



CENTRAL REGION

**Workforce Innovation and Opportunity Act Administrative Policy #201**

**Subject:** Equal Opportunity and Processing of Grievance and Complaints  
**Effective Date:** July 1, 2012  
**Revised:** January 10, 2018

**Part 1 – Equal Opportunity Provisions**

**Policy Statement:**

No individual shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under federally-assisted Title I programs and activities of the Workforce Innovation and Opportunity Act of 2014 in Virginia’s Central Region.

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases: against any individual in the United States, on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual’s citizenship status or participation in any WIOA Title I–financially assisted program or activity.

WIOA funded programs and activities will allow for physical as well as program accessibility to individuals with disabilities, programs will be provided in the most integrated environment appropriate to individuals with disabilities, and communications with individuals with disabilities will be as effective as communications with others.

**Procedure:**

Virginia Workforce Letter #15-05 serves as the source reference for this local policy and is incorporated by reference in entirety: <https://virginiacareerworks.com/wp-content/uploads/VWL-15-05-WIOA-Discrimination-Complaint-Process.pdf>

**General Requirement:**

All Central Region WIOA-funded service providers are required to make the information in this policy known to potential and enrolled customers. Enrolled customer shall sign an acknowledgement form developed by the service provider indicating that the policy has been explained to them and/or a copy made available. The form shall be maintained in the customer file.

## **Notification Requirements:**

All service providers delivering WIOA Title 1 activities funded by the Central Virginia Workforce Development Board (WDB) shall include in orientations to employees and/or participants a discussion of their rights under the nondiscrimination and equal opportunity provisions and the right to file a complaint of discrimination with either the local workforce investment board (LWDB)/Civil Rights Commission (CRC)/ U.S. Department of Labor (DOL) for customers and vendors or the Central Region EO Officer/U.S. Equal Employment Opportunity Commission (EEOC) for employees and applicants.

The Central Virginia WDB shall ensure audiotape access to the tape "Equal Opportunity Is the Law" for individuals with visual disabilities, as well as persons who have difficulty reading and/or comprehending written materials. Additionally, "Equal Opportunity Is the Law" posters will be posted at all Central Virginia WDB facilities. These posters contain a nondiscrimination and EO statement as well as information about filing a complaint. Where a significant portion of eligible population may need service or information in a language other than English or Spanish, the Central Virginia WDB shall provide the initial notice and other material in the needed language to the extent possible.

Customers and vendors may file discrimination complaints with the Central Virginia WDB EO Officer/Executive Director, Civil Rights Center, U. S. Department of Labor. Retaliatory action shall not be taken by agency management against any person for filing a complaint of discrimination; opposing a prohibited practice; furnishing information; assisting in participating in any manner in an investigation, review, hearing or any other activity related to the administration of, exercise of authority under, or privilege secured by, the nondiscrimination and EO provisions, of WIOA. Any Central Virginia WDB employee, contractor, or employee of a Central Virginia WDB contractor found in violation of the policy shall be subject to appropriate disciplinary action. Workforce Centers and Service and Training providers shall promptly notify the Central Virginia WDB EO Officer of any complaints or lawsuits filed against it alleging discrimination.

## **Equal Opportunity Officer:**

In order to ensure that equal opportunity provisions are established and communicated for the programs and services under the purview of the Central Virginia WDB and to process any complaints that may be filed, the equal opportunity officer contact information is established as follows:

*Ben Bowman  
Executive Director  
Workforce Development Director  
828 Main Street, 12th Floor  
Lynchburg, VA 24504  
Phone: (434) 845-5678, ext. 221  
TDD VA Relay Center 1-800-828-1120 or 711*

*Vicki Tanner  
State WIOA EO Officer  
Workforce Development Services  
Virginia Community College System  
Arboretum III  
300 Arboretum Place, Suite 200  
Richmond, VA 23236  
phone: 804-819-1682 | fax: 804-819-1699 | online: <http://www.vccs.edu>*

Any person who believes he or she has been subjected to discrimination based on race, color, religion, sex, national origin, age, disability, political affiliation or belief, and, for beneficiaries only, citizenship, or participation in WIOA, has the right to file a complaint within 180 days of the alleged discrimination. The person has the right to file a complaint with the WDB's Equal Opportunity Officer identified above or directly with the **Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-4123, Washington, D.C. 20210.**

