**Discrimination Complaint Procedures**

**Appendix L**

**Discrimination complaint log instructions**

**DISCRIMINATION COMPLAINT LOG INSTRUCTIONS**

**Date of Complaint** is the date on which you received the written complaint of discrimination.

**Name of Complainant** is the name of the individual who alleges s/he suffered discrimination.

**Address of Complainant** is the complainant’s full mailing address, and can include other avenues of contact (*e.g.,* telephone number, email address).

**Status of Complainant** is the type of complainant. Some examples include current or former employee, current or former student, enrollee, applicant, potential enrollee/applicant, registrant, customer, and non-customer.

For example, the U.S. Department of Labor (DOL) provides the following types of complainants for its sample discrimination log pertaining to Workforce Innovation and Opportunity Act (WIOA) financially assisted programs and activities:

* Employee (current or former employee of Respondent, or applicant for employment with Respondent)
* Student (current or former Job Corps student/enrollee)
* WIOA participant (individual determined eligible to participate in, and who is receiving aid, benefits, services, or training under a program or activity financially assisted in who or in part under Title I of the WIOA, or provided through the One Stop Career Center service delivery system by a One Stop partner)
* Customer or individual who (a) has not yet become an applicant or WIOA participant, but who has come into contact with the recipient because of interest in a program or activity that is either financially assisted under WIOA Title I or provided through the One Stop system by a One Stop partner, or (b) an employer or employer representative that is seeking or receiving employer services that are authorized under WIOA, such as customized screening and referral services or other employment-related services, from or through the recipient)
* Applicant (an individual who is interested in being considered for WIOA Title I-financially assisted aid, benefits, services, or training, and who has signified that interest by submitting personal information in response to a request by the recipient)
* Service provider (this includes any operator of, or provider of aid, benefits, services, or training to (a) any WIOA Title I – financially assisted program or activity that receives financial assistance from or through any State or LWIOA grant recipient, or (b) any participant through that participant’s Individual Training Account, or (c) any entity that is selected and/or certified as an eligible provider of training services to recipients
* Non-customer (a person who has filed a complaint and who is not a customer, applicant, student, employee, WIOA participant, or service provider)

Check with your federal funding agency for potential categories of charging parties. Identifying this data will allow you to better pinpoint the problems in your system of delivery (*e.g.,* recruitment and outreach, registration, access, enrollment).

**DOL-Funded Program.** Here you will identify the particular service, aid, benefit, or training at issue in the complaint.

Some DOL WIOA-related examples include programs authorized under WIOA Title I, employment services programs, unemployment insurance programs, Job Corps, and the Trade Adjustment Act program.

Again, check with your federal funding agency for the types of programs and activities that would be included on your discrimination complaint log. Including this information on your complaint log will allow you to better pinpoint the program or activity where the problem arose.

**Date of Alleged Discriminatory Act** is the date that the act occurred. If the complaint involves hostile environment (*i.e.,* a series of adverse actions that is “severe and pervasive”), then it is the date the last adverse action occurred.

**Grounds/(Bases) of Complaint**. The “basis” of a discrimination complaint is the *reason* the Complainant states the adverse act occurred.

The covered “bases” of discrimination provided by DOL for WIOA-related programs and activities are race, color, national origin, disability, sex/gender, religion, age, political affiliation or belief, citizenship, and participation in a WIOA Title I financially assisted program or activity.

And, for all federally funded programs and activities, you must maintain *race* and *ethnicity* data consistent with guidance provided by the U.S. Office of Management and Budget (OMB). You may access OMB’s guidance at [www.whitehouse.gov/omb](http://www.whitehouse.gov/omb). Notably, the Executive Office of the President Office of Management and Budget issued “Provisional Guidance on the Implementation of the 1997 Standards for Federal Data on Race and Ethnicity” on December 15, 2000. The following is an informative excerpt from that document:

**Enforcement of Title VI of the Civil Rights Act of 1964**

All agencies that enforce regulations under Title VI of the Civil Rights Act of 1964, as amended, are obligated to follow the guidance provided in this document and OMB Bulletin No. 00-02, which addresses aggregating and allocating data on race for civil rights enforcement and monitoring. The Title VI Coordination Regulations at 28 C.F.R. § 42.406, provide that all agencies “shall in regard to each assisted program provide for the collection of data and information from applicants for and recipients of Federal assistance sufficient to permit effective enforcement of [T]itle IV.” All agency Title VI regulations provide for the collection of such data. Agencies currently follow the categories set forth in the Title VI Coordination Regulations, which “are in conformity with the OMB Ad Hoc Committee on Race/Ethnic Categories’ recommendations.” See 28 C.F.R. § 42.302(e). The section states, however, that to the extent that these designations are modified by OMB, the regulation is to be interpreted to be consistent with any such OMB modifications. See 28 C.F.R. § 42.402(e)(5). Accordingly, the categories listed in the regulation are no longer in effect. The 1997 revised standards, effective October 30, 1997, require all Federal agencies with Title VI compliance and enforcement obligations to provide for the collection of data by offering respondents the option of selecting one or more of the following racial categories: (1) American Indian or Alaska Native; (2) Asian; (3) Black or African American; (4) Native Hawaiian or Other Pacific Islander; and (5) White.

