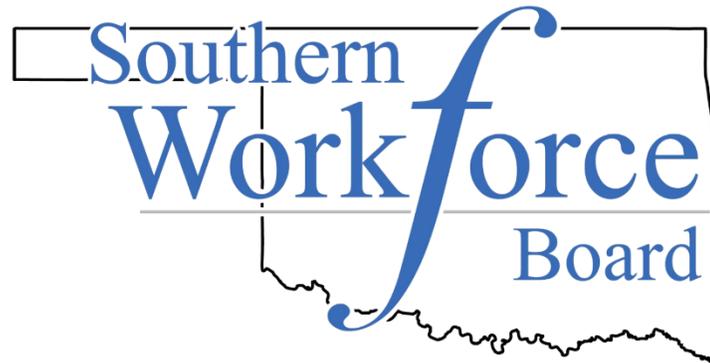


SOUTHERN WORKFORCE BOARD



NONDISCRIMINATION AND EQUAL OPPORTUNITY POLICY AND PROCEDURES

SWB – #115

Approved 3-14-2018

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SWB is an Equal Opportunity Employer/Program and Activities. Auxiliary aids and services are available upon request to individuals with disabilities.

BABEL NOTICE (29 C.F.R. § 38.9(g) (3)): This document contains vital information. If English is not your preferred language, contact One Stop Operator, ososouthern@gmail.com, 1414 E. Wade Watts Ave. McAlester, Ok. 74501 (580)634-1853 TTD/TTY: 711 or 800-722-0353 to obtain translation and/or interpretation services for the content of this document

I. Purpose

To establish a local policy in conformance OOWDI #13-2017 Change 2, OOWDI #01-2018, Change 1, and the Nondiscrimination requirements of Section 188 of the federal Workforce Innovation and Opportunity Act (WIOA).

Section 188 prohibits the exclusion of an individual from participation in, denial of the benefits of, discrimination in, or denial of employment in the administration of or in connection with any programs and activities funded or otherwise financially assisted in whole or in part under Title I of WIOA because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status, or participation in a program or activity that receives financial assistance under Title I of WIOA. It should be noted that initiation of a discrimination action does not mean there has been a violation, but notifying the Civil Rights Center (CRC) as soon as possible offers the best avenue for recipients to receive technical assistance (TA)TA to ensure compliance.

II. References:

Civil Rights Act of 1964 Titles VI and VII (42 USC §2000d et seq.)

- Education Amendments of 1972 Title IX (20 USC § 1681 et seq.)
- Rehabilitation Act of 1973 (Rehab Act) Title V, Section 504 (29 USC § 794 et seq.)
- Age Discrimination Act of 1975 (42 USC § 6101 et seq.)
- Americans with Disability Act of 1990 (ADA), as amended by American Disabilities Act Amendments Act (ADAAA) (42 USC §12101 et seq., Public Law 110-325, 122 Stat. 3553 (2008))
- Workforce Innovation and Opportunity Act (WIOA) Sections 121(b), 183(c), and 188 (29
- USC § 3151, 3243, and 3248)
- Title 29 CFR Part 38
- OOWDI 13-2017 Change 2
- A copy of WIOA Section 188 is appended to this policy as Attachment 1.

A. General Statement Affirming that Equal Opportunity is the Law

Neither the Southern Workforce Board nor its Board of Chief Elected Officials will discriminate on the following bases:

§ 38.5 General prohibitions on discrimination.

No individual in the United States may, on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in any WIOA Title I-financially assisted program or activity, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any WIOA Title I-financially assisted program or activity.

We will not discriminate in any of the following areas:

Deciding who will be admitted, or have access, to any WIOA Title I financially assisted program or activity;

Providing opportunities in, or treating any person with regard to, such a program or activity; or

Making employment decisions in the administration of, or in connection with, such a program or activity.

Furthermore, it shall be the policy of the Southern Workforce Board and its Board of Chief Elected Officials that all WIOA Title I-funded services shall be delivered in full compliance with the following laws:

- *Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I-financially assisted program or activity;*
- *Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;*
- *Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;*
- *The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and*
- *Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.*

Southern Workforce Board and Board of Chief Elected Officials assure that they will comply with 29 CFR Part 38 and all other regulations implementing the laws listed above.

B. Assurances Pursuant to § 38.25 and 38.26

Pursuant to § 38.25(a) of the Final Rule for “Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act,” Southern Workforce Board offers the following assurances:

As a condition of receiving financial assistance under Title I of WIOA, Southern Workforce Board assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the award of federal financial assistance:

- (1) Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States 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;
- (2) Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;
- (3) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- (4) The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- (5) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

Southern Workforce Board also assures that, as a recipient of WIOA Title I financial assistance, it will comply with 29 CFR part 38 and all other regulations implementing the laws listed above. This assurance applies to

Southern Workforce Board's operation of the WIOA Title I financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. Southern Workforce Board understands that the United States has the right to seek judicial enforcement of this assurance.

The Discrimination Complaint Package may be made available in Braille or large print (*i.e.*, 18- point font) on request of a person who is blind or has low vision by the LWDB. Moreover, all complaint notices, procedures, and forms must contain a "Babel" notice pursuant to 29 C.F.R. § 38.9(g)(3), which provides "Babel notice," indicating in appropriate languages that language assistance is available, in all communications of vital information, such as hard copy letters or decisions or those communications posted on websites

The Nondiscrimination Complaint Form or its equivalent, along with the "Complainant Consent/Identity Release Form" (hereinafter referred to as "Consent Form"), and the "Notice of Investigatory Uses of Personal Information" (together referred to as the "Discrimination Complaint Package") must be in writing, signed, and filed with the Equal Opportunity (EO) Officer within 180 days of the date of the alleged adverse action.

C. Duties Pursuant to OWDI 13-2017 Change (2) Policy

OWDI 13-2017 Change 2 states:

"The Oklahoma Office of Workforce Development (OOWD), Recipients, and Sub recipients / Sub grantees must maintain a policy to provide equal opportunity in all services and activities."

In Southern Oklahoma Area, the Board of Chief Elected Officials is recognized as the recipient of local WIOA Title I grant funds. The Southern Workforce Board has been designated to serve as the fiscal agent for WIOA Title I grants.

This policy shall be maintained and updated as necessary by Southern Workforce Board and Board of Chief Elected Officials.

(1) Designating an Equal Opportunity Officer

As described in § 38.28 et seq, Southern Workforce Board will designate an Equal Opportunity (EO) Officer who shall be responsible for coordinating the nondiscrimination and equal opportunity obligations of the Local Workforce Development Area.

SWB must designate an EO Officer who is responsible for coordinating its obligation under these regulations and who has direct access to the Chief Elected Official (CLEO) and LWDB Chair.

The state requires that LWDBs notify the State Equal Opportunity (EO) Officer and the Oklahoma Office of Workforce Development (OOWD) within 5 business days whenever the designation of the Local EO Officer changes.

Pursuant to OWDI 13-2017 Change 2, the duties of the Local Area EO Officer shall include the following:

- Serving as the liaison with the State EO Officer and OOWD.
- Investigating and monitoring the Local Area's and its sub recipients' WIOA Title I funded activities and programs.
- Reviewing the Local Area's organizations' and its sub recipients' written policies.
- Developing, publishing, and enforcing the Local Area's discrimination complaint procedures.

- Conducting outreach and education about equal opportunity and nondiscrimination requirements consistent with 29 CFR Section 38.40, and how an individual may file a complaint consistent with 29 CFR Section 38.69.
- Participating in continuing training and education, and ensuring that assigned staff receives the necessary training and support to maintain competency.
- Informing participants, employees, and program beneficiaries of their equal opportunity rights and responsibilities, and how the discrimination complaint process works.

SWB has designated a One-Stop Operator and OESC Regional Manager as additional resources to the EO Officer to ensure compliance with the nondiscrimination and equal opportunity provisions of the WIOA and 29 CFR Part 38.

Southern Workforce Areas will submit a copy of their EO Officer's position description and organizational chart showing the relationship of EO Officer to the CLEO and SWB Chair. Please submit the required documents via electronic mail to the following address: eoofficer@okcommerce.gov.

(2) Providing Initial and Continuing Notice

Southern Workforce Board will provide initial and continuing notice that it does not discriminate on any prohibited basis, including display and distributions of the notice / poster relating to “Equal Opportunity is the Law” along with language highlighting the right to file a complaint under “What to Do if You Believe You Have Experienced Discrimination.”

As required by OWDI 13-2017 Change 2, this notice / poster will meet the following criteria:

- Posted prominently, in reasonable numbers and places, in available and conspicuous physical locations and on the recipient’s website pages.
- Disseminated in internal memoranda and other written or electronic communications with staff.
- Included in employee and participant handbooks or manuals regardless of form, including electronic and paper form if both are available.
- Provided to each participant and employee;
- The notice must be provided in appropriate formats to registrants, applicants, eligible applicants / registrants, and applicants for employment and employees and participants with visual impairments.
- The notice must be provided in appropriate languages other than English (29 CFR Section 38.36(b)).

As it concerns communication, Southern Workforce Board and its sub recipients will indicate that its WIOA Title I-financially assisted programs or activities are an “equal opportunity employer/program,” and that “auxiliary aids and services are available upon request to individuals with disabilities.”

These statements will be included on recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper to staff, clients, or the public at large, to describe programs financially assisted under WIOA Title I or the requirements for participation by recipients and participants.

(3) Collecting Nondiscrimination Data

Southern Workforce Board will collect and maintain nondiscrimination data. The system and format in which the records and data are kept will follow the requirements of the Oklahoma Office of Workforce Development (OOWD) and the Civil Rights Center (CRC) of the U.S. Department of Labor.

(4) Accountability / Notification

Per 29 CFR § 38.42, Southern Workforce Board will promptly notify the State EO Officer, and Executive Director of OOWD when any administrative enforcement actions or lawsuits are filed against it alleging 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, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in a WIOA Title I-financially assisted program or activity. This notification will include the information required by 29 CFR 38.42(a).

(5) Complaint Log

Southern Workforce Board will maintain a log of complaints filed with the recipient that allege discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIOA Title I financially assisted program or activity.

The log will include the following:

- Name and address of complainant;
- Basis of the complaint;
- Description of the complaint;
- Date complaint was filed;
- Disposition and date of disposition of the complaint; and
- Other relevant information.

Information that could lead to identification of a particular individual as having filed a complaint will be kept confidential.

Southern Workforce Board will maintain and submit to the State EO officer a Communication and Discrimination Complaint Log quarterly to the State EO Officer. Dates to submit are:

- March 31
- June 30
- September 30
- December 31

(6) Providing Equal Access

Pursuant to Per 29 CFR § 38.40, Southern Workforce Board will take appropriate steps to ensure that equal access is provided to WIOA Title I-financially assisted programs and activities. These steps will involve reasonable efforts to include members of the various groups protected by 29 CFR Part 38 including but not limited to persons of different sexes, various racial and ethnic/national origin groups, various religions, limited English proficiency (LEP) individuals, individuals with disabilities, and individuals in different age groups. Such efforts may include, but are not limited to, the following:

- Advertising the recipient's programs and/or activities in media such as newspapers or radio programs that specifically target various populations.
- Sending notices about openings in the recipient's programs and/or activities to schools or community service groups that serve various populations.

- Consulting with appropriate community service groups about ways in which the recipient may improve its outreach and service to various populations.