### **Complaints:**

EO complaints may be filed by the individual or on behalf of the individual by an authorized representative, as a third party complaint or as a class action complaint. The three major theories of discrimination that can be used to prove illegal discrimination under WIOA and other civil rights laws are disparate treatment, disparate impact and failure to provide reasonable accommodation. The complaint must be filed in writing and signed by the filer and must include the following information:

- complainant's name and address, or other means by which the complainant may be contacted;
- identification of individual(s) and/or organization(s) responsible for the alleged discrimination;
- a description of the complainant's allegations to:
  1. determine Central Virginia WDB's jurisdiction of the complaint,
  2. timeliness of the complaint,
  3. specific prohibited basis of the alleged discrimination (i.e., race, sex, etc.), and
  4. apparent merit of the complaint.

The Central Virginia WDB may only review complaints that are in its jurisdiction. There are three criteria that determine jurisdiction: basis, timeliness and whether the respondent is a recipient of DOL funds. Basis is met if the claim is regarding those protected classes covered by civil rights (above). Timeliness is met if a complaint is filed within 180 days of the alleged violation. This time limit can be waived by the Director of CRC if certain criteria is met. All programs and activities operated by the Central Virginia WDB are funded by WIOA and therefore meet the final criteria for jurisdiction. If it is determined that the board does not have jurisdiction, the Central Virginia WDB EO Officer shall notify the complainant in writing that he or she does not have jurisdiction over the complaint, including reasons for the determination, and the complainant's right to file with the Director of CRC within 30 days of the notice and refer the complaint to the appropriate Workforce partner.

If the complainant elects to file a complaint with the Central Virginia WDB, the Central Virginia WDB shall have 90 days to process a complaint and issue a decision (60 days for the LWDB to investigate and 30 days for a review at the State level, if warranted). If the complainant files with both the CRC and the Central Virginia WDB, they will be notified that the CRC shall not investigate until the 90-day period has expired. If the complainant chooses to file with the CRC only, the Central Virginia WDB EO officer should log the complaint and assist the complainant in preparing the CRC's Complaint Information Form. During the 90-day period, complainants may elect to participate in mediation. The choice whether to use mediation or the customary investigative process rests with the complainant. If mediation is not elected, or is unsuccessful, the complaint shall be investigated in accordance with the Central Virginia's complaint-processing procedures. Such complaint procedures shall include the following elements:

1. Initial, written notice to the complainant, and a notice that the complainant has the right to be represented in the complaint process;
2. A written statement provided to the complainant that contains a list of the issues raised in the complaint and, for each issue, a statement whether the Central Virginia WDB will accept or reject the issue, and the reasons for each rejection;
3. A period for fact-finding or investigation (data collection or on-site) of the issues and review of evidence (direct, circumstantial, comparative or statistical) followed by the writing of an investigative report;
4. A 15-day period during which the Central Virginia WDB will attempt to resolve the complaint through mediation; and
5. A written Notice of Final Action provided to the complainant within 90 days of the date on which the complaint was filed, that contains the Central Virginia WDB determination.

The written Notice of Final Action must include:

1. The jurisdictional authority including the basis for the investigation
2. The Central Virginia WDB's decision on the issue and an explanation of the reasons underlying the decision,
3. A description of the way the parties resolved the issue; and
4. A notice that the complainant has the right to file a complaint with the Director of CRC within 30 days of the Notice if he/she is dissatisfied with Central Virginia's final action on the complaint.

If Central Virginia WDB does not provide a written decision within 90 days of the filing of the complaint, the complainant need not wait for a decision to be issued but may file a complaint with the CRC within 30 days of the expiration of the 90-day period. If a complainant is not satisfied with the Central Virginia WDB resolution, the complainant may file a complaint with the CRC. Such complaint must be filed within 30 days of the date the complainant received the Notice of Final Action from the Central Virginia WDB. The complainant shall be notified that if the complaint is not filed within 180 days of the alleged discrimination or a complaint has not been filed with CRC within 30 days of the receipt of Central Virginia WDB's determination or expiration of the 90-day period, the Director of CRC may extend the time limits for good cause shown.

