

Chautauqua Works

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DISCRIMINATION COMPLAINT AND MEDIATION PROCEDURES

I) The Complaint Procedure

a) Who may file a Discrimination complaint?

Any person who is a participant in a WIOA Title I financially assisted program or activity, and is lawfully authorized to work in the United States.

A person may file:

- 1) on their own behalf;
- 2) on behalf of an individual (as an authorized representative); or
- 3) on behalf of any specific class of individuals.

b) What are the bases of a discrimination complaint?

A complaint of discrimination must be based on one or more of the following classifications:

- Race
- Color
- Religion
- Sex
- National Origin
- Age
- Disability
- Political Affiliation
- Belief or
- Citizenship status

c) What are the requirements for filing a discrimination complaint?

⇒ Complaints **must** be filed within **180 days** of the alleged incident.

⇒ Complaints must also be in **WRITING** and must contain the following information:

- The complainant's name and address or other means of contact.
- Respondent's identity or the entity responsible for the alleged discrimination.
- A description of the allegations with enough detail to establish:
 - 1) WIOA Title I jurisdiction over the complaint;
 - 2) Whether the complaint was filed within the required 180 day time period;
 - 3) Whether the complaint has apparent merit; and
 - 4) Whether the allegations would violate any of the nondiscrimination and equal opportunity provisions of WIOA.
- The complainant's or their authorized representative's signature.

d) When to File?

Complaints must be filed within **180 days** from the initial date of occurrence. Complainants who file with an EO Officer must wait until a written Notice of Final Action is received or until **90 days** have passed (whichever is sooner) before filing

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with the Civil Rights Center (CRC). The Director of CRC for good cause shown may extend the filing period beyond 180 days.

e) Where to File?

Complaints may be filed with the LWIOA (Local Workforce Innovation and Opportunity Act) EO Officer:

Jody Cheney, EO Officer
4 E. 3rd Street, Suite 102
Jamestown, NY 14701
Attn: LWIOA Equal Opportunity Officer, Jody Cheney

Or

New York State Department of Labor,
Division of Equal Opportunity Development
State Campus Building 12, Room 540
Albany, New York 12240
Attn: WIOA EO Office

Complainants may also seek to file directly with the:

United States Department of Labor
Civil Rights Center
200 Constitution Avenue, N.W. Room N-4123
Washington, D.C. 20210
Attn: Director

f) When a complaint involves two or more programs?

Questions of Jurisdiction

A complaint will face questions of jurisdiction either when:

- 1) the complaint stems from an incident that has no connection to a WIOA funded program or activity;
- or
- 2) two or more entities are involved.

1) The Complaint has no connection to a WIOA funded program or activity

If it is determined that the LWIOA EO Officer does not have jurisdiction or authority to process the complaint, the complainant will be notified accordingly. Notification of a lack of jurisdiction will include an explanation for the determination, and filing information. If it is found that there is a lack of jurisdiction, the complainant has a right to file their complaint with the Civil Rights Center (CRC) within **30 days** from when they received the lack of jurisdiction notice.

2) Two or more entities are involved

If it is determined that the EO Officer has joint jurisdiction over the complaint (e.g. meaning that the complaint involves allegations against a WIOA funded program and another entity), the complaint will be forwarded to the appropriate Equal Opportunity Officer and the complainant will be notified accordingly.

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However, if a complaint is related to programs administered by the New York State Department of Labor (NYSDOL), complainants should address their complaints to the:

New York State Department of Labor,
Division of Equal Opportunity Development
State Campus Building 12, Room 540
Albany, New York 12240
Attn: WIOA EO Officer

g) Additionally

- ⇒ All parties to the complaint are entitled to representation of their own choosing and at their own expense.
- ⇒ Upon receipt by the EO Officer, Complaints are assigned a case number, recorded on the complaint log and forwarded to the appropriate Equal Opportunity Officer. All complaints are handled and maintained confidentially.

II) MEDIATION AS AN ALTERNATIVE TO THE FORMAL COMPLAINT PROCESS

a) What is Mediation?

Mediation is an efficient, informal, and confidential alternative to the discrimination complaint process. It involves a good faith agreement by the complainant and the respondent to meet with a neutral mediator to reach a mutually acceptable resolution of their issue(s).

Complainants will not be offered mediation as an option in instances where there are threats of or the actual occurrence of violence.

b) An Overview of the Mediation Process

- ⇒ When a discrimination complaint is received, the EO Officer sends a **Statement of the Issues**. The Complainant has **10 days** from receipt of the Statement of the Issues to choose mediation in lieu of the formal discrimination complaint process.
- ⇒ In order to formally initiate the mediation process, the complainant and respondent must sign a “**Consent to Mediate**” form.
- ⇒ Once the “Consent to Mediate” form has been completed, the EO Officer will contact one of New York State’s thirty-three (33) regional Community Dispute Resolution Centers (CDRC).
- ⇒ The mediator will then assume jurisdiction of the complaint for **sixty (60) days**. **Note:** this sixty day period starts upon the CDRC’s receipt of the initial written referral from the EO Officer.
- ⇒ Within the 60 day period the mediator will conduct a mediation session(s). If the parties reach an agreement the mediator will assist them in memorializing their understanding in writing.
- ⇒ Upon completion of the mediation process or within **ninety (90) days** of the EO Officer’s receipt of the original complaint of discrimination, the complainant and respondent will receive a **Notice of Final Action** indicating the outcome of the proceedings.
- ⇒ The Notice of Final Action will also provide instructions that the complainant has **thirty (30) days** from their receipt of the notice, to file an appeal with the U.S. Department of Labor’s Civil Rights Center.

