with my complaint:

In the course of investigating my complaint, CRC 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 CRC, but CRC 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 CRC keeps in my complaint file for investigatory uses; and

Under certain conditions, CRC 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, CRC MAY DISCLOSE MY IDENTITY IF NECESSARY TO INVESTIGATE MY COMPLAINT. I have read and understand the notice, and I consent for CRC to disclose my identity during investigation of my complaint.

____________________________________  ____________________________
(Signature)                                      (Date)

SECTION B

[ ] NO, CRC 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 CRC to disclose my identity during investigation on of my complaint. I request that CRC process my complaint, however, I understand that CRC may cancel my complaint if it cannot fully investigate without disclosing my identity. I also understand CRC may close my complaint if it cannot begin an investigation because I have not consented for CRC to reveal my identity.

____________________________________  ____________________________
(Signature)                                      (Date)

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. Completing this form is voluntary; however, the requested information must be provided in order to file a complaint of discrimination. The Department of Labor's Civil Rights Center will use the information to investigate your complaint of discrimination. The estimated average response time to complete this form is 15 minutes per response. Send comments regarding this estimate or any other aspects of this collection of information to the U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management, Civil Rights Center, Room N-4123, Washington, D.C. 20210. Please reference OMB control number 1225-0077.
ALTERNATIVE DISPUTE RESOLUTION (ADR)

Background:


Policy: 38.85 provides alternative dispute resolution as an option to resolve a complaint.

It is the policy of the OWO and the NH Works Consortium agencies that mediation shall be the alternative dispute resolution choice available to civil rights and non-civil rights complainant/grievant. New Hampshire state agencies may follow their own internal policies, procedures and disciplinary guidelines when implementing this policy, as such policies and procedures recognize the constraints imposed by the Collective Bargaining Agreement, the NH Division of Personnel Rules, the NH Administrative Procedures Act and other applicable state laws and regulations. This means that not all complaints or grievances are appropriate or subject to mediation.

For purposes of this policy, mediation is defined as a voluntary attempt by the parties to reach resolution (settlement) of disputed issues through discussion. The mediator is a neutral person who attempts to help disputing parties without having the authority, as an arbitrator does, to impose settlement. A mediator can only act as a catalyst in translating, suggesting, cajoling, persuading, or, at times, recommending possible ways of solving the dispute. The mediator’s participation can be rejected at any time by the parties. A mediator can refuse to intervene or participate if he/she determines that the dispute is not suitable for mediation, or if settlement is not the true goal of the parties.

PROCEDURES:

1. **Who may request mediation:** Any individual who has filed a formal discrimination/harassment complaint or non-civil rights grievance.

2. **When to request mediation:** A request for mediation must be filed within 15 calendar days of the formal filing of a complaint or grievance. Requests initiated more than 15 calendar days from the date of the formal filing of the complaint or grievance will not be considered due to statutory time frames for investigation and resolution.

3. **Where to file request:** Requests for mediation may be filed with the Office of Workforce Opportunity (OWO) EO Officer, 1 Eagle Square, Concord, NH 03301, and telephone: (603) 271-7275; TDD: Relay 711. With respect to Title I WIOA-funded organizations, requests may also be filed with the One-Stop Partner or WIOA-recipient, who will forward it to the WOC EO Officer for proper processing as appropriate.

4. **How to file:** Each request shall be in writing and shall:
   a) be signed by the complainant/grievant or his/her authorized representative;
b) Contain the complainant/grievant’s name and address, or specify another means of contact;

c) Identify the person(s) and/or legal entity complained against (the respondent); and

d) Reference the original complaint/grievance OR describe the allegations in sufficient detail to allow determination of whether the request for mediation
• is appropriate under the circumstances alleged (this means that not all complaints or grievances are appropriate or subject to mediation), and
• was timely filed

e) Upon receipt of a written request for mediation, the OWO EO Officer shall promptly contact the Respondent and arrange, as soon as possible, a time and location convenient to the parties. Arrangements shall include securing a neutral mediator for the session.

5. All parties to the mediation shall understand and agree that the details of the mediation session(s) are strictly confidential. Discussion of session details with others, with the exception of a party’s legal representation, is strictly forbidden. Notes taken by any party, including the mediator, shall be destroyed at the end of the session. The identities of the parties shall be revealed only to the extent necessary to complete the mediation process.

