

WORKFORCE INVESTMENT ACT (WIA) COMPLAINT PROCEDURES

Equal Opportunity Employer/Program - Auxiliary Aids and Services Are Available Upon Request To Individuals With Disabilities.

WHO CAN FILE - Any applicant/registrant for aid, benefits, services or training, eligible applicants/registrants, participants, employees, applicants for employment, service providers or eligible service providers who believes that he or she, or any specific class of individuals, has been or is being subjected to discrimination prohibited under the Workforce Investment Act has the option to file with the County of Kane, Kane County Department of Employment & Education or the Civil Rights Center of the U.S. Department of Labor.

RETALIATION/INTIMIDATION OR REPRISAL - Sections 188 of the Workforce Investment Act and Civil Rights laws prohibit retaliation; intimidation or reprisal against any individual because they filed a complaint, opposed a practice, or furnished information on any prohibited basis.

TYPES OF COMPLAINTS – If someone is alleging a discriminatory practice has occurred, the complaint falls into one of three categories, depending on its source:

- Individual complaint – a complaint alleging that the person filing the complaint has been or is being subjected to discrimination.
- Class Action complaint – A complaint filed by one or more individuals alleging discrimination, not only against themselves, but also against a group of similarly situated individuals.
 - must have the signed consent of all individuals in the complaint in order to process the complaint.
- Third Party complaint – A complaint filed by a group or individual alleging discrimination against another group or individual.

Discrimination complaints will be processed according to the rules outlined in this document. Program complaints will be processed according to U.S. Department of Labor Employment and Training Administration regulations as specified in 20 CFR Subpart F, Sec. 667.600 and the policy of the local workforce board.

WHO GETS THE COMPLAINT – At the local level, a written complaint may be submitted to:

Diane Cooper
Asst. Director of Workforce Operations
Kane County Department of Employment & Education
1 Smoketree Business Park, Ste. A
N. Aurora, IL 60542
(630) 966-1435 x 40077 or TTY (630) 264-6593

At the federal level, a written complaint may be submitted to:

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

FILING A COMPLAINT - A complaint must be filed in writing and contain the following information:

- Complainant's name/address or other means of contacting the complaint;
- Identify of the respondent (including the individual or entity alleged to have discriminated);
- The complaint is signed by the complainant or an authorized representative;
- The allegations, described in sufficient detail to determine whether:
 - complaint is covered as applicable under the jurisdiction of the County of Kane, Kane County Department of Employment & Education or the Civil Rights Center;
 - complaint was filed within specified time;
 - complaint has apparent merit (means the allegation of discrimination or complaint, if proven to be true, would violated Workforce Investment Act regulations)

WHAT FORM MAY BE USED FOR FILING A COMPLAINT - The complainant may:

- Complete a form that has been developed by the State of Illinois for this purpose, or

- Complete and submit the Civil Rights Center's Complaint Information Form
- Submit a written complaint without using a form as long as the complaint includes all the required information. See section entitled Filing a Complaint.

TIME FRAME FOR FILING A COMPLAINT - The filing time period for a complaint is:

- 180 days from the date of the alleged discrimination
 - An extension of the 180-day filing period may be granted for good cause shown by the complainant
 - Only the Director of the Civil Rights Center of the U.S. Department of Labor can grant this extension
- if an ADR agreement is breached, either party has the right to file a complaint with the Director of the Civil Rights Center of the U.S. Department of Labor
 - the non-breaching party may file a complaint within 30 days of the date on which the non-breaching party learns of the alleged breach

PROCESSING THE COMPLAINT - Upon receipt of a written complaint, the EO Officer will provide:

- an initial written notice to the complainant that acknowledges receipt of the written complaint
 - the written notice will provide a list of the issues raised in the complaint
 - for each issue, the EO Officer will state whether the EO Officer accepts the issue for investigation or rejects the issue
 - the reason for rejection shall be given
- notice to the complainant of his or her right to be represented in the complaint process by an attorney or other individual of their choice and at their expense
- notice that the complainant has a choice to use the customer process or to use alternative dispute resolution (ADR)

ALTERNATIVE DISPUTE RESOLUTION - Within 30 days of receiving the written complaint, the EO Officer will review and investigate the allegation and attempt to resolve the complaint with the involved individual or entity alleged to have discriminated. If the complainant is not satisfied with the resolution offered by the individual or entity alleged to have discriminated, the EO Officer shall present the complaint to the Executive Director of the Kane County Department of Employment & Education within 10 days of rejection of the proposed resolution by the complainant.