(7) Accessible Facilities

The following provision of OWDI 13-2017 Change 2 will be enforced in Southern Oklahoma:

“No qualified individual with a disability may be excluded from participation in, or be denied the benefits of a recipient's service, program, or activity or be subjected to discrimination by any recipient because a recipient's facilities are inaccessible or unusable by individuals with disabilities.”

Southern Workforce Board will take positive steps to make sure that no one is excluded from participation, denied benefits, or subjected to discrimination because of facilities that are inaccessible or unusable by individuals with disabilities.

(8) Programmatic Accessibility

All WIOA Title I-financially assisted programs and activities will be programmatic accessibility. This includes providing reasonable accommodations for individuals with disabilities, making reasonable modifications to policies, practices, and procedures, administering programs in the most integrated setting appropriate, communicating with persons with disabilities as effectively as with others, and providing appropriate auxiliary aids or services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

(9) Providing Reasonable Accommodations

With regard to any aid, benefit, service, training, and employment, Southern Workforce Board will provide reasonable accommodations to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship.

(10) Making Reasonable Modifications

With regard to any aid, benefit, service, training, and employment, Southern Workforce Board will make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity, which would constitute a fundamental alteration.

(11) Grievance Procedures

OWDI 13-2017 Change 2 states:

The LWDA EO Officer must do the following:

- Develop and publish procedures (including alternative dispute resolution) for resolving allegations within the LWDA for noncompliance with applicable nondiscrimination and equal opportunity provisions.
- Develop and publish procedures for resolving allegations against service providers and sub recipients / sub grantees for noncompliance with applicable nondiscrimination and equal opportunity provisions. The service providers must then follow those procedures.

- Establish a logging system to record discrimination complaints.

(12) Intimidation and Retaliation Are Prohibited

No recipient may discharge, intimidate, retaliate, threaten, coerce, or discriminate against any individual because the individual has filed a complaint alleging any of the following:

- A violation of the WIOA.
- Opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of the WIOA
- Furnished information to, or assisted or participated in any manner in an investigation, review, hearing, or assisted or participated in any manner in an investigation, review, hearing, or any other activity related to administration of, exercise of authority under, or exercise of privilege secure by the nondiscrimination and equal opportunity provisions of WIOA or 29 CFR Part 38.

Southern Workforce Board will establish the procedures required by OWDI 13-2017 Change 2; the procedures will be published separately from this policy.

The Southern Workforce Grievance Procedures will be compliant with OWDI 13-2017 change 2 and with § 38.69 of the Final Rule on “Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act.”

In developing these procedures, Southern Workforce Board will use the definition of “service provider” that is given in § 38.4 of the Final Rule:

(ggg) Service provider means:

- (1) Any operator of, or provider of aid, benefits, services, or training to:
 - (i) Any program or activity that receives WIOA Title I financial assistance from or through any State or LWDA grant recipient; or
 - (ii) Any participant through that participant’s Individual Training Account (ITA); or
- (2) Any entity that is selected and/or certified as an eligible provider of training services to participants.

(13) Monitoring Activities

OOWD as the administrative entity will coordinate monitoring activities in such a way to avoid duplication of efforts and increase efficiencies. Annual EO monitoring will occur concurrently with programmatic monitoring. This monitoring may take place virtually, onsite or via a desk review. The EO Officer will conduct annual monitoring of actions taken by LWDBs in response to equal opportunity and nondiscrimination issues raised in this policy. Southern Workforce Board shall monitor activities and One Stop Centers to ensure compliance with EO nondiscrimination policies. State recipients, including the EO Officer at each core partner agency (OOWD, CareerTech, Department of Rehabilitation Services (DRS), Oklahoma Employment Security Commission (OESC)), shall ensure formalized assurances that the complaints received through their agencies directly related to claims in One Stop Centers shall be investigated. The State EO Officer must be notified of the results of any EO nondiscrimination investigation and of any formal complaints filed and/or investigated regarding employment with a recipient. State recipient EO Officers will monitor annually and provide reports to the OOWD State EO Officer for coordination of a state report.

A corrective action plan must be submitted to the State EO Officer at eoofficer@okcommerce.gov with remedies for all issues identified in the corrective action plan to be completed within 30 days or within

a reasonable time frame agreed upon by all parties. The purpose of this is to ensure that all equal opportunity and nondiscrimination issues identified are proactively and promptly addressed to avoid intentionally or inadvertently violating civil rights. At any time, the State EO Officer has the discretion to take over an investigation conducted by a local EO Officer and/or remand a complaint received by OOWD to a local EO Officer for processing, unless a conflict of interest exists on behalf of the State EO Office.

In the event a complaint is filed by an employee of a service provider or small recipient regarding the recipient's employment practices, the EO Officer may coordinate the investigation of the complaint with the personnel department of the recipient if, in the EO Officer's judgment, the recipient has adequate procedures and resources in place to investigate the complaint. A service provider or small recipient will work in conjunction with the EO Officer regarding complaints of discrimination.

(14) Corrective Action

Corrective action shall be implemented in the following circumstances:

An assessment of the circumstances surrounding a discrimination complaint investigation reveals barriers to equal opportunity or equal access.

- SWB EO Officer or the State-Level EO Officer's monitoring review identifies a violation, a failure to follow through on written assurances, a barrier to accessibility, or significant differences in participation in programs or services without investigation, mitigation, or justification.
- An EEOC or independent investigation found violations related to complaints filed by individuals with a recipient.

Corrective actions should be completed by the date(s) provided in the review report. If a recipient does not undertake the corrective actions specified, a conciliation agreement (or an alternate dispute resolution per 29 CFR Part 38.85) should be initiated and completed, pursuant to 29 CFR Part 38.93.

1. Initial Determination: SWB EO Officer or State EO Officer will issue an Initial Determination containing the following:

- a. Specific findings and relevant documentation underlying the finding of noncompliance;
- b. The corrective or remedial action that the Local EO or State EO Officer is proposing
- c. The time by which the respondent must complete the corrective or remedial action; and
- d. A statement offering the opportunity to engage in voluntary compliance negotiations.

2. Written Assurance or Conciliation Agreement:

A written assurance may be issued when the respondent has, within 30 calendar days after receipt of the Initial Determination identifying the noncompliance, taken all corrective actions to remedy the noncompliance. If a respondent disagrees with the findings or proposed corrective or remedial action in the Initial Determination, the respondent must respond to the Initial Determination in writing within 30 calendar days explaining in detail its disagreement and/or the items over which it desires to negotiate. The SWB or State EO Officer will carefully review the response and contact the respondent to begin negotiation regarding a Conciliation

Agreement that resolves the matter on mutually agreeable terms. The total time allotted to secure voluntary compliance must not exceed 90 calendar days.

3. Final Determination:

In the event voluntary compliance cannot be secured through steps (1) and (2) above, or if the respondent breaches the agreed-upon Conciliation

4. Agreement:

The SWB or State EO Officer will issue a Final Determination notice to the SWB Executive and or State EO Officer. This request for a final determination will specify the following:

- A statement of the efforts made to achieve voluntary compliance and a statement that those efforts have been unsuccessful;
- A statement of those matters upon which the respondent and State EO Officer continue to disagree;
- The apparent violation(s), relevant EO and Nondiscrimination provision(s) of state policy and 29 CFR Part 38, and conflicts with the State's Nondiscrimination Plan (NDP).
- A list of any modifications to the Initial Determination;
- A description of the corrective or remedial actions that the respondent must take to come into compliance; and
- Notice that if the respondent fails to come into compliance within 10 calendar days of the date on which it receives the Final Determination, the Local Area or OOWD may take actions outlined in the Sanctions Process.

(15) Sanctions

Sanctions may be necessary when a recipient refuses to implement voluntary corrective action, submit requested data or documentation, or refuses to provide access to premises or records during an EO and Nondiscrimination compliance review. Sanctions will be considered a last resort. Sanctions that may be imposed include, but are not limited to, the following:

- Termination of future funding;
- Disallowance of selected costs;
- Restriction from bidding on competitive or discretionary funds; and
- Reduction in funding.

If sanctions are necessary, the precise nature of the sanction will be determined by the deliberateness, seriousness, and frequency of the violation. In situations where sanctions are to be applied, the recipient will be notified and will be provided an opportunity to respond prior to sanctions being applied. The notice will indicate the violation, the corrective action to be taken, and the impending sanction(s). The recipient will have 30 calendar days to respond to the notice of impending sanction(s). The response from the recipient will be evaluated by the SWB Executive Director and SWB EO Officer and/or the State EO Officer, or and/or the OOWD Executive Director, representatives from the U.S. Department of Labor, and other individuals charged with oversight of WIOA. The SWB and/or OOWD will have 90 calendar days to provide a final determination of any sanction(s).

It is the responsibility of the SWB Executive Director to implement sanctions, if needed.

POLICY ADDITIONS AND CLARIFICATIONS: The Southern Workforce Board Staff is authorized to issue additional instructions, guidance, forms, etc., to further implement the requirements of this policy.

SEC. 188. NONDISCRIMINATION.

(a) IN GENERAL.—

(1) **FEDERAL FINANCIAL ASSISTANCE.** — For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) **PROHIBITION OF DISCRIMINATION REGARDING PARTICIPATION, BENEFITS, AND EMPLOYMENT.** — No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.

(3) **PROHIBITION ON ASSISTANCE FOR FACILITIES FOR SECTARIAN INSTRUCTION OR RELIGIOUS WORSHIP.** — Participants shall not be employed under this title to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants).

(4) **PROHIBITION ON DISCRIMINATION ON BASIS OF PARTICIPANT STATUS.** — No person may discriminate against an individual who is a participant in a program or activity that receives funds under this title, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant.

(5) **PROHIBITION ON DISCRIMINATION AGAINST CERTAIN NONCITIZENS.** — Participation in programs and activities or receiving funds under this title shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

(b) ACTION OF SECRETARY. — Whenever the Secretary finds that a State or other recipient of funds under this title has failed to comply with a provision of law referred to in subsection (a) (1), or with paragraph (2), (3), (4), or (5) of subsection (a), including an applicable regulation prescribed to carry out such provision or paragraph, the Secretary shall notify such State or recipient and shall request that the State or recipient comply. If within a reasonable period of time, not to exceed 60 days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

(2) take such other action as may be provided by law.

(c) ACTION OF ATTORNEY GENERAL. — When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient of funds under this title is engaged in a pattern or practice of discrimination in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney

General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) JOB CORPS. — For the purposes of this section, Job Corps members shall be considered to be the ultimate beneficiaries of Federal financial assistance.

(e) REGULATIONS. — The Secretary shall issue regulations necessary to implement this section not later than 1 year after the date of enactment of the Workforce Innovation and Opportunity Act. Such regulations shall adopt standards for determining discrimination and procedures for enforcement that are consistent with the Acts referred to in subsection (a)(1), as well as procedures to ensure that complaints filed under this section and such Acts are processed in a manner that avoids duplication of effort.

SWB is an Equal Opportunity Employer/Program and Activities. Auxiliary aids and services are available upon request to individuals with disabilities.