6. While representation of the parties is permitted, the goal of mediation is to facilitate an agreement between the complainant and respondent. Thus, representatives shall refrain from participating in the discussions between the parties, and be available only for private consultation (caucus) outside of the mediation room.

   The mediator shall allow each party to initially state their story without interruption from the other party. Discussion will be encouraged after the initial stories have been told. Should the parties fail to respect this basic premise, the mediator may conclude that mediation is not possible under the circumstances and cancel the mediation.

7. Mediation is not the forum to right past wrongs, and formal rules of evidence are not followed in mediation. Either party may present whatever information they feel is necessary to clarify the issues for resolution. HOWEVER, since the goal of mediation is to facilitate an agreement for future behavior between the parties, attempts to "prove" past facts will be allowed only to the extent necessary to move the parties forward towards settlement.

8. Every attempt will be made to encourage resolution between the parties, and such resolution shall be formalized with a written agreement that all parties sign prior to the end of the mediation. All parties shall receive a copy of the signed agreement. In the event agreement cannot be reached, and the parties feel that an additional mediation session will not be conducive towards reaching agreement, the complainant has the right to file with the CRC within 30 days of the date of the failed mediation, or 90 days from the date of the original complaint, whichever date occurs first.

9. In the event that the ADR agreement is breached, the non-breaching party may file a complaint with the Civil Rights Center (CRC) within 30 days of the alleged breach. If the CRC determines that there has been a breach, the complainant may file a complaint with the CRC based upon his/her original allegation(s), and the CRC will waive the time deadline for filing such a complaint.

**ACTION:**
All staff must be knowledgeable of the contents of this directive.
FORMS TO BE USED FOR REQUESTING MEDIATION
WITH THE OFFICE OF WORKFORCE OPPORTUNITY

A) HOW TO REQUEST MEDIATION
B) REQUEST FORM FOR MEDIATION
C) SAMPLE LETTER OF ACKNOWLEDGEMENT
D) NOTICE OF MEDIATION
E) MEMORANDUM OF AGREEMENT
F) FINAL DISPOSITION OUTLINE
G) NOTICE OF RIGHT TO FILE WITH CRC

FORMS TO BE USED FOR FILING A CIVIL RIGHTS/EO
COMPLAINT WITH U.S. DEPT. OF LABOR, DIRECTORATE
OF CIVIL RIGHTS

Director
Directorate of Civil Rights Department of Labor
200 Constitution Avenue, NW Room: N-4123
Washington, DC 20210

1. DIRECTORATE'S COMPLAINT INFORMATION FORM, and
2. PRIVACY ACT CONSENT FORM
ATTACHMENT A
HOW TO REQUEST MEDIATION WITH THE OFFICE OF WORKFORCE OPPORTUNITY

Any applicant, client, potential contractor, contractor or other aggrieved party who seeks to file a civil rights complaint as a result of equal opportunity discrimination (race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I- financially assisted program or activity); or a non-civil rights grievance may choose mediation as an alternative method of dispute resolution.

1) A written request for mediation must be prepared and submitted to the EO Officer. This should be done by completing an OWO Mediation Request Form which includes the following information:
   a. Your address, business and/or home phone.
   b. Reference or original complaint/grievance or
   c. Date and detailed description of the alleged discriminatory act or grievance, and
   d. Name and title of others involved in the situation (if any).

3) All requests for mediation must be submitted within 15 calendar days of the alleged act(s). Requests received after this time period may not be considered due to statutory time frames for investigation and resolution of the complaint/grievance.

4) The Office of Workforce Opportunity shall arrange mediation no later than 45 days from date of receipt of the request. The location and time shall be reasonably convenient for all parties.

5) If the mediation does not result in a successful resolution, the complainant may file a complaint with the Director of the Civil Rights Center, U.S. Department of Labor within 30 days of the date of mediation or within the statutory 90-day resolution period, whichever is soonest.
<table>
<thead>
<tr>
<th>Complainant/Grievant:</th>
<th>Respondent: (the agency or person against whom you believe discriminated)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
<td>Name:</td>
</tr>
<tr>
<td>Address:</td>
<td>Address:</td>
</tr>
<tr>
<td>Telephone Number:</td>
<td>Telephone Number:</td>
</tr>
</tbody>
</table>

Reference the Original Complaint -OR- Provide Details of the Complaint and Indicate the discriminatory action.