The Executive Director shall review the complaint, the results of the investigation, the proposed resolution and the recommendation of the EO Officer and propose a new resolution. If the complainant accepts the resolution proposed by the Executive Director, the resolution shall be reduced to writing by the EO Officer and signed by the complainant, the Executive Director and the EO Officer.

FAILURE OF ALTERNATIVE DISPUTE RESOLUTION OR REQUEST FOR FORMAL HEARING - If alternative dispute resolution fails or if the complainant requests a formal hearing, the Chief Local Elected Official shall appoint an impartial Hearing Officer to hear the complaint within 30 days. The Hearing Officer shall schedule a hearing of the Grievance Committee. The Grievance Committee shall consist of the Director of Human Resources for Kane County, one member of the Kane County Human Services Committee and the EO Officer. The Hearing Officer shall provide notice to all parties who have a legitimate interest in the complaint of the date, time and place of the formal hearing and the issues to be heard. The Hearing Officer shall notify the complainant by certified mail of his or her rights, including the right to be accompanied by an attorney or other duly authorized representative, to present evidence, to question others who present evidence and to file with the Civil Rights Centers of the U.S. Department of Labor when the complainant is not satisfied with the Grievance Committee's decision. The complainant shall be permitted access to local workforce investment area files that would be germane to the complainant's allegations.

CONDUCT OF HEARING - Complainants and respondents shall make every effort possible to be present at the hearing. However, if they are unable to be present, a 48-hour prior written notice must be given to the Hearing Officer. In the event circumstances arise prior to the hearing that, in the opinion of the Hearing Officer, are such as to be beyond the reasonable control of the complainant or respondents to prevent their attendance at the hearing, the Hearing Officer shall reschedule the proceedings. If the Hearing Officer determines that the complainant's or respondent's failure to attend the hearing is not beyond their reasonable control, the hearing shall be held in his/her absence.

The rules of evidence will apply. Both the complainant and the respondent may present relevant testimony and documentary evidence. All testimony shall be given under oath. The complainant and respondent, personally or through their representatives, shall have the right to cross-examine all witnesses who testify.

A tape recording or other verbatim record of the hearing shall be made.

NOTICE OF FINAL ACTION - The decision of the Grievance Committee shall be made strictly on the basis of the evidence gathered.

The recipient of Workforce Investment Act funds must provide to the complainant a notice of final action within 90 days from the date when the complaint was filed. The notice must contain the following information:

- The recipient's decision on each issue and an explanation of the reason behind the decision (if used investigation or fact-finding process) or a description of the way the parties resolved the issues (if ADR process is used).
- A notice that if the complainant is dissatisfied with the recipient's resolution of the complaint, he or she has the right to file a complaint with the Civil Rights Center of the U.S. Department of Labor within 30 days from the date of issuance of the notice of final action.

PROCESSING TIMEFRAME REQUIREMENTS - Below is a summary of the timeframes established by Section 188 of the Workforce Investment Act and 29 CFR 37 for the processing of discrimination complaints:

Recipient's 90-Day processing Timeframe: The agency receiving the complaint must perform one of the following actions within 90 days from the date the complaint is received:

- Issue a Written Notice of Lack of Jurisdiction
- Refer the complaint to another federal grant-making agency for investigation where there is dual jurisdiction
- Issue a Written Notice of Final Action

Complainant's 30-Day Timeframe for Appeals. The complainant has 30 days to file with the Civil Rights Center of the U.S. Department of Labor when any of the following occurs:

- The recipient issues a Written Notice of Lack of Jurisdiction. In this case, the 30 days is counted from the date of receipt of the notice
- The complainant is not satisfied with the decision in the Written Notice of Final Action. In this case, the 30 days is counted from the date of receipt of the notice.
- The recipient fails to issue either a Written Notice of Lack of Jurisdiction, a Written Notice of Final Action, or a referral to another federal grant-making agency for investigation in case of dual jurisdiction by the end of 90 days after receipt of the complaint. In this case, the 30 days is counted at the end of the initial 90-day period.
- A party to an agreement breaches the agreement. In this case, the 30 days is counted from the date the complainant learns of the alleged breach
- An ADR process fails to produce an agreement. In this case the 30 days is counted from the date on which the process terminates.