Pursuant to OMB Bulletin No. 00-02, agencies are instructed to tabulate data on race using the five single race categories outlined above plus the following four multiple race combinations most likely to occur: (1) American Indian or Alaska Native *and* White; (2) Asian *and* White; (3) Black or African American *and* White; (4) American Indian or Alaska Native *and* Black or African American.

Agencies are also advised to tabulate additional multiple race combinations that are greater than one percent of the population at issue and include these combinations as part of any tabulation. Thus, all agency tabulations for data on race should reflect a *minimum of ten categories*: the five single race categories, the four multiple race categories, and a balance category. In surveys where there are additional multiple race combinations that are greater than one percent of the population at issue, those categories should be included in any final tabulation. All agencies with Title VI enforcement responsibilities should also be aware that OMB Bulletin No. 00-02 provides guidance for the allocation of multiple race responses for use in civil rights monitoring and enforcement. Pursuant to that guidance, the following rules apply:

• Responses in the five single race categories will not be allocated.

• Responses that combine one minority race and white are allocated to the minority race.

• Responses that include two or more minority races are allocated as follows:

• If the enforcement action is in response to a complaint, a multiple race response will be allocated to the race that the complainant alleges the discrimination was based on.

• If the enforcement action requires assessing disparate impact or discriminatory patterns, analyze the patterns based on alternative allocations to each of the minority groups.

Under the 1997 standards, “Hispanic or Latino” is an ethnic category, not a racial category. Where agencies collect data on race and ethnicity separately, ethnicity must be collected first. In such cases, provisions shall be made to report the number of respondents in each racial category who are “Hispanic or Latino” and who are “Not Hispanic or Latino.” All agencies must modify all new and revised record keeping or reporting forms that include racial and/or ethnic information to conform to the 1997 standards. All existing record keeping or reporting requirements must be consistent with these standards at the time they are submitted for extension, but not later than January 1, 2003. Agencies should note that OMB is the final arbiter of all modifications to racial and ethnic categories used in Federal data collection instruments. Executive Order No. 12250 gives the Attorney General authority to ensure the consistent and effective enforcement of Title VI and other nondiscrimination statutes that apply to recipients of Federal financial assistance. That authority has been delegated to the Civil Rights Division in the Department of Justice. The Division, through the Coordination and Review Section, will ensure that all agencies are aware of the 1997 standards and are taking appropriate steps to implement the OMB guidance. The Division’s Coordination and Review Section will be available to Federal agencies to assist them in this endeavor.

**Description/Issue of Complaint.** This is a brief description of the alleged adverse action. Some examples would be denial of access, denial of contract or bid, denial of training, denial of aid, denial of benefits, denial of services, denial of reasonable accommodation, or hostile environment.

**Name of Respondent.** This is the person and/or entity alleged to have committed the discriminatory act, or to be responsible for the alleged discrimination. Provide the name and title of the Respondent.

**Is Respondent is a recipient (yes or no).** To have authority to investigate a complaint, the named Respondent must be a “recipient” of federal funding or other assistance. *See* 20 C.F.R. § 38.4(zz) (“Recipient means any entity to which financial assistance under Title I of WIOA is extended, directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient)). Recipients may include state and local government agencies, grant recipients, service providers, and contractors among others. Some examples provided by DOL for WIOA-related programs and activities include:

● The Governor of a state or territory if the Governor operates a program or activity, either directly or through a State agency, using discretionary funds apportioned to him or her under WIOA Title I (rather than disbursing the funds to another recipient), the Governor is also a recipient.

● State level agencies that administer, or are financed in whole or in part with, WIOA Title I funds or financial assistance;

● State Workforce Agencies;

● State and Local Workforce Investment 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; and

● Other National Program recipients

● Moreover, DOL states that One Stop partners also are treated as “recipients” to the extent that they participate in the One Stop Career Center service delivery system established by the WIOA.

Other federal funding agencies will have similar guidance regarding what entities they determine are “recipients” for purposes of enforcement of Title VI and related civil rights laws. A “recipient” is not the ultimate beneficiary of the program or activity.

**Disposition description.** This is a description of the complaint’s resolution. Examples of resolution include a determination on the merits, a finding of withdrawal, settled, no jurisdiction, finding of discrimination.

**Date of Disposition.** This is the date on which the complaint was resolved.

**ADR.** Here, you would note “yes” if the complaint was resolved using an “alternative dispute resolution” procedure (*e.g.,* mediation). You would state “no” if ADR was not utilized. If you have an ADR program, keeping track of this data will help you assess how well the program is utilized and whether it brings results.

**Completed By.** The date on which the final action closing the complaint occurs.