BABEL NOTICE (29 C.F.R. § 38.9(g) (3)): This document contains vital information. If English is not your preferred language, contact One Stop Operator, ososouthern@gmail.com, 1414 E. Wade Watts Ave. McAlester, Ok. 74501 (580)634-1853 TTD/TTY: 711 or 800-722-0353 to obtain translation and/or interpretation services for the content of this document

Southern Workforce Board, Inc.
Procedure for Receiving, Processing, and Resolving Discrimination Complaints

A. PURPOSE

The purpose of this procedure is to implement a process for handling discrimination complaints that may be filed by individuals or entities who believe they have been discriminated against in violation of the Workforce Innovation and Opportunity Act. It should be noted that initiation of a discrimination action does not mean there has been a violation, but notifying the Civil Rights Center (CRC) as soon as possible offers the best avenue for recipients to receive technical assistance (TA) to ensure compliance.

This procedure will be used in the following instances:

- **When a complainant alleges that they have been subjected to unlawful discrimination by the SWB, its Board of Chief Elected Officials, officers, or employees.**
- **When a complainant alleges they have been subjected to unlawful discrimination by the SWB's One-Stop Operator or by another Service Provider.**
- **In limited instances, when a complainant alleges that they have been subjected to unlawful discrimination by one of the SWB's One-Stop Partners operating in the context of the One- Stop Delivery System.**

Generally speaking, this procedure is not intended to be used for complaints alleging discriminatory actions that may have been carried out by another local recipient operating outside of the SWB's One-Stop Delivery System. The SWB's One-Stop Partners are required to maintain their own discrimination complaint processing procedures. In some circumstances, however, the SWB may decide to accept jurisdiction over a complaint against another recipient. This Procedure allows the SWB to accept limited jurisdiction over complaints filed against a One-Stop Partner agency.

For additional information on the "nondiscrimination" requirements of the Workforce Innovation and Opportunity Act, please see the Code of Federal Regulations, 29 CFR Part 38.

B. BACKGROUND

This procedure helps to implement the Nondiscrimination and Equal Opportunity Policy of the Southern Workforce Board

The SWB's policy is based on:

- I. WIOA Section 188;
- II. The WIOA Final Rule at 29 CFR Part 38;
- III. OWDI # 13-2017 Change 2; and
- IV. The State of Oklahoma Nondiscrimination Plan.
- V. OWDI # 1-2018
- VI. OWDI# 1-2018 Change 1

OWDI #13-2017Change 2 is the Nondiscrimination and Equal Opportunity Policy of the Oklahoma Office of Workforce Development (OOWD). The purpose of OWDI 13-2017 changes 2 and OWDI #1-2018 is given as follows:

The Oklahoma Office of Workforce Development (OOWD) as the Governor's chosen Workforce Innovation and Opportunity Act (WIOA) administrative entity provides these issuances as guidance to communicate Oklahoma's process and procedures regarding nondiscrimination and equal opportunity procedures. This policy applies to all Local Workforce Development Areas (LWDAs)....

In a section on “Complaint Processing Procedures,” OWDI #13-2017 change 2 and OWDI #1-2018 directs the LWDA’s Equal Opportunity Officer to complete the following tasks:

- Develop and publish procedures (including alternative dispute resolution) for resolving allegations within the LWDA for noncompliance with applicable nondiscrimination and equal opportunity provisions.
- Develop and publish procedures for resolving allegations against service providers and sub recipients / sub grantees for noncompliance with applicable nondiscrimination and equal opportunity provisions. The service providers must then follow those procedures.
- Establish a logging system to record discrimination complaints.

Therefore, this Procedure has been prepared as a response to the requirements of OWDI 13-2017 change 2 and OWDI #1-2018.

C. DEFINITIONS

Business Day Is defined as Monday through Friday, excluding weekends and holidays

Complaint: An allegation of a violation of the nondiscrimination and equal opportunity provisions.

Complainant: Is defined as the individual alleging s/he suffered discrimination (*i.e.*, was subjected to an adverse act) in a WIOA-funded program or activity

CRC: “CRC” means the Civil Rights Center, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor.

SWB: Southern Workforce Board. SWB serves as the local workforce development board in the Southern Workforce area.

Discriminatory Act: See Item D (1) of this Procedure for a summary of discriminatory acts that are prohibited under the Workforce Innovation and Opportunity Act.

EO Officer: As used in the Procedure, this term refers to the Equal Opportunity Officer of the Southern Workforce Board. See Item D (4) of this Procedure for a description of the EO Officer’s duties.

Formal Designee: This refers to a designated person or persons by the Board to assist the EO Officer with duties of EEO responsibilities

LWDA: Local Workforce Development Area. In Southern Oklahoma, the SWB encompasses seventeen counties: Atoka, Bryan, Carter, Choctaw, Coal, Garvin, Haskell, Johnston, Latimer, Leflore, Love, Marshall, McCurtain, Murray, Pittsburg, and Pontotoc

LWDA Grant Recipient: As defined in 29 CFR §38.4(ii), the term “LWDA Grant Recipient” means the entity that receives WIOA Title I financial assistance for a local area directly from the Governor and disburses those funds for workforce development activities.

In Southern Oklahoma, the LWDA Grant Recipient is the SWB acting as the Fiscal Agent for the Board of Chief Elected Officials.

One-Stop Delivery System: The SWB’s One-Stop Delivery System is described in the Memorandum of Understanding between SWB and its One-Stop Partners. Section 121(a) of the Workforce Innovation and Opportunity Act provides that, “The local board for a local area, with the agreement of the chief elected official for the local area, shall... develop and enter into the memorandum of understanding... with one-stop partners.” The One-Stop Delivery System is also described in the Local Plan for the Southern workforce area.

One-Stop Operator: The term “one-stop operator” means one or more entities designated or certified under section 121(d) of the Workforce Innovation and Opportunity Act (WIOA).

Recipient: As defined in 29 CFR §38.4(zz), the term “recipient” means an entity to which financial

assistance under Title I of WIOA is extended, directly from the U.S. Department of Labor or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient). This term excludes any ultimate beneficiary of the WIOA Title I-financially assisted program or activity. In instances in which a Governor operates a program or activity, either directly or through a State agency, using discretionary funds apportioned to the Governor under WIOA Title I (rather than disbursing the funds to another recipient), the Governor is also a recipient.

In addition, for purposes of this part, one-stop partners, as defined in section 121(b) of WIOA, are treated as “recipients,” and are subject to the nondiscrimination and equal opportunity requirements of this part, to the extent that they participate in the one-stop delivery system.

“Recipient” includes, but is not limited to:

- State-level agencies that administer, or are financed in whole or in part with, WIOA Title I funds;
- State Workforce Agencies;
- State and Local Workforce Development Boards;
- LWDA grant recipients;
- One-stop operators;
- Service providers, including eligible training providers;
- On-the-Job Training (OJT) employers;
- Job Corps contractors and center operators;
- Job Corps national training contractors;
- Outreach and admissions agencies, including Job Corps contractors that perform these functions;
- Placement agencies, including Job Corps contractors that perform these functions;
- Other National Program recipients.

Respondent: This term refers to the individual or entity against whom the complaint is filed. As an example, under this Procedure, a complaint may be filed against a Service Provider, a One-Stop Partner (in limited instances), or against a SWB employee or board member.

Service Provider: The term “Service Provider” is defined in §38.4(ggg) of 29 CFR Part 38. The definition is given as follows:

(1) Any operator of, or provider of aid, benefits, services, or training to:

(i) Any program or activity that receives WIOA Title I financial assistance from or through any State or LWDA grant recipient; or

(ii) Any participant through that participant’s Individual Training Account (ITA); or

(2) Any entity that is selected and/or certified as an eligible provider of training services to participants.

As used in this Procedure, for example, the term “Service Provider” includes:

- The SWB’s One-Stop Operator;
- A Youth Provider (eligible provider of youth workforce investment activities, as described in WIOA Section 123);
- Eligible providers of Career Services (to the extent that the One-Stop Operator does not provide the career services described in section 134(c)(2) of WIOA); and
- Eligible Providers of Training Services (as described in WIOA Section 123).

State-Level EO Officer: This term refers to the individual who has been designated by the Governor and who is responsible for State Program-wide coordination of compliance with the equal opportunity and nondiscrimination requirements in WIOA. The State-Level EO Officer is identified in Item D

(19) (a) of this Procedure.

State Programs: As defined in §38.4(kkk), the term “State Programs” means programs that are financially assisted in whole or in part under Title I of WIOA in which either:

- The Governor and/or State receives and disburses the grant to or through LWDA grant recipients; or
- The Governor retains the grant funds and operates the programs, either directly or through a State agency.
- “State Programs” also includes State Workforce Agencies, State Employment Service agencies,
And/or State unemployment compensation agencies.

By this definition, the term “State Programs” includes:

- WIOA Title I Programs operated by the Oklahoma Office of Workforce Development;
- WIOA Title I Programs operated through SWB and other LWDA grant recipients; and
- Programs operated by the Oklahoma Employment Security Commission.

D. THE SWB PROCEDURE FOR RECEIVING, PROCESSING, AND RESOLVING DISCRIMINATION COMPLAINTS -- DESCRIBED IN Q&A FORMAT

D.1 WHAT IS A DISCRIMINATORY ACT?

The Workforce Innovation and Opportunity Act (WIOA) provides that no individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.

Examples of discriminatory acts specifically prohibited are given in these sections of the Final Rule:

- 38.6 Specific discriminatory actions prohibited on bases other than disability.
- 38.7 Discrimination prohibited based on sex.
- 38.8 Discrimination prohibited based on pregnancy.
- 38.9 Discrimination prohibited based on national origin, including limited English proficiency.
- 38.10 Harassment prohibited.
- 38.11 Discrimination prohibited based on citizenship status.
- 38.12 Discrimination prohibited based on disability.

Additionally, the following sections of the Final Rule describe requirements for the fair and equal treatment of individuals with disabilities:

- 38.13 Accessibility requirements.
- 38.14 Reasonable accommodations and reasonable modifications for individuals with disabilities.
- 38.15 Communications with individuals with disabilities.
- 38.16 Service animals.
- 38.17 Mobility aids and devices.
- No individual in the United States may, on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in any WIOA Title I-financially assisted program or activity, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any WIOA Title I-

financially assisted program or activity . (See U.S.C § 3248 and 29 C.F.R. § 38.5).

- Any person, or the person's representative, who believes that an individual or class of individuals has been or is being discriminated against on a basis prohibited by Title I of WIOA may file a complaint.

NOTE: See the Final Rule at 29 CFR Part 38 for a complete list of program requirements and prohibited actions.

D.2 WHO MAY FILE A DISCRIMINATION COMPLAINT?

Any person who believes that s/he or any person or any specific class of individuals has been or is being subject to discrimination prohibited by the nondiscrimination and equal opportunity provisions of WIOA may personally file a written complaint or file a written complaint through a representative.

A complainant may be:

- A WIOA program participant;
- An applicant for services;
- A "Reportable Individual" (as that term is used in the WIOA Final Joint Regulations, § 677.150(b));
- Applicants for employment and employees;
- Unions or professional organizations that hold collective bargaining or professional agreements with the recipient;
- Sub recipients that receive WIOA Title I funds from the recipient; and
- Members of the public, including those with impaired vision or hearing.

As stated in 29 CFR §38.69 ("Complaint filing"):

(a) Any person or the person's representative who believes that any of the following circumstances exist may file a written complaint:

(1) A person, or any specific class of individuals, has been or is being discriminated against 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, political affiliation or belief, citizenship status, or participation in any WIOA Title I financially assisted program or activity as prohibited by WIOA or this part.