Extension of Complainant's 30-Day Timeframe. The Director of the Civil Rights Center of the U.S. Department of Labor may extend the complainant's 30-day timeframe to file with the CRC if the complainant can show good cause.



Complaint Information Form

U.S. Department of Labor Civil Rights Center

1. Complainant Information:

State your name and address:

Your telephone number(s):

Home Number:

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Work Number:

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Social Security Number _____

(disclosure of Social Security Number is voluntary)

2. Respondent Information:

Provide name and address of agency involved

Telephone Number:

() -

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

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

Date of first occurrence: _____

Date of most recent occurrence: _____

5. Have you ever attempted to resolve this complaint at the local Level? No Yes

a. Have you been provided with a final decision at the local level regarding your complaint? No Yes

Date of final decision (if any) _____

b. Have 90 days elapsed since you filed or attempted to file this complaint at the local level? No Yes

Date you filed or attempted to file your complaint at the local level. _____

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

7. To the best of your knowledge, which of the following Department of Labor programs were involved? (Check one)*

- Workforce Investment Act (WIA) MSHA
- Displaced Worker OSHA
- Unemployment Insurance WIN
- Youth
- Job Corps
- Apprenticeship
- Older Americans
- New Directions
- Other: Specify _____

*At the local level, these programs may be known by a different name.

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

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

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

- Your job or seeking employment? Or
- You're using facilities or someone providing/not providing you with services or benefits?

If so, which of the following are involved?

- Harassment Hiring
- Access/Accommodation Transition
- Job Classification Wages
- Union Representation Application
- Union Activity Enrollment
- Discharge/Termination Referral
- Promotion Exclusion
- Training Placement
- Transfer Benefits
- Qualification/Testing
- Grievance Procedure
- Layoff/Furlough
- Performance Appraisal
- Recall (From Layoff-Furlough)
- Discipline/Reprimand
- Seniority
- Intimidation/Reprisal
- Other Specify _____

For DOL Use Only

CIF received by CRC _____ Accepted _____ Not Accepted Case Number: _____

By _____ Da

te:

10. Why do you believe these events occurred?

11. What other Information do you think is relevant to our investigation?

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

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

| Name | Address | Telephone | Number |
|-------|---------|-----------|--------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

14. Do you have an attorney? Yes No
If yes, please provide name, address and phone:

Telephone Number

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

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

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

Agency: _____

Data Filed: _____

Case or Docket Number _____

Date of Trial or Hearing: _____

Location of agency or court _____

Name of Investigator: _____

Status of Case: _____

Comments: _____

Sign (Complaint NOT VALID unless signed)

Name

Date

U.S. Department of Labor, Civil Rights Center
NOTICE ABOUT INVESTIGATORY USES OF PERSONAL INFORMATION

Two Federal laws govern personal information to Federal agencies, including the Civil Rights Center (CRC), the Privacy Act of 1974 (5 U.S.C. 552) and the Freedom of Information Act (5 U.S.C. 552) or "FOIA". Please read the description of how these laws apply to information connected with your complaint. After reading this notice, please sign and return the consent agreement printed on the back of this notice, along with your complaint form.