c) Protection from Intimidation, Reprisal, and Retaliation

- ⇒ **All parties to a discrimination complaint mediation are protected from intimidation, reprisal, and retaliation.**

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d) Confidentiality

Unless the parties agree otherwise, mediation sessions will be closed to anyone other than the individual parties and their representatives. Outside of what is necessary to effectuate the terms of the agreement, any communications and information disclosed during the course of the mediation process is privileged and confidential. Copies of the mediation agreement will be filed with the Equal Opportunity Officer, where they will be stored for **three (3) years** and subject to review by the U.S. Department of Labor's Civil Rights Center.

e) Breach of the Mediation Agreement

⇒ Written mediation agreements are binding on all parties. If a non-breaching party determines that the agreement has been breached, they will have **30 days** from when the breach was discovered to file a complaint with the Director of the U.S. Department of Labor's Civil Rights Center (CRC). If the Director of the Civil Rights Center determines that a breach occurred, then the complainant will be permitted to file a new complaint of discrimination.

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Discrimination Complaint Information Form

Complainant's Information

1) Name: _____

Address: _____

Social Security Number:
(disclosure of SS# is voluntary)

2) Home
Phone _____

Area Code Number

3) Work
Phone _____

Area Code Number

4) Cell
Phone _____

Area Code Number

Respondent's Information

5) To the best of your knowledge, which of the following Department of Labor programs were involved (Check one)

_____ Chautauqua Works

_____ Unemployment Insurance

_____ Employment Service

_____ Trade Adjustments Assistance

_____ Older Americans

_____ Individual Training Accounts

a) Chautauqua Works

b) Training Provider

_____ Other _____

6) Explain as briefly and as clearly as possible what happened and how you were discriminated against. Be sure to indicate who was involved and how other persons were treated differently from you. If necessary, you may also attach additional written material pertaining to your case.

7) Provide the date the first incident took place: _____ Date of Most Recent Occurrence: _____

8) Which of the following best describes why you believe you were discriminated against? (Please specify)

- | Basis for
Discrimination | Please Specify |
|--|----------------|
| <input type="checkbox"/> Race | _____ |
| <input type="checkbox"/> Color | _____ |
| <input type="checkbox"/> Religion | _____ |
| <input type="checkbox"/> National Origin | _____ |
| <input type="checkbox"/> Sex | _____ |
| <input type="checkbox"/> Age | _____ |
| <input type="checkbox"/> Disability | _____ |
| <input type="checkbox"/> Political Affiliation | _____ |
| <input type="checkbox"/> Citizenship | _____ |

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9) Do you think the discrimination against you effected: (check one)

Your job or job search

Your use of the facilities or someone providing/not providing you with service or benefits.

Explain as briefly and as clearly as possible what happened and how you were discriminated against. Be sure to indicate who was involved and how other persons were treated differently from you. If necessary, you may also attach additional written material pertaining to your case.

10) If this complaint is resolved to your satisfaction, what remedies do you seek?

11) Please list below any persons (witnesses, fellow employees, supervisors, or others) that we may contact for additional information to further support your response. (if necessary feel free to attach additional written material)

12) Have you filed a case or complaint with any of the following?

_____ New York State Department of Labor (NYS DOL)

_____ Federal or State Court

_____ Your State or local human relations/rights commission.

13) For each item checked above, please provide the following information (if you have checked more than one, attach additional pages)

Agency:

Location of agency or Court:

Date Filed:

Name of Investigator:

Case or Docket Number:

Status of Case:

14)

Signature

(the grievance is not valid unless it is signed)

Date

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Consent Form

I understand that the following provisions from the Privacy and Freedom of Information Acts apply to the personal information I reveal to Chautauqua Works in connection with my complaint;

In order to obtain the information needed to investigate my complaint, I understand that Chautauqua Works may have to reveal my identity to involved parties and staff members.

However, I do not have to reveal any personal information to Chautauqua Works, but Chautauqua Works may close my complaint if I refuse to reveal the information necessary to complete its investigation;

I may request and receive a copy of any personal information Chautauqua Works keeps in my complaint file for investigatory purposes; and

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

-
- YES, CHAUTAUQUA WORKS MAY DISCLOSE MY IDENTITY IF IT IS FOUND TO BE NECESSARY TO INVESTIGATE MY COMPLAINT. I have read and understand the notice, and I give Chautauqua Works consent to process my complaint.

(Signature)

(Date)

- NO, CHAUTAUQUA WORKS MAY NOT DISCLOSE MY IDENTITY, EVEN IF IT IS FOUND TO BE NECESSARY TO PROCESS MY COMPLAINT. I have read and understand the notice, and I do not give Chautauqua Works permission (consent) to disclose my identity during the course of its investigation. I request that Chautauqua Works process my complaint, however, I understand that Chautauqua Works may terminate the investigatory process if they are unable to proceed without disclosing my identity.