The Central Virginia WDB's EO Officer shall determine at the conclusion of the investigation of a complaint whether there is reasonable cause to believe that a violation occurred. If an investigation results in a "reasonable cause" finding, the Central Virginia WDB EO Officer shall submit the signed investigative report, including determination and recommendation, to the State EO Officer for review within 60 days of the filing date. Based on review of the determination, the State EO Officer will determine if further review by the Attorney General's Office and the VEC Commissioner, or his designee, is warranted. If the VEC concurs with the determination, the Central Virginia WDB EO Officer shall issue a written determination. The determination shall notify the complainant of the specific findings, the proposed remedial or corrective action, and the time in which corrective action must be completed.

Where a "no cause" finding is made, the complainant shall be notified in writing. Such a determination represents the final action of the Central Virginia WDB EO Officer. The Central Virginia WDB EO Officer shall notify the complainant of his or her right to file a complaint with the CRC if he or

she believes the Central Virginia WDB resolution is unsatisfactory. The complainant shall be informed that this right must be exercised within 30 days.

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

- Back pay, or other monetary relief (Federal funds shall not be used to provide monetary relief);
- Hire or reinstatement;
- Promotion;
- Benefits or other services denied; and
- Any other remedial or affirmative relief such as outreach, recruitment, and training to ensure equal opportunity.

When technical violations are found during compliance monitoring, the EO Officer will notify the recipient in writing of the violations along with recommendations for corrective action. The EO Officer is responsible for providing technical assistance to correct the violations. Corrective action may include policy development or educating individuals responsible for implementing the required action. A follow-up visit or contact will be made by either the Board's EO Officer to evaluate progress made toward resolving the violations when a Workforce Center, Service or Training Provider is cited for discrimination. Violations as a result of an investigation and/or monitoring efforts shall be made to achieve voluntary compliance by corrective action or a conciliation agreement to correct the discrimination.

Conciliation agreements must include the following provisions:

- Be in writing;
- Address each cited violation, specify the corrective action to be taken, and state the period of time needed to attain compliance;
- Provide for periodic reporting, as determined by the WDB EO Officer, regarding the status or corrective action;
- Provide that the violation(s) do not recur; and
- Provide for enforcement if a breach of the agreement occurs.

If the WDB EO Officer concludes that compliance cannot be achieved through voluntary means, he or she will notify the State EO Officer in writing, to include the following:

- ☐☐The apparent violation(s) and the pertinent nondiscrimination or equal opportunity provision(s) of 29 CFR part 37;
- ☐☐The efforts made to achieve voluntary compliance; and
- ☐☐The corrective action the recipient must take to redress the violation.

The State EO Officer may secure voluntary compliance with the Workforce Center, Service or Training Provider through a written assurance and/or conciliation agreement. Sanctions shall be considered by the State EO Officer (or the VEC Commissioner) only if the Workforce Center, Service or Training

Provider will not agree to take voluntary corrective action. Sanctions that may be imposed include termination of funding, partial funding and disallowance of selected cost. The Central Virginia WDB shall maintain an automated or manual log of discrimination complaints to include:

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

## Part 2- Processing of Complaints or Grievances other than Equal Opportunity

### **Policy Statement:**

This part of the policy sets forth the procedures required under the Workforce Innovation and Opportunity Act (WIOA) to address grievances or complaints alleging a violation of the requirements of WIOA by the Central Virginia WDB or its service providers. This portion of policy does not address the procedures for processing complaints alleging discrimination under WIA section 188 and/or 29 CFR part 37. Such complaints must be handled in accordance with the procedures set forth in Part 1.

### **Procedure:**

VWL # 16-09 WIOA Program Grievance and Complaints Processing serves as the source reference for this local policy and is incorporated by reference in its entirety:

<http://www.elevatevirginia.org/wp-content/uploads/2017/02/VWL-16-09-WIOA-Program-Grievance-and-Complaint-Processing.pdf>

For purposes of Part 2 of this policy the following definitions shall apply:

***Complainant*** - an individual, group or agency that files a formal complaint alleging violation of the WIOA and/or provisions of a related agreement/service.