(2) Either the person, or any specific class of individuals, has been or is being retaliated against as described in § 38.19.

D.3 WHERE SHOULD THE COMPLAINT BE FILED?

A complaint may be filed with any of the following entities:

- The SWB Equal Opportunity Officer
- The Southern Workforce Area OESC Regional Manager
- The Southern Workforce Area One Stop Operator
- The State-Level EO Officer; or
- The Civil Rights Center of the U.S. Department of Labor.

Contact information for each entity:

Karen Davidson SWB Equal Opportunity Officer

Southern Workforce Board

107 South 3rd

Hugo, Oklahoma 74743

Phone: 580-743-0822 TDD/TTY ... (800) 722-0353

Email: kdavidson@swb-ok.com

Cody Cox OESC Area Manager

2102 E. Washington St.
Idabel, Oklahoma 74745
Phone: 580-286-6667 **TDD/TTY (800) 722-0353**
Email: Cody.Cox@OESC.state.ok.us

SWB One Stop Operator

1414 E. Wade Watts
McAlester, Oklahoma 74501
Phone: 580-634-1853 **TDD/TTY: 711 or (800) 722-0353**
Email: ososouthern@gmail.com

State WIOA EO Officer--

State EO Officer
Oklahoma Office of Workforce Development
900 N. Portland Avenue
Oklahoma City, OK 73107
Phone: (405) 208-2519 **TDD/TTY: 711 or (800) 722-0353**
Email: eoofficer@okcommerce.gov

U.S. Department of Labor—

Director, Civil Rights Center
(CRC) U.S. Department of
Labor
200 Constitution Avenue NW, Room N-4123
Washington, DC 20210
Telephone ... (202) 693-6500
TTY/TDD ... (202) 693-6516

As described in 20 CFR 38.35, a complaint may be delivered electronically to the CRC as directed on their website www.dol.gov/crc.

If you file your complaint with SWB, you must wait either until SWB issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center.

For a complete description of the Civil Rights Center's procedure for processing complaints, see the Code of Federal Regulations, 29 CFR 38.69 through 29 CFR 38.115.

D.4 WHAT IS THE ROLE OF THE SWB'S EQUAL OPPORTUNITY OFFICER?

The SWB has designated the above-named individual as its Equal Opportunity Officer or designee. (See item D (3), above). The duties of an Equal Opportunity Officer are described in the federal regulations at 29 CFR Part 38.31. The EO Officer's responsibilities include, but are not limited to—

- (a) Serving as a SWB's liaison with the State WIOA EO Officer and the Civil Rights Center;
- (b) Monitoring and investigating the recipient's activities, and the activities of the entities

that receive WIOA Title I-financial assistance from the recipient, to make sure that the recipient and its sub recipients are not violating their nondiscrimination and equal opportunity obligations under WIOA Title I, which includes monitoring the collection of data to ensure compliance with the nondiscrimination and equal opportunity requirements of WIOA;

- (c) Reviewing the recipient's written policies to make sure that those policies are nondiscriminatory;
- (d) Developing and publishing the recipient's procedures for processing discrimination complaints under §§ 38.72 through 38.73, including tracking the discrimination complaints filed against the recipient, developing procedures for investigating and resolving discrimination complaints filed against the recipient, making sure that those procedures are followed, and making available to the public, in appropriate languages and formats, the procedures for filing a complaint;
- (e) Conducting outreach and education about equal opportunity and nondiscrimination requirements consistent with § 38.40 and how an individual may file a complaint consistent with § 38.69; and
- (f) Undergoing training (at the recipient's expense) to maintain competency of the EO Officer and staff, as required by the Director of the CRC.

As required by 29 CFR 38.30, the SWB's Equal Opportunity Officer is a senior-level employee of the SWB. The SWB's EO Officer is not permitted to have other responsibilities or activities that create a conflict, or the appearance of a conflict, with the responsibilities of an Equal Opportunity Officer.

To help carry out these duties, the SWB's EO Officer may rely on assistance from the SWB's the One-Stop Operator, Service Providers, One-Stop Partners, and other recipients (as the term "recipient" is defined in Item C of these Procedures).

In particular, the SWB One-Stop Operator shall assist the SWB's EO Officer in the following ways:

- Assist the EO Officer as an official designee's for coordinating the nondiscrimination and equal opportunity obligations of the Sothern Workforce area according to Local and State policy.
- Providing information to participants, applicants, employees, etc., regarding the SWB'S Procedure for Processing Discrimination Complaints;
- Acting as an Equal Opportunity Specialist, whose duties shall include reporting to the SWB's on equal opportunity matters -- including promoting compliance with WIOA Section 188;
- Designating One Stop Center staff to assist with Complaint Log and Communication Logs maintenance and submission to the EO officer on a monthly basis.
- One Stop Operator shall monitor their activities and One Stop Centers to ensure compliance with EO nondiscrimination policies
- Providing initial and continuing notice to participants, applicants, employees, etc., that the SWB's One-Stop Delivery System does not discriminate on any prohibited ground;
- Reviewing all communications and notices to assure compliance with the "Notice and Communication" requirements of § 38.34 through § 38.40.
- Providing staff training, technical assistance, and support to assure compliance with the

“Data and Information Collection and Maintenance” requirements of § 38.41 through § 38.45.

- Promptly notifying the SWB’s Equal Opportunity Officer regarding any actual or potential complaint of a discriminatory act;
- Assisting the SWB’s EO with the implementation of any required corrective actions;
- Provide Nondiscrimination and equal opportunity training to One-Stop Center Staff in accordance with SWB and State policy Etc.

D.5 WHAT IS THE TIME LIMIT FOR FILING A COMPLAINT?

A complaint must be filed with the SWB’s or official designee within 180 days of the alleged discrimination or retaliation.

The same 180 day time period exists for complaints filed with the Civil Rights Center (CRC). However, as provided in 29 CFR § 38.69(c), the Director of CRC may extend the filing time “for good cause shown.”

D.6 WHAT ARE THE REQUIRED CONTENTS OF A WRITTEN COMPLAINT?

Each complaint must be filed in writing, either electronically or in hard copy, and must contain the following information:

- (a) The complainant’s name, mailing address, and, if available, email address (or another means of contacting the complainant).
- (b) The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination).
- (c) A description of the complainant’s allegations. This description must include enough detail to allow the SWB’s EO Officer or designee, the State-Level EO Officer, or CRC -- as applicable -- to decide whether:
 - (1) SWB has jurisdiction over the complaint;
 - (2) The complaint was filed in time; and
 - (3) The complaint has apparent merit; in other words, whether the complainant’s allegations, if true, would indicate noncompliance with any of the nondiscrimination and equal opportunity provisions of WIOA or this part.
- (d) The written or electronic signature of the complainant or the written or electronic signature of the complainant’s representative. If a signed copy of the Nondiscrimination Complaint Form or its equivalent is scanned and emailed to the EO Officer as an attachment, then the date of filing is the date on which the email is received by the EO Officer. Within five (5) business days, the EO Officer shall notify the individual that the email was received and is being reviewed.

To document the filing date in the investigative file for purposes of timeliness, the EO Officer shall download and print the email along with the attachment and/or upload the email and any attachment to an electronic database. The date of receipt of the email constitutes the filing date for purposes of determining timeliness.

If the EO Officer receives an unsigned Nondiscrimination Complaint Form, or equivalent communication, by email, then the EO Officer shall download and print the original email along with any attachment. Within five (5) business days, notification of the deficiency shall be made in writing via email to the sender’s address with instructions for the sender to print the communication, sign it, and submit it to the EO Officer within 10 calendar days by:

- Scanning the signed communication and transmitting it by email;
- Sending the signed communication by regular mail; or
- Transmitting the signed communication by fax.

If the sender cures the deficiency and submits a signed communication, then the date of receipt of the original, unsigned email shall constitute the date of filing for purposes of timeliness. The signed

communication shall be added to the investigative file. This policy ensures that the rights of the individual filing the communication are protected to the maximum extent possible.

D.7 ARE THERE ANY FORMS THAT A COMPLAINANT MAY USE TO FILE A COMPLAINT?

Yes. A complainant may file a complaint by completing and submitting the WIOA Equal Opportunity and Nondiscrimination Complaint Form which appears in this Procedure as Attachment

1. As provided in OWDI 13-2017 Change 2:

“Complaints must be filed in writing by completing the Equal Opportunity and Nondiscrimination Complaint Form. If the Equal Opportunity and Nondiscrimination Complaint Form is not used, the complaint must include [the elements described in Item D (6), above].”

If the complainant chooses to file a complaint with the Civil Rights Center, then the form(s) specified by the CRC should be used. See the CRC website, here:

<https://www.dol.gov/oasam/programs/crc/external-enforc-complaints.htm>

Verbal Communication; In-Person and Telephone

No verbal communication (i.e., in-person or telephonic) may be accepted for processing as a discrimination complaint. In addition, verbal communications are not recorded in the “Discrimination Complaint Log,” as these communications are not in writing and signed.

D.8 IS THERE A RIGHT OF REPRESENTATION IN THE COMPLAINT PROCESS?

Yes. Both the complainant and the respondent have the right to be represented by an attorney or other individual of their choice.

D.9 WHEN A COMPLAINT IS FILED, WHO WILL THE EO OFFICER NOTIFY?

When a complaint is filed with the SWB’s EO Officer or designee will date stamp it and write a message

(letter or email) to the person confirming the receipt of the complaint. This message will be an initial, written notice to the complainant, and -- as required by §38.72(b) (1) -- it will contain the following information:

- An acknowledgment that the recipient has received the complaint; and
- Notice that the complainant has the right to be represented in the complaint process;
- Notice of rights contained in 29 CFR §38.35; and
- Notice that the complainant has the right to request and receive, at no cost, auxiliary aids and services, language assistance services, and that this notice will be translated into the non- English languages as required in §§ 38.4(h) and (i), 38.34, and 38.36.

Additionally, the EO Officer will immediately notify the State-Level EO Officer, the Chairperson of the SWB, and the Chairperson of the SWB’s Board of Local Elected Officials.

D.10 WILL THE CONFIDENTIALITY OF THE COMPLAINANT BE RESPECTED?

The name of the complainant will only be released to the extent necessary to investigate and fairly determine the issues raised in the complaint. The individual or entity against whom the complaint is filed will receive a copy of the complaint during the course of the investigation or alternative dispute resolution process in order to allow the individual or entity the opportunity to respond to the allegation(s). The EO Officer also shall ensure that a signed Consent Form “Notice of Investigatory Uses of Personal Information” is in the investigative file.

Failure or refusal to file a signed Consent Form, after being afforded notice and an opportunity to

cure this deficiency, shall result in administrative closure of the matter, and the individual shall be notified in writing. The communication is not recorded in the Discrimination Complaint Log as it is not signed.

The investigative file (including the discrimination complaint, investigative notes, witness statements, advisory memoranda pertaining to the complaint, and any other related documents) shall be kept in a locked filing cabinet, or, if maintained electronically, in an encrypted or password protected database. The only persons with access to the investigative file shall be:

- The Board Chair, Executive Director, CLEO, and EO Officer conducting the investigation;
- The State EO Officer; • The Governor (or designee);
- The U.S. Department of Labor's Civil Rights Center.