Include relevant names, dates, and locations of incidents. If additional space is required, attach a sheet of paper with the complainant's signature.

Date of Alleged Act(s):

OTHER PROCEDURES:

Have you filed an action with U.S. Department of Labor, Director of Civil Rights, court or other agency based on the incidents noted in your complaint? If so, where and with whom?

Where: ____________________

Who: ____________________

OWO: ____________________

Date Received: ____________________

Complainant/Grievant's Signature

Date: ____________________
DATE

___________________________

___________________________

___________________________

RE: __________________________ vs. __________________________

Dear

This is to acknowledge the receipt of your Equal Opportunity/non-Civil Rights Complaint/Grievance Mediation will be scheduled as soon as possible, but within the next 45 days, at a time and location reasonably convenient to the parties.

If you have any additional information or questions concerning your complaint/grievance, please do not hesitate to contact me at

Department of Business and Economic Affairs
Office of Workforce Opportunity
1 Eagle Square
Concord, NH 03301
Phone: 603-271-7275
TDD: Relay 711

Sincerely,

Equal Opportunity Officer
ATTACHMENT D

NOTICE OF MEDIATION

COMPLAINANT/GRIEVANT: 

__________________________________________  

__________________________________________  

__________________________________________  

__________________________________________  

RESPONDENT:

__________________________________________  

__________________________________________  

__________________________________________  

YOU ARE HERBY NOTIFIED THAT MEDIATION WILL BE HELD:

DATE

__________________________________________

TIME

__________________________________________

PLACE BEFORE A NEUTRAL MEDIATOR

CONCERNING:

__________________________________________

__________________________________________

__________________________________________

__________________________________________

__________________________________________

__________________________________________

__________________________________________

__________________________________________

__________________________________________

INSTRUCTIONS:
The goal of medication is to seek an agreement between the parties, which focuses on future behavior. It is not meant to right a past wrong. The mediation will be conducted informally. Technical rules of evidence or procedures will apply. You MAY bring to the mediation all documents previously received or relative to this matter, but the mediator may, if he/she chooses, limit the presentation of such information. If you prefer you may, at your own expense, be accompanied by an attorney, but that person will be asked to not participate in the discussion between the parties. If a party having received notice fails to appear, the mediation will be cancelled. If time permits, another session may be scheduled, but if this is impractical, the complainant will be notified of his/her right to file a complaint/grievance directly with the Department of Labor.

Inquiries can be addressed to:
Name: Equal Opportunity Officer
Address: Department of Business and Economic Affairs
          Office of Workforce Opportunity
          1 Eagle Square
          Concord, NH 03301
MEMORANDUM OF AGREEMENT

COMPLAINANT:__________________________________________________________

Vs.

RESPONDENT:___________________________________________________________

DATE FILED:______________________________

We hereby agree to the provisions listed below in settlement of the above Equal Opportunity Complaint/non civil rights Grievance:

EO OFFICER ___________________ Date ___________________ RESPONDENT ___________________ Date ___________________

COMMISSIONER ___________________ Date ___________________ COMPLAINANT ___________________ Date ___________________

NH DEPT. OF BUSINESS & ECONOMIC AFFAIRS
ATTACHMENT F

FINAL DISPOSITION OUTLINE

COMPLAINANT:

RESPONDENT:

DISPOSITION:

SUMMARY OF COMPLAINT/GRIEVANCE:

FACT FINDINGS:

REGULATIONS AND/OR POLICIES RELIED ON:

CONCLUSION: EO

OFFICER:

APPROVAL:

Commissioner, NH Dept. Business and Economic Affairs           Date:
ATTACHMENT G
NOTICE OF RIGHT TO FILE WITH THE US DEPARTMENT OF LABOR

Complainant: ________________________________

Vs.

Respondent: ________________________________

Failure to reach resolution at mediation results in the right of any party to the Complaint listed above to file with the Director of Civil Rights Center, U.S. Department of Labor, utilizing the process previously outlined and the following forms:

1. DIRECTORATE'S COMPLAINT INFORMATION FORM, and
2. PRIVACY ACT CONSENT FORM

U.S. Department of Labor
Director, Civil Rights Center
200 Constitution Avenue, NW., Room: N-4123
Washington DC 20210

Filing with the CRC must be within 30 days of the failed mediation or 90-day resolution period, whichever occurs first.