***Direct Recipient*** - any person or governmental department, agency or establishment that receives WIOA funds through a local area in order to carry out WIOA programs, but does not include an individual who is a beneficiary of such a program.

***Grievant***- an individual, group or agency that files a formal grievance alleging violation of the WIOA and/or provisions of a related agreement/service.

***Interested Parties*** – includes sub-grantees, subcontractors, service providers, employees, One-Stop partners, and training providers.

***Participant*** - an individual who has been determined to be eligible to participate in and who is receiving services, except follow-up services authorized under the WIOA, under a program authorized by the WIOA. Participation commences on the first day, following determination of eligibility, on which the individual begins receiving subsidized employment, training or other services provided under WIOA.

***Respondent*** - the individual or entity against whom the grievance or complaint is alleged.

### **Filing a Grievance or Complaint under Part 2:**

Grievances or complaints may be filed in writing to: Executive Director, Central Virginia Workforce Development Board, 828 Main Street, 12<sup>th</sup> floor, Lynchburg, VA 24504. (Telephone: 434-845-5678, ext. 221)

Examples of who may file a grievance or complaint include the following:

1. Applicants and/or registrants for aid, benefits, services or training,
2. Eligible applicants/registrants,
3. Participants,
4. Employers,
5. Applicants for employment under WIOA from the Central Virginia WDB,
6. Service providers or
7. Eligible providers of service (training or otherwise).

Each grievance or complaint must be filed, in writing, within 30 calendar days of the alleged situation and must contain the following information:

1. The name, address and phone number of the person filing the grievance or complaint;
2. The date of the alleged violation and the date the grievance or complaint was filed;
3. The identity of the respondent (i.e. the individual or entity against whom the grievance or complaint is alleged);
4. A description of the allegations. This description must include enough detail to allow the reviewer to decide whether the allegations, if true, would violate any of the provisions of WIOA; and
5. The signature of the person filing the grievance or complaint.

## **Methods of Resolution/Disposition of Complaints:**

Upon receipt of the grievance or complaint, the reviewer will provide written notice to the grievant or complainant. This correspondence will be sent within five (5) business days and will include the following:

1. A summary of the allegations submitted;
2. The date, time and place of the meeting or hearing with the reviewer and/or committee of the WDB as may be established/designated for such purposes;
3. Notice of the opportunity for an informal resolution process conducted by the WDB Director or their designee as opposed to a formal hearing.
3. A notice that the grievant or complainant may be represented by an attorney; and
4. A notice that the grievant or complainant may present witnesses and documentary evidence.

Individuals in grievance investigations are protected from retaliation and are permitted to have translators, interpreters, readers and /or a representative of their choice during the grievance procedure. The Central Virginia WDB has a maximum of 60 calendar days to conduct an investigation of the allegations and offer a resolution to the complaint. If by the end of the sixty (60) days from the date on which the complaint was filed the grant recipient fails to issue a Notice of Final Action, the complainant or grievant may file a complaint directly with the State WIOA Administrative entity (WIOA Title I Administrator).

## **Notice of Final Action:**

Once the investigation is complete and a decision has been reached, a Notice of Final Action will be sent to the grievant or complainant. A Notice of Final Action will be issued after the informal resolution process or formal hearing is complete, and will include:

1. The reviewer/committee's decision and the reasons supporting the decision;
2. A brief description of the investigation process implored to reach the decision;
3. A notice that, if dissatisfied with the decision, the grievant or complainant may appeal to the Commonwealth of Virginia within 30 business days of receipt of the Notice of Final Action; and
4. A notice that the grievant or complainant may seek a remedy authorized under another Federal, State or local law.

## **A. Processing Appeals of Local Level Grievance and Complaint Decisions at the State Level**

These grievances or complaints may be submitted by participants and other interested parties affected by the Central Virginia WDB, including one-stop partners and service providers to the State WIOA Administrative entity.

### **a. Filing an Appeal**



The State WIOA administrative entity will review:

- i. Appeals of decisions made at the local area level during the grievance and complaint process;
- ii. Grievances or complaints alleging a violation of the requirements of the WIOA filed by interested parties who have no recourse to the grievance and complaint procedure of Central Virginia WDB, but who are affected by the Virginia workforce programs; and
- iii. Grievances or complaints from providers of training services who are denied eligibility by the Central Virginia WDB, denied eligibility as a provider of on-the-job training or customized training by a one-stop operator or whose eligibility is terminated, or otherwise adversely affected, by Central Virginia WDB.