Any and all medical information gathered in the course of a discrimination complaint investigation shall be kept confidential, and stored separately from the investigative file. Whether these files are electronic or hard copy, they must be locked or otherwise secured (for example, through password protection) in compliance with 29 C.F.R. § 38.41(b)(3). Any party, witness, or non-party to a complaint seeking copies of any one or more documents in the investigative file must follow the procedures set forth in Oklahoma Open Records Act, 51 O.S. § 24A.1 et seq. Any request for documentation in the investigative file shall be submitted to <http://www.nfoic.org/oklahoma-sample-foia-request>. Certain exemptions to disclosure may apply. It is the policy of the EO Officer to maintain the highest possible level of confidentiality in conducting an investigation of a discrimination complaint. Therefore, information from an investigative file will be released only if an exemption cannot be invoked for that particular piece of information. When EO complaints contain general grievance, complaint information, or other items that are outside the scope of the EO nondiscrimination process, staff may be allowed limited access to relevant confidential information in investigative files on a need-to-know basis including, supervisors, managers, and subject matter experts. In such cases, the EO Officer must provide notice to the complainant in writing explaining why the complaint is outside the scope of an EO nondiscrimination complaint under WIOA and provide instructions on how to re-file such complaints through other processes with the appropriate Federal, State, or local entity.

D.11 WILL THE CONFIDENTIALITY OF WITNESSES BE RESPECTED?

The identity of any individual who furnishes information to, or assist in, an investigation of a complaint or a compliance review will only be released to the extent necessary to investigate and fairly determine the issues raised in the complaint.

D.12 ARE THERE PROTECTIONS AGAINST INTIMIDATION AND RETALIATION?

Yes. Pursuant to 29 CFR 38.19:

§ 38.19 Intimidation and retaliation prohibited.

(a) A recipient must not discharge, intimidate, retaliate, threaten, coerce or discriminate against any individual because the individual has:

(1) Filed a complaint alleging a violation of Section 188 of WIOA or this part;

(2) Opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of WIOA or this part;

(3) Furnished information to, or assisted or participated in any manner in, an investigation, review, hearing, or any other activity related to any of the following:

(i) Administration of the nondiscrimination and equal opportunity provisions of WIOA or this part;

- (ii) Exercise of authority under those provisions; or*
- (iii) Exercise of privilege secured by those provisions; or*
- (4) Otherwise exercised any rights and privileges under the nondiscrimination and equal opportunity provisions of WIOA or this part.*
- (b) The sanctions and penalties contained in Section 188(b) of WIOA or this part may be*

imposed against any recipient that engages in any such retaliation or intimidation, or fails to take appropriate steps to prevent such activity.

D.13 DOES THE EO OFFICER ACCEPT EVERY COMPLAINT FOR RESOLUTION?

No. The EO Officer must determine whether the SWB will accept a particular complaint for resolution. For example, a complaint need not be accepted if:

- It has not been timely filed;
- The SWB has no jurisdiction over the complaint; or
- The SWB has previously decided the matter.
- Unemployment Insurance (UI), Special Consideration:

If a complaint alleges an adverse decision regarding unemployment insurance benefits on a prohibited basis, the EO Officer must determine whether all administrative remedies have been exhausted (i.e., all appeals taken and a final determination issued with OESC). If the UI adjudication process is not completed, the complaint is premature and the EO Officer shall not commence and investigation of the complaint unless and until such times as the adverse decision is final, and all other jurisdictional requirements are met.

- Effect of EO Officer Unavailable or Disqualified – Conflict of Interest, If the EO Officer is unavailable (e.g., extended leave) or is disqualified (e.g., actual or apparent conflict of interest) to handle a particular discrimination complaint, the State EO Officer (or official designee) shall appoint and EO officer or other appropriate official to investigate the discrimination complaint.

If the EO Officer is unavailable (e.g., extended leave), or is disqualified (e.g., actual or apparent conflict of interest) to handle a particular discrimination complaint, the State EO Officer (or official designee) shall appoint an EO Officer or other appropriate official to investigate the discrimination complaint.

If any party requests disqualification of a local EO Officer because of a conflict of interest, the State EO Officer (or official designee) shall, in his or her sole discretion, determine whether a local EO Officer is disqualified with regard to any particular complaint or inaction. Issuance of an adverse decision by a local EO Officer will not alone demonstrate that the local EO Officer is disqualified to handle a discrimination complaint.

If it is determined that the local EO Officer is disqualified to conduct the investigation of a particular complaint, then the complaint shall be assigned to the State EO Officer or other appropriate official to conduct the discrimination complaint investigation pursuant to these procedures. If the State EO Officer (or official designee) determines the assigned EO Officer is qualified to handle a particular discrimination complaint, then the EO Officer shall not be disqualified and shall promptly continue processing the complaint pursuant to these procedures.

The State EO Officer's (or official designee's) determination regarding unavailability shall be in writing, copies shall be sent to the parties, and the determination shall be final upon issuance. A copy of the written notification shall be placed in the investigative file.

Likewise, the State EO Officer's (or official designee's) determination in response to a party's request for disqualification of the EO Officer shall be in writing, copies shall be sent to the parties, and the determination shall be final upon issuance. A copy of the written notification shall be placed in the investigative file.

D.14 WHAT HAPPENS IF A COMPLAINT DOES NOT CONTAIN ENOUGH INFORMATION?

- If a complaint does not contain enough information, the EO Officer will try to get the needed information from the complainant.
- The EO Officer may close the complainant's file, without prejudice, if:
- The EO Officer makes reasonable efforts to try to find the complainant, but is unable to reach him or her; or
- The complainant does not provide the needed information to the EO Officer within the time specified in the request for more information.
- If the EO Officer closes the complainant's file, s/he must send written notice to the complainant's last known address.

D.15 IF THE EO OFFICER DETERMINES THAT SWB HAS NO JURISDICTION OVER A COMPLAINT WHAT WILL HAPPEN THEN?

In the event a complaint is filed by an employee of a service provider or small recipient regarding the recipient's employment practices, the EO Officer may coordinate the investigation of the complaint with the personnel department of the recipient if, in the EO Officer's judgment, the recipient has adequate procedures and resources in place to investigate the complaint.

A service provider or small recipient will work in conjunction with the EO Officer regarding complaints of discrimination.

If the EO Officer determines that SWB does not have jurisdiction over a complaint, s/he will notify the complainant, in writing, within 14 calendar days of the receipt of the complaint. Pursuant to 29 CFR §38.74, this Notice of Lack of Jurisdiction will include:

- A statement of the reasons for that determination, and
- Notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the complainant receives the Notice.

The notice will be sent to the complainant's last known address, email address (or another known method of contacting the complainant in writing). A copy of the notice will be sent to the Chairperson of SWB, the Chairperson of the Southern Workforce's Board of Chief Elected Officials, and the State-Level EO Officer. The complaint shall be recorded in the Discrimination Complaint Log with a proper notation as to its disposition.

D.16 ARE THERE ANY CIRCUMSTANCES IN WHICH THE EO OFFICER WILL SEND A COMPLAINT TO ANOTHER AUTHORITY?

Yes. If the complaint is against the SWB's EO Officer or Executive Director, then the complaint will be referred to the State-Level EO Officer or the Civil Rights Center for investigation and resolution - as described in Item D (17), below.

Where the EO Officer makes a referral under this section, he or she will notify the complainant in writing about the referral. A copy of the notice will be sent to the Chairperson of SWB, the Chairperson of the Southern Workforce's Board of Chief Elected Officials,

D.17 WHERE THE COMPLAINT ALLEGES UNLAWFUL DISCRIMINATION BY SWB'S EO OFFICER AND/OR EXECUTIVE Director, ARE THERE ANY SPECIAL PROCEDURES TO RESOLVE THE COMPLAINT IN AN OBJECTIVE AND UNBIASED FASHION?

Yes. In the event the complaint is against SWB's EO Officer or Executive Director, then the

complaint should be filed with the State-Level EO Officer or the Civil Rights Center:

State WIOA EO Officer—

State EO Officer
Oklahoma Office of Workforce Development
900 N. Portland Avenue
Oklahoma City, OK 73107
Phone: (405) 945-9184 TDD/TTY (800) 722-0353
Email: eoofficer@okcommerce.gov

U.S. Department of Labor—

Director, Civil Rights Center
(CRC) U.S. Department of
Labor
200 Constitution Avenue NW, Room N-4123
Washington, DC 20210
Telephone ... (202) 219-6118 TTY/TDD ...(800) 326-2577

A complaint may be delivered electronically to the CRC as directed on their website ...
www.dol.gov/crc.

In the event SWB receives any complaints against its EO Officer or Executive Director, these shall be referred to the CRC for investigation and resolution.

D.18 WHAT MUST THE EO OFFICER DO IF HE OR SHE DETERMINES THAT A COMPLAINT WILL NOT BE ACCEPTED?

If a complaint will not be accepted, the EO Officer must notify the complainant, in writing, about that fact, and provide the complainant his/her reasons for making that determination.

NOTICE OF RIGHT TO REQUEST WAIVER: Your complaint has been found untimely because it was not filed within 180 days of the alleged act of discrimination. However, you may request a waiver of the 180 day time limit for filing a complaint by demonstrating “good cause.” Any request for waiver must be submitted in writing to the Director of the Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. The Director of the Civil Rights Center has the sole discretion to grant or deny a request for waiver.

NOTICE OF RIGHT TO FILE COMPLAINT: If you are dissatisfied with this Notice of Final Action, you may file a complaint with the Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. The complaint must be filed within 30 days of the date on which you received this Notice of Final Action.

The notice will be sent to the complainant’s last known address, email address (or another known method of contacting the complainant in writing). A copy of the notice will be sent to the Chairperson of the SWB, the Chairperson of the Southern Workforce’s Board of Chief Elected Officials, and the State-Level EO Officer.

D.19 WHAT MUST THE EO OFFICER DO IF HE OR SHE DETERMINES THAT A COMPLAINT WILL BE ACCEPTED?

Within 30 calendar days of the date of receipt of a Nondiscrimination Complaint Package if all jurisdictional requirements are met, the EO Officer accepts the complaint for resolution, he or she will notify the complainant, the respondent, and the State-Level EO Officer. The notice will be sent to the complainant’s last known address, email address (or another known method of contacting the complainant in writing). A copy of the notice will be sent to the Chairperson of the SWB as well as

the Chairperson of the Southern Workforce's Board of Chief Elected Officials. The complaint shall be recorded in the Discrimination Complaint Log.

The notice will include a reminder about the prohibition against retaliation and intimidation set forth in Item D (12) of this Procedure.

Pursuant to 29 CFR §38.72, the notice will provide a written statement of the issues that have been accepted, including the following information:

- (i) A list of the issues raised in the complaint for which SWB has accepted jurisdiction; and
- (ii) For each such issue, a statement whether the recipient will accept the issue for investigation or reject the issue, and the reasons for each rejection.

For each issue accepted for investigation by SWB, the complainant will be offered a choice of methods to resolve the complaint. Two choices will be offered:

- A customary fact-finding or investigation of the complaint, followed by a written decision ("Notice of Final Action") made by the EO Officer; or
 - Alternative Dispute Resolution: As described in OWDI 13-2017 Chg 2:, OWDI #1-2018
- "The complainant must be offered an Alternate Dispute Resolution (ADR) immediately upon [acceptance] of the complaint. The choice whether to use ADR rests with the complainant.