The PRIVACY ACT protects individuals from misuse of personal information held by the Federal Government. The law applies to records that are kept and can be located by the individual's name, social security number, or other personal identification system. Anyone who submits information to CRC in connection with a discrimination complaint should know the following:

- CRC has been authorized to investigate complaints of discrimination on the basis of race, color, national origin, age, and handicap and in some programs on the basis of sex, religion, citizenship, and political affiliation or belief, in programs that receive Federal funds through the Department of Labor. CRC is also authorized to conduct reviews of federally funded programs to assess their compliance with civil rights laws.
- Information that CRC collects is analyzed by authorized personnel within CRC. This information may include personnel or program participant records, and other personal information. CRC staff may want to reveal some of the personal information to individuals outside the office in order to verify facts related to the complaint, or to discover new facts which will help CRC determine whether the law has been violated. Such information could include, for example, the physical condition or age of a complainant. CRC may also have to reveal personal information to a person who submits a request for disclosure authorized by the Freedom of Information Act.
- Information submitted to CRC may also be revealed to persons outside of CRC because it is necessary in order to complete enforcement proceedings against a program that CRC finds to have violated the law or regulations. Such information could include, for example, the name, income, age, marital status or physical condition of the complainant.
- Any personal information you provide may be used only for the specific purpose for which it was requested. CRC requests personal information only for the purpose of carrying out authorized activities to enforce, and determine compliance with, civil rights laws and regulations. CRC will not release personal information to any person or organization unless the person who submitted the information gives written consent, or unless release is required by the Freedom of Information Act.
- No law requires that a complainant reveal personal information to CRC, and no action will be taken against a person who denies CRC's request for personal information. However, if CRC cannot obtain the information needed to fully investigate the allegations in the complaint, CRC may close the case.
- Any person may ask for, and receive, copies of all personal materials CRC keeps in his or her file for investigatory use.

AS A POLICY, CRC DOES NOT REVEAL NAMES AND OTHER IDENTIFYING INFORMATION ABOUT INDIVIDUALS UNLESS IT IS NECESSARY TO COMPLETE INVESTIGATION OR ENFORCEMENT ACTIVITIES AGAINST A PROGRAM WHICH HAS VIOLATED THE LAW. CRC never reveals to the program under investigation the identity of the person who filed the complaint, unless the complainant first gave CRC written permission to do so.

The FREEDOM OF INFORMATION ACT (FOIA) gives the public maximum access to Federal government files and records. Persons can request and receive information from many types of records kept by the government - not just materials that apply to them personally. The Civil Rights Center must honor most requests for information submitted under FOIA, but there are exceptions.

- CRC is usually not required to release information during an investigation or an enforcement proceeding if that release would limit CRC's ability to do its job effectively; and
- CRC can refuse to disclose information if release would result in a "clearly unwarranted invasion" of a person's privacy.

PLEASE READ AND SIGN SECTION A OR SECTION B OF THE CONSENT FORM PRINTED ON THE BACK OF THIS NOTICE, AND RETURN IT TO THE CIVIL RIGHTS CENTER WITH YOUR SIGNED, COMPLETED COMPLAINT INFORMATION FORM.

CONSENT FORM

I have read the Notice about Investigatory Uses of Personal Information, printed on the front of this form. I understand the following provisions of the Privacy Act and Freedom of Information Act, which apply to personal information I reveal to the Civil Rights Center in connection with my complaint:

In the course of investigating my complaint, CRC may have to reveal my identity to staff of the program named in my complaint in order to obtain facts and evidence regarding my complaint;

I do not have to reveal any personal information to CRC, but CRC may close my complaint if I refuse to reveal information needed to fully investigate my complaint;

I may request and receive a copy of any personal information CRC keeps in my complaint file for investigatory uses; and

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

SECTION A

YES CRC MAY DISCLOSE MY IDENTITY IF NECESSARY TO INVESTIGATE MY COMPLAINT. I have read and understand the notice, and I consent for CRC to process my complaint.

(Signature) (Date)

SECTION B

NO CRC MAY NOT DISCLOSE MY IDENTITY, EVEN IF NECESSARY TO PROCESS MY COMPLAINT. I have read and understand the notice, and I do not consent for CRC to disclose my identity during investigation on of my complaint. I request that CRC process my complaint, however, I understand that CRC may cancel my complaint if it cannot fully investigate without disclosing my identity. I also understand that the CRC may close my complaint if it cannot begin an investigation because I have not consented for the CRC to reveal my identity.

(Signature) (Date)