Each direct grievance or complaint must be filed, in writing, within thirty (30) calendar days of the alleged violation. Each appeal must be filed, in writing, within thirty (30) calendar days from the date on which the Notice of Final Action is received. All grievances, complaints, and appeals must contain the following information:

- i. The name, address and phone number of the person filing the appeal;
- ii. The identity of the respondent;
- iii. A description of the allegations. This description must include enough detail to allow the reviewer to decide whether the allegations, if true, would violate any of the provisions of WIOA;
- iv. Pertinent dates, including the date on which the grievance or complaint was filed at the local level, the date of the alleged occurrence for which the grievance or complaint was filed and the date a written decision was issued (or should have been issued);
- v. If applicable, citations to the provisions of WIOA, the regulations, etc. which are believed to have been violated;
- vi. A statement disclosing other steps pursued at any level regarding the grievance or complaint in questions;
- vii. A copy of the Central Virginia WDB Notice of Final Action, if such was rendered; and
- viii. The signature of the person filing the appeal.

NOTE: Appeals must be accompanied by all documentation submitted to the Central Virginia WDB when filing the original complaint. Only information received by the local area during the initial investigation will be allowed as evidence in the appeal process.

## **b. Methods of Resolution/Disposition of Complaints**

Upon receipt of the written grievance, complaint, or request for appeal and all of the pertinent information outlined above, the reviewer for the State WIOA Administrative entity will provide the grievant or complainant, and respondent with a written acknowledgment. This correspondence shall be sent within five (5) business days and include both, a summary of the allegations submitted and an offer to resolve the issue informally before rendering a decision based on the written records. Finally, the acknowledgment will include a notice that the reviewer will make their decision based on a review of the documentary evidence presented.

If the parties to the grievance or complaint decline the opportunity to resolve the issue informally, the reviewer will accept, reject or modify the decision from the local area based on a review of the evidence. The reviewer may also remand the grievance or complaint to the local level for further investigation. In any case, the reviewer has a maximum of sixty (60) calendar days to review the allegations and offer a resolution.

Individuals in grievance investigations are protected from retaliation and are permitted to have translators, interpreters, readers and/or a representative of their choice during the grievance process.

## **c. Notice of Final Action**

Once the investigation is complete and a decision has been reached, a Notice of Final Action must be sent to the grievant or complainant. If an informal resolution was provided, the Notice of Final Action must summarize the resolution agreed upon. If no informal resolution was provided, the Notice of Final Action must contain the following information:

- i. The reviewer's decision and the reasons supporting the decision;
- ii. A brief description of the investigation process implored to reach the decision;
- iii. Notice that, if dissatisfied with the decision, the grievant or complainant may appeal to the Secretary, United States Department of Labor within thirty (30) business days of receipt of the Notice of Final Action, and;
- iv. Notice that the grievant or complainant may seek a remedy authorized under another Federal, State, or local law.

## **B. Remedies that may be Imposed at the Local and State Level**

According to WIOA Section 181 (c) (3) remedies that may be imposed under this section for a violation of any requirement of this title shall be limited to:

- a. Suspension or termination of payments under this title;
- b. The prohibition of placement of a participant with an employer that has violated any requirement under this title;
- c. Where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and
- d. Where appropriate, to other equitable relief.

**Record Keeping Requirements:**

Records regarding grievances and complaints must be maintained for at least three years from the date of resolution of the grievance or complaint. All records must include the following:

1. The name and address of the grievant or complainant;
2. A description of the grievance or complaint;
3. The date the grievance or complaint was filed;
4. The disposition (final action);
5. The date of disposition of the grievance or complaint; and
6. Any other pertinent information

To the maximum extent possible, the identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation of the WIOA will be kept confidential. The information may only be used for purposes of:

1. Record-keeping and reporting;
2. Determining the extent to which an entity is operating its WIOA-funded programs or activities in a nondiscriminatory manner; or
3. Other use authorized by the nondiscrimination and equal opportunity provisions of WIOA.