"An Alternative Dispute Resolution (ADR)

"The preferred form of ADR is mediation. Mediation is a voluntary process during which a neutral third party assists both parties (complainant and respondent), communicates their concerns, and comes to an agreement about how to resolve a dispute. The mediator does not make decisions, rule as to who is right or wrong, nor take sides or advocate for one side or the other. The role of the mediator is to help with communication so the parties can reach an understanding about how to best resolve their differences....

No party shall be charged any fee for formal or informal mediation services.

If the EO Officer determines that a complaint is appropriate for formal mediation, and all parties to the complaint voluntarily agree to participate in this mediation, the EO officer shall assign a third party neutral, no later than 45 days from the date of receipt of the complaint. Within 20 calendar days of the date on which a third party neutral is assigned to conduct the mediation, or upon the submission of a settlement agreement, whichever occurs first, the EO Officer shall (1) either initiate an investigation, or (2) close the complaint due to resolution of all issues.

"Conciliation

"At any point in the investigation of the complaint, the complainant, respondent, or the LWDA EO Officer may request that the parties attempt conciliation. The LWDA EO Officer shall facilitate such conciliation efforts.

"Conciliation is a process whereby the parties to a dispute agree to utilize the services of a conciliator, who then meets with the parties separately in an attempt to resolve their differences. Conciliation differs from mediation in that the main goal is to conciliate, most of the time by seeking concessions.

"If the conciliator is successful in negotiating an understanding between the parties, said understanding is almost always committed to writing (usually with the assistance of legal counsel) and signed by the parties, at which time it becomes a legal binding contract and falls under contract law." Conciliation Agreements: The written agreement shall be maintained with the record of the complaint for a period of not less than three (3) years from the date of final action related to the resolution of the complaint or compliance review 29C.F.R. §.38.43. The conciliation agreement shall be finalized in writing within 90 days of the receipt of a complaint, if the parties resolve

the matter through mediation or other alternative dispute resolution.

For more information about the SWB's methods for resolving nondiscrimination complaints, see Item D (22), below.

D.20 IF A COMPLAINT IS ACCEPTED FOR PROCESSING, HOW MUCH TIME IS ALLOWED TO PROCESS THE COMPLAINT?

The SWB will issue a written Notice of Final Action on discrimination complaints within **90 days** of the date on which the complaint is filed. The EO Officer shall develop a complaint investigation plan, conduct an investigation, and issue a written notice of final action to the parties resolving the complaint 29 C.FR§ 38.76.

At any time, the State EO Officer may take jurisdiction of the investigation in writing to the assigned EO Officer. In such cases, the assigned EO Officer shall fully cooperate with any and all requests for documents, information, and electronic or paper records inspections. The State EO Officer shall retain sole jurisdiction over investigation of the matter, and shall issue the written notice of final action to the parties if the matter is not resolved through mediation.

Both the complainant and the respondent, or their authorized representatives, may contact the SWB for information about the complaint. The EO Officer will determine what information, if any, about the complaint will be released. Any person, or the person's representative, who believes that an individual or class of individuals has been or is being discriminated against on a basis prohibited by Title I of WIOA may file a complaint.

D.21 WHO MAY CONTACT THE SWB ABOUT A COMPLAINT?

Both the complainant and the respondent, or their authorized representatives, may contact the SWB for information about the complaint. The EO Officer will determine what information, if any, about the complaint will be released.

D.22 HOW WILL THE COMPLAINT BE RESOLVED?

D.22.A The complainant has the option of resolving his or her complaint through a fact-finding/ investigation process or through an alternative dispute resolution (ADR) process.

If the complainant chooses the fact finding / investigation process, SWB will conduct a full review of the matter, including giving the complainant and the respondent the opportunity to respond to all the evidence presented. Once this evidence has been gathered, SWB will issue a written decision in which each issue accepted for review is addressed. The decision will be sent to the complainant and respondent via postal mail or email, as appropriate.

During this resolution process, pursuant to OWDI 13-2017 Change 2, SWB's EO Officer shall assure that all parties involved are given due process. These due process elements include the following:

- A notice to all parties of the specific charges;
- A notice to all parties of the responses to the allegations;
- The right of both parties to representation;
- The right of each party to present evidence, and to question others who present evidence; and

D.22.B A decision made strictly on the evidence on the record.

If the complainant chooses the alternative dispute resolution (ADR) method, the EO Officer or an impartial third party will act to encourage and facilitate the resolution of a dispute without prescribing what it should be. If ADR is selected, the EO Officer will continue to pursue the inquiry. Within 90 days of the date of receipt of the complaint, the matter will be concluded based on a settlement agreement or, if no settlement agreement is reached, the EO Officer will issue a Notice of Final Action. This ensures that, if the complainant files with

the CRC, the CRC will have the benefit of the state or local EO Officer's findings.

D.22.B.1 Open Option. The complainant may attempt ADR at any time after the complainant has filed a written complaint with the recipient, but before a Notice of Final Action has been issued.

D.22.B.2 Complainant's Choice. The choice whether to use ADR or the customary process rests with the complainant.

D.22.B.3 Written Settlement Agreement. The final resolution of the complaint will be set forth in a written settlement agreement. The written settlement agreement will be sent to the complainant and respondent by postal mail or email (as appropriate), and a copy will be sent to the State-Level EO Officer.

D.22.B.4 Breach of Agreement. A party to any agreement reached under ADR may notify the Director of the Civil Rights Center in the event the agreement is breached. In such circumstances, the following rules will apply:

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

D.22.B.5 Failure to Agree. If the parties do not reach an agreement under ADR, the complainant may file a complaint with the CRC as described in §§ 38.69 through 38.71.

D.22.B.6 Age Discrimination, Special Procedures: With few exceptions, the Age Discrimination Act of 1975 at 42.U.S.C. § 6101 et seq. prohibits discrimination on the basis of any age in federally-funded, federally6-assisted, and federally-conducted programs and activities. This means a recipient/provider may not exclude, deny, or provide different or lesser services to beneficiaries or potential beneficiaries on the basis of age –any age. However, the statute does not prohibit the consideration of age for purpose of determining eligibility in certain “targeted” programs (e.g. youth training programs, employment programs for older Americans).

The U.S. Department of Health and Human Services (HHS) has oversight and coordination responsibility for Age Discrimination Act. Per 45 C.F.R. Part 90, all complaints filed with Federal departments and agencies under the Age Discrimination Act be forwarded to the Federal Mediation and Conciliation Services (FMCS) FMCS has 60 days to attempt to resolve the complaint through mediation See 45 C.F.R. § 90.43(c)(3).

Therefore, if a complaint alleges discrimination on the basis of age, the EO Officer shall inform the Complainant that, if the complaint is filed with the U.S. Department of Labor's Civil Right Center, it will be referred to the FMCS for attempted mediation. If the Complainant elects to have complaint investigated by the EO Officer, s/he will have the opportunity to engage in informal or formal mediation as discussed in these procedures. This complaint shall be recorded in the “Discrimination Complaint Log.”

D.23 NOTICE OF FINAL ACTION

No later than 90 calendar days from the date of filing of the complaint, the EO officer shall issue a notice of final action setting forth all relevant findings of fact, as well as any sanctions and required corrective actions. With regards to sanctions and corrective actions the EO Officer shall set forth deadlines for the completion of sanctions and corrective actions along with the procedures that will be followed for Respondent(s)' failure to comply. If the EO Officer determines that prohibited discrimination was not proven, the EO Officer shall issue a notice of final action setting forth all relevant findings of fact, and the reasons discrimination was not established. ("Notice of Final Action") in which each issue accepted for review is addressed. The decision will be sent to the complainant and respondent, and their representatives (if any) a copy of the decision will be sent to the State- Level EO Officer. A notation shall be placed in the Discrimination Complaint Log.

The Notice of Final Action will contain the following information: (a)

For each issue raised in the complaint, a statement of either:

- (1) The recipient's decision on the issue and an explanation of the reasons underlying the decision, or
- (2) A description of the way the parties resolved the issue; and
- (3) Notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is issued if the complainant is dissatisfied with the recipient's final action on the complaint.

The Notice of Final Action will be provided within **90 days** of the date on which the complaint was filed.

The EO Officer shall issue a notice of final action setting forth all relevant investigative findings, as well as any sanctions and required corrective actions. With regard to sanctions, the EO Officer shall adhere to OWDI #05-2019

Withdrawal of the Discrimination Complaint

At any time prior to issuance of a notice of final action, the Complainant may request withdrawal of the discrimination complaint. The request must be in writing. If the EO Officer determines that the request is made voluntarily, and is not the result of intimidation or threat of retaliation, the EO Officer shall issue a written notice to all parties stating that the complaint has been withdrawn and the matter is closed. The disposition of this complaint is recorded in the "Discrimination Complaint Log" as "withdrawn."

D.24 IF, BEFORE THE 90-DAY PERIOD HAS EXPIRED, SWB ISSUES A NOTICE OF FINAL ACTION WITH WHICH THE COMPLAINANT IS DISSATISFIED, IS THERE AN APPEAL PROCESS?

If, during the 90-day period, the SWB issues a Notice of Final Action, but the complainant is dissatisfied with the recipient's decision on the complaint, the complainant or his / her representative may file a complaint with the Director of CRC within 30 days after the date on which the complainant receives the Notice.

D.25 WHAT HAPPENS IF SWB FAILS TO ISSUE A NOTICE OF FINAL ACTION WITHIN 90 DAYS OF THE DATE ON WHICH A COMPLAINT WAS FILED?

If, by the end of 90 days from the date on which the complainant filed the complaint, the recipient has failed to issue a Notice of Final Action, the complainant or his/her representative may file a complaint with the Director of CRC within 30 days of the expiration of the 90-day period. In other words, the complaint must be filed with the Director of CRC within 120 days of the date on which the complaint was filed with the recipient.

E. NOTIFICATION OF COMPLAINTS / LAWSUITS

SWB will promptly notify the State-Level EO Officer when any administrative enforcement actions or lawsuits are filed against it alleging 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, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in a WIOA Title I-financially assisted program or activity. This notification will include:

- (1) The names of the parties to the action or lawsuit;
- (2) The forum in which each case was filed; and
- (3) The relevant case numbers.

The requirements for this notice are set forth in 29 CFR Section 38.42 and OWDI 13-2017 Change 2.

F. COMPLAINT LOG

The SWB's EO Officer will maintain, and submit to CRC upon request, a log of complaints filed with the recipient that allege discrimination on the basis(es) of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIOA Title I-financially assisted program or activity. The log will include: The name and address of the complainant; the basis of the complaint; a description of the complaint; the date the complaint was filed; the disposition and date of disposition of the complaint; and other pertinent information. Information that could lead to identification of a particular individual as having filed a complaint will be kept confidential.

SWB's EO Officer will submit complaint reports on a quarterly basis to the State EO Officer. This record-keeping requirement is described in 29 CFR Section 38.41 and OWDI 13-2017 Change 2., OWDI #1-2018

A Each EO Officer must produce his or her complete Communication and "Discrimination Complaint Log" to the State EO Officer at eoofficer@okcommerce.gov on or before each of the following dates:

- March 31
- June 30
- September 30
- December 31

G. RETENTION OF RECORDS

Per 29 CFR § 38.43, SWB will maintain records regarding complaints and actions taken thereunder for a period of not less than three years from the date of resolution.

Where a discrimination complaint has been filed or compliance review initiated, every recipient that possesses or maintains any type of hard-copy or electronic record related to the complaint (including records that have any relevance to the underlying allegation in the complaint, as well as records, regardless whether hard-copy or electronic, that may be relevant to a complaint investigation or compliance review, and maintain those records for a period of not less than three years from the date of final action related to resolution of the complaint review." (29 C.F.R. § 38.43(b)) (italics added)

Attachment A: Equal Opportunity and Nondiscrimination Complaint Form Instructions

Instructions: From OWDI 13-2017 Change 2; OWDI #1-2018

Any person who believes that he or she or any specific class of individuals has been or is

being subjected to discrimination prohibited by the nondiscrimination and equal opportunity provisions of the WIOA may file a written complaint by using the Equal Opportunity and Nondiscrimination Complaint Form, which was developed to assist clients, participants, and service providers. This form is available for use by the LWDA in an effort to provide more consistent information when processing discrimination complaints.

The complaint may be filed either with the LWDA's EO Officer (or the person designated for this purpose), the State EO Officer, or directly with the CRC at:

DOL, 200 Constitution Avenue N.W., Room N 4123, Washington, D.C. 20210.

A complaint filed, pursuant to 29 CFR Section 38.69, must be filed within 180 days of the alleged discrimination.

Complaints must be filed in writing by completing the Equal Opportunity and Nondiscrimination Complaint Form. If the Equal Opportunity and Nondiscrimination Complaint Form is not used, the complaint must include the following information:

The complainant's name, address, or other means of contacting him or her.

Identity of the respondent.

A description of the complainant's allegation(s) in sufficient detail to allow the CRC, State EO Officer, or LWDA EO Officer, as applicable, to determine whether

(1) the CRC, State EO Officer, or the LWDA has jurisdiction over the complaint,

(2) the complaint was filed timely, and (3) the complaint has apparent merit (i.e., whether the allegation(s), if true, would violate any of the nondiscrimination and equal opportunity provisions of the WIOA).

The signature of the complainant or his or her authorized representative.

EQUAL OPPORTUNITY AND NONDISCRIMINATION: All recipients must comply with WIOA's Equal Opportunity and Nondiscrimination provisions which prohibit 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, political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title-I financially assisted program or activity.

Section 2 - NON-DISCRIMINATION GRIEVANCE PROCEDURES

I. **If the complaint is based on grounds other than on grounds of race, color, religion, sex, national origin, citizenship, age, handicap or political affiliation or belief, it is considered a non-equal opportunity or non-discrimination grievance.** All non-discrimination grievances are processed by the Southern Workforce Board,

II. Who May File a Grievance?

Any applicant, employee, participant, service provider, program recipient, or other interested party may file a grievance alleging a violation of local WIOA programs, agreements or SWB policies and activities.

A non-discrimination grievance must be filed in writing within thirty days (30) calendar days from the date of the alleged violation(s) which is the basis of the grievance. The SWB Executive Director, EO Officer or One Stop Operator will determine if the grievance was filed in a timely manner. All non-discrimination grievances will be processed by the Southern Workforce Board EO Officer, Executive Director or One Stop Operator and

4. To question any witness or parties.

- IV.** A written decision will be rendered by the SWB Administrative Committee or SWB Executive Director and transmitted to all concerned parties within sixty (60) days from the date the written grievance was filed. The written decision shall include a determination regarding the grievance and a statement of remedies (if applicable).

The Discrimination Complaint Package may be made available in Braille or large print (*i.e.*, 18- point font) on request of a person who is blind or has low vision by the LWDB. Moreover, all complaint notices, procedures, and forms must contain a “Babel” notice pursuant to 29 C.F.R. § 38.9(g)(3), which provides “Babel notice,” indicating in appropriate languages that language assistance is available, in all communications of vital information, such as hard copy letters or decisions or those communications posted on websites.

If English is not your preferred language, contact One Stop Operator, ososouthern@gmail.com, 1414 E. Wade Watts, McAlester, Oklahoma, 74501. Phone: 580-634-1853. TDD/TYY: 711 or 800-722-0353. To obtain translation and/or interpretation services for the content of this document.

POLICY ADDITIONS AND CLARIFICATIONS: The SWB Staff is authorized to issue additional instructions, guidance, forms, etc., to further implement the requirements of this policy.

Attachment A
Discrimination Complaint Procedures

Southern Workforce Board Discrimination Complaint Form and Consent

WIOA EQUAL OPPORTUNITY AND NONDISCRIMINATION COMPLAINT FORM,
CONSENT, AND NOTICE OF INVESTIGATORY USES

This form should be used by anyone who wishes to file a discrimination complaint against any person(s)/entity while involved in Oklahoma WIOA funded programs. To file a discrimination complaint, complete this form, sign on page 4, and return to the Local Equal Opportunity Officer as follows:

Karen Davidson
Equal Opportunity Officer
107 South 3rd ST
Hugo, OK 74743
Telephone: 580-743-0822
TDD/TYY: 711 or 800-722-0353

1. Complainant Information

Miss. Ms. Mrs. Mr. Other

Home Phone: ()

Work Phone: ()

Cell Phone: ()

Name: _____

Address: _____

City, State, Zip: _____

2. Complainant contact information

When is it a convenient time during business hours (8am – 5pm) to contact you by phone about this complaint?

| Day | Monday | Tuesday | Wednesday | Thursday | Friday |
|-------|--------|---------|-----------|----------|--------|
| Time | | | | | |
| Phone | | | | | |

BABEL NOTICE (29 C.F.R. § 38.9(g) (3)): This document contains vital information. If English is not your preferred language, contact One Stop Operator, ososouthern@gmail.com, 1414 E. Wade Watts Ave. McAlester, Ok. 74501 (580)634-1853 TTD/TTY: 711 or 800-722-0353 to obtain translation and/or interpretation services for the content of this document
SWB is an Equal Opportunity Employer/Program and Activities. Auxiliary aids and services are available upon request to individuals with disabilities.

3. Contact information for the person(s) this complaint is against:

Provide the name of the entity where the person(s) work(s):

Name(s) of person(s):

Address of person(s)/entity:

City, State, Zip:

Telephone Number:

Date of first occurrence:

Date of most recent occurrence:

4. Tell us about the incident(s)

- Explain briefly what happened:
- Provide the date(s) when the incident(s) occurred.
- Indicate who this program discrimination complaint is against. Include names and titles, if possible.
- If other people were treated differently than you, tell us how they were treated differently.
- Attach any documents that you think might help us better understand your complaint.

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5. Please list below any person(s) (witnesses) that we can contact for additional information to support or clarify the complaint.

| Name | Address | Phone |
|------|---------|-------|
| | | |
| | | |
| | | |
| | | |
| | | |

6. If this complaint involves discrimination, please check the type of discrimination you experienced, such as age, race, color, religion, sexual orientation, national origin, physical or mental disability, etc. If you believe more than one basis was involved, you may check more than one box.

- | | |
|---|---|
| <input type="checkbox"/> Age-provide date of birth <input type="checkbox"/> Color <input type="checkbox"/> National Origin <input type="checkbox"/> Political Belief <input type="checkbox"/> Retaliation <input type="checkbox"/> Gender – <i>Specify</i> <input type="checkbox"/> F <input type="checkbox"/> M <input type="checkbox"/> Race – <i>indicate race</i> <input type="checkbox"/> Of Hispanic or Latino Origin <input type="checkbox"/> Not of Hispanic or Latino Origin | <input type="checkbox"/> Citizenship or status as an alien U.S. worker <input type="checkbox"/> Disability <input type="checkbox"/> Political Affiliation <input type="checkbox"/> Religion <input type="checkbox"/> Sexual Harassment <input type="checkbox"/> Status as a program participant under the Workforce Innovation and Opportunity Act (WIOA) <input type="checkbox"/> Other (<i>specify</i>) |
|---|---|

7. Have you previously filed a complaint against this person(s)/entity? Yes No

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If Yes, answer the questions below. If No, move to Section 8.

- a. Was your complaint in writing? Yes No
b. On what date did you file the complaint?
c. Name of office where you filed your complaint:

Address: _____

City: _____

Phone: _____

Contact person (if known): _____

- d. Have you been provided a final decision or report? Yes No
If you marked “Yes”, please attach a copy of the complaint decision or report.

8. What corrective action or remedy do you seek? Please explain:

9. Choosing a personal representative:

- You may choose to have someone else represent you in dealing with this complaint. It may be a relative, friend, an attorney, or someone else.
- If you choose to appoint someone to represent you, all of our communication to you will be routed through your representative.

Do you want to authorize a personal representative to handle this complaint? Yes No

If “Yes”, complete the section below. If “No”, go to Section 10.

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AUTHORIZATION OF PERSONAL REPRESENTATIVE

I wish to authorize the individual identified below to act on my behalf as my personal representative, in matters such as mediation, settlement conferences, or investigations regarding this complaint.

Name:

- I am an attorney representing the complainant.
 I am not an attorney representing the complainant.

Mailing address:

City: State: Zip:

Phone: FAX:

E-mail:

10. Alternate Dispute Resolution (ADR) also known as mediation.

Notice: You must indicate if you wish to mediate your case. The Equal Opportunity Officer cannot begin to process your complaint until you have made a selection. Please check "YES" or "NO" in the space below.

- Mediation is an alternative to having your complaint investigated.
- Neither party loses anything by mediating.
- The parties to the complaint review the facts, discuss opinions about the facts, and strive for an agreement that is satisfactory for both.
 - Agreement to mediate is not an admission of guilt by the person(s)/entity that you claim discriminated against you.
 - Mediation is conducted by a trained, qualified and impartial mediator.
 - You (or your Personal Representative) have control to negotiate a satisfactory agreement.
 - Terms of the agreement are signed by the complainant and the person(s)/entity that you claim discriminated against you.
 - Agreements are legally binding on both sides.
 - If an agreement is not reached, a formal investigation will start.
 - Failure to keep an agreement will result in a formal investigation.
 - A formal investigation will be opened if retaliation is reported.

BABEL NOTICE (29 C.F.R. § 38.9(g) (3)): This document contains vital information. If English is not your preferred language, contact One Stop Operator, ososouthern@gmail.com, 1414 E. Wade Watts Ave. McAlester, Ok. 74501 (580)634-1853 TTD/TTY: 711 or 800-722-0353 to obtain translation and/or interpretation services for the content of this document.

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- **Do you wish to mediate your complaint?** **YES**, I want to mediate. **NO**, please investigate.

If you select “YES”, you will be contacted within five (5) business days with more information.

11. Complainant Signature:

You must sign this form for your complaint to be processed.

- **Faxed or otherwise electronically delivered complaints will be logged into our system; however, an official investigation cannot begin until the original, signed copy is received by our office.**

By signing below, I attest that all of the information contained in this complaint is true to the best of my knowledge. I request that the necessary action be taken to resolve this matter, and I release my personal records so that this matter may be thoroughly investigated. This release is only to the extent necessary to reasonably and fully investigate this matter and is not a general release of all my personal records.

Signature:

Date:

BABEL NOTICE (29 C.F.R. § 38.9(g) (3)): This document contains vital information. If English is not your preferred language, contact One Stop Operator, ososouthern@gmail.com, 1414 E. Wade Watts Ave. McAlester, Ok. 74501 (580)634-1853 TTD/TTY: 711 or 800-722-0353 to obtain translation and/or interpretation services for the content of this document.

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SOUTHERN WORKFORCE BOARD COMPLAINANT CONSENT/IDENTITY RELEASE FORM

(Printed name of Complainant)

Please read the information below, check the appropriate box, and sign this form. I have read the Notice of Investigatory Uses of Personal Information. As a complainant, I understand that in the course of an investigation it may become necessary for the investigator to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of the investigator to honor requests under the Oklahoma Open Records Act, 51 §24A.1 *et seq.* I understand that it may be necessary for the investigator to disclose information, including personally identifying details, which is gathered as a part of the investigation of my complaint. In addition, I understand that as a complainant I am protected by federal civil rights statutes and regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by applicable nondiscrimination laws.

CONSENT GRANTED

I have read and understand the above information and authorize the investigator to reveal my identity to persons at the organization or institution under investigation. I hereby authorize the investigator to receive material and information about me pertinent to the investigation of my complaint. This release includes, but is not limited to, personal records and medical records. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and do so voluntarily.

Signature of Complainant

Date: _____

CONSENT DENIED

I have read and understand the above information and do not want the investigator to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and information about me, pertinent to the investigation of my complaint. I understand this is likely to impede the investigation of my complaint, and may result in the closure of the investigation.

Signature of Complainant

Date: _____

BABEL NOTICE (29 C.F.R. § 38.9(g) (3)): This document contains vital information. If English is not your preferred language, contact One Stop Operator, ososouthern@gmail.com, 1414 E. Wade Watts Ave. McAlester, Ok. 74501 (580)634-1853 TTD/TTY: 711 or 800-722-0353 to obtain translation and/or interpretation services for the content of this document.

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NOTICE ABOUT INVESTIGATORY USES OF PERSONAL INFORMATION: NOTICE OF COMPLAINANT/INTERVIEWEE RIGHTS AND PRIVILEGES

Complainants and individuals who cooperate in an investigation, proceeding or hearing conducted by this investigator are afforded certain rights and protections. This brief description will provide you with an overview of these rights and protections.

A recipient may not force its employees to be represented by the recipient's counsel nor may it intimidate, threaten, coerce or discriminate against any employee who refuses to reveal to the recipient the content of an interview. A complainant does, however, have the right to representation by the individual of complainant's choice during an interview with the investigator.

The laws and regulations which govern this investigator's compliance and enforcement authority provide that no recipient or other person shall intimidate, threaten, coerce or discriminate against any individual because he/she has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing conducted under my jurisdiction, or has asserted rights protected by applicable federal civil rights laws.

Information obtained from the complainant or other individual, which is maintained in the investigative file, may be exempt from disclosure under the State of Oklahoma Open Records Act, 51 §24A.1 *et seq.* if release of such information would constitute an unwarranted invasion of personal privacy.

Personal information will be used only for the specific purpose for which it was submitted, that is, for authorized civil rights compliance and enforcement activities. No law requires a complainant to give personal information to the investigator, and no sanctions will be imposed on complainants or other individuals who deny the investigator's request. However, if the investigator fails to obtain information needed to investigate allegations of discrimination, it may be necessary to close the investigation.

The investigator does not reveal the names or other identifying information about an individual unless it is necessary for the completion of an investigation or for enforcement activities against a recipient that violates the laws, or unless such information is required to be disclosed under the Oklahoma Open Records Act, 51 §24A.1 *et seq.* The investigator will keep the identity of complainants confidential except to the extent necessary to carry out the purposes of the civil rights laws, or unless disclosure is required under Oklahoma Open Records Act, 51 §24A.1 *et seq.*, or otherwise required by law.

The investigator generally is not required to release documents during an investigation or enforcement proceedings if the release could have an adverse effect on the ability of the investigator to do his or her job. Also, the investigator may refuse a request for records compiled for law enforcement purposes if their release could be an "unwarranted invasion of privacy" of an individual. Requests for other records, such as personnel and medical files, may be denied where the disclosure would be a "clearly unwarranted invasion of privacy." The investigator will seek to invoke the exemptions at Oklahoma Open Records Act, 51 §24A.1 *et seq.*, to the extent possible.

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Attachment B

Discrimination Complaint Procedures
Southern Workforce Board Consent to mediate form

AGREEMENT TO PARTICIPATE IN MEDIATION

We, the undersigned parties, understand and agree to the following in executing this “Agreement to Participate in Mediation”:

Definition of mediation. Mediation is a process in which a neutral (the mediator) assists parties to a conflict in finding a mutually acceptable solution to their dispute.

Role of the mediator. The mediator facilitates discussion between the parties by assisting them in communicating, identifying and clarifying issues, and exploring potential solutions. The parties decide the outcome of the mediation.

Role of the parties. Each party agrees to participate in mediation in good faith and agrees to treat others in the mediation with respect and courtesy.

Confidentiality. Communications in mediation are confidential and may not be used in subsequent judicial or administrative proceedings, except for (a) communications used to plan or commit a crime, (b) threats of bodily injury, (c) information otherwise discoverable by legal procedures, (d) in any complaint for misconduct against an attorney or mediator who participates in the mediation process; (e) in any legal action to vacate the agreement, (f) when the parties agree to waive confidentiality in writing, or (g) as otherwise provided by law or rule. Threats of personal harm may be disclosed by the mediator as reasonably necessary to prevent people from harm.

In addition, all memoranda, work products and other materials contained in the case files of a mediator or mediation program are confidential. Any communication made in or in connection with the mediation, which relates to the controversy being mediated, including screening, intake, and scheduling a mediation, whether made by the mediator, mediation program staff, to a party, or to any other person, is confidential. However, a written mediated agreement signed by the parties shall not be confidential, unless the parties otherwise agree in writing.

Confidential materials and communications are not subject to disclosure in discovery or in any judicial or administrative proceeding except:

- I. where all parties to the mediation agree, in writing, to waive the confidentiality,
- II. in a subsequent action between the mediator or mediation program and a party to the mediation for damages arising out of the mediation,
- III. statements, memoranda, materials and other tangible evidence, otherwise subject to discovery, which were not prepared specifically for use in and actually used in the mediation,
- IV. where a threat to inflict bodily injury is made,
- V. where communications are intentionally used to plan, attempt to commit, or commit a crime or conceal an ongoing crime,
- VI. where an ethics complaint is made against the mediator by a party to the mediation to the extent necessary for the complainant to prove misconduct and the mediator to defend against such complaint,

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- VII. where communications are sought or offered to prove or disprove a claim or complaint of misconduct or malpractice filed against a party's legal representative based on conduct occurring during a mediation, or
- VIII. as provided by law or rule.

Voluntary. Mediation is voluntary. Any party, or the mediator, may decide to stop the mediation at any time for any reason.

Joint and separate sessions. The mediation generally will occur with all parties present. The mediator may also meet separately with each party.

Legal advice. The mediator does not provide legal advice. Each party to the mediation has the opportunity to consult with independent legal counsel at any time and is encouraged to do so.

Agreement. All terms of settlement are non-binding until they are put into a written agreement *and* signed by all parties. Any mediated agreement may affect the legal rights of the parties. Each party to the mediation should have any draft agreement reviewed by independent counsel prior to signing the agreement.

Party signature

Party signature

Party's representative (if present)

Party's representative (if present)

Other person present

Other person present

Mediator

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Southern Workforce Board Settlement agreement template

NOTICE: Pursuant to 29 C.F.R. § 38.93, a conciliation agreement must:

- A. Be in writing;
- B. Address the legal and contractual obligations of the recipient;
- C. Address each cited violation;
- D. Specify the corrective or remedial action to be taken within a stated period of time to come into compliance;
- E. Provide for periodic reporting on the status of the corrective and remedial action;
- F. State that the violation(s) will not recur;
- G. State that nothing in the agreement will prohibit CRC from sending the agreement to the complainant, making it available to the public, or posting it on the CRC or recipient's Web site;
- H. State that, in any proceeding involving an alleged violation of the conciliation agreement, CRC may seek enforcement of the agreement itself and shall not be required to present proof of the underlying violations resolved by the agreement; and
- I. Provide for enforcement for a breach of the agreement.

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IN THE MATTER OF:

[name and address of Complainant]

v.

Complaint No.: _____

[name and address of Respondent(s)]

SOUTHERN WORKFORCE BOARD CONCILIATION AGREEMENT

On (insert date complaint filed), the undersigned Equal Opportunity (EO) Officer received a complaint filed by (insert name of Complainant), the Complainant, alleging that (insert name of Respondent/Recipient), the Respondent, denied the Complainant [access/training/aid/benefits/services/ bid/proposal] on the basis of (insert protected class).

A number of federal civil rights laws apply to our federally-assisted programs and activities, including (1) Title VI of the Civil Rights Act of 1964, as amended; (2) Section 504 of the Rehabilitation Act of 1973, as amended; (3) Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA); (4) Title II of the Americans with Disabilities Act (ADA) of 1990 as amended by the Americans With Disabilities Act Amendments Act (ADAAA) of 2008; (5) Title IX of the Education Amendments of 1972, as amended; and (6) the Age Discrimination Act of 1975.

As a whole, these statutes bar discrimination on the “basis” of race, color, national origin, religion, age, sex, disability, citizenship, political affiliation or belief, and/or status as a WIOA participant in programs funded, in part or in whole, by the U.S. Department of Labor. I determined that I had jurisdiction to investigate this matter, and the issue(s) presented for investigation was as follows:

[insert the issue accepted for investigation]

Through mediation, the parties have reached a settlement of this matter. The terms of the settlement are as follows:

- 1.
- 2.
- 3.

Respondent agrees that violation of applicable federal civil rights laws will not recur.

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All corrective actions [have been completed.][will be completed on or before _____].

Respondent understands that failure to complete the corrective actions may result in suspension and/or loss of funding. Both parties understand that this *Settlement Agreement* is binding and enforceable by law, and the EO Officer may seek enforcement of the agreement itself and shall not be required to present proof of the underlying violations resolved by the agreement.

The undersigned EO Officer shall retain jurisdiction over this matter for a period of three (3) years to ensure completion of agreed-to corrective actions, and to monitor for future compliance by Respondent.

Signed on this ___ day of _____, 20__ by:

Complainant

Respondent Official

EO Officer

Representative (if any)

Representative (if any)

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Attachment D:
SOUTHERN WORKFORCE BOARD
(Non-Discrimination) COMMUNICATION LOG

Name of Entity: _____

| Date of Communication | Name | Contact Information | Identity of Federally Funded Program | Description | Action Taken |
|-----------------------|------|---------------------|--------------------------------------|-------------|--------------|
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Attachment E:
SOUTHERN WORKFORCE BOARD
DISCRIMINATION COMPLAINT LOG

Name of Entity: _____

| Date of Complaint | Name of Complainant | Address of Complainant | Status of Complainant | Identity of Federally Funded Program | Date of Alleged Discriminatory Act | Grounds/Bases of Complaint | Description/ Issue of Complaint | Name of Respondent | Is Respondent a recipient? Yes or No | Disposition | Date of Disposition | ADR Yes or No | Complaint Completed by |
|-------------------|---------------------|------------------------|-----------------------|--------------------------------------|------------------------------------|----------------------------|---------------------------------|--------------------|--------------------------------------|-------------|---------------------|---------------|------------------------|
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