

EQUAL OPPORTUNITY

Foothills Region Workforce Development Consortium (PS 07-2018)

- A. BACKGROUND: Foothills Region's WIOA activities will not discriminate against: applicants, eligible applicants, or participants of any Workforce Innovation and Opportunity Act (WIOA) funded activity; applicants for employment or employees of any WIOA funded agency or program; or any other person because of *race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.*

No person shall, on these grounds, be:

- 1) excluded from participation in any WIOA funded program or activity, or;
- 2) denied the benefits of any WIOA funded program or activity, or;
- 3) subjected to discrimination in connection with any WIOA funded program or activity, or;
- 4) denied employment in the administration of or in connection with any WIOA-funded program or activity.

This policy applied to all programs, projects or activities funded in whole or in part with WIOA funds received directly or indirectly by Foothills Region. Any person who believes that he or she or any specific class of individuals has been treated inequitably with regard to grounds specified in the underlined and italicized portions of this paragraph may file a written complaint, or cause a complaint to be filed by their representative.

1. This complaint may be filed with the EO officer of the Administration Entity for Foothills Region's WIOA programs the EO officer of an agency or individual providing WIOA funded services or programs under contract with Foothills Region Workforce Development Consortium, or with the Director of the Directorate of Civil Rights (DCR), US Department of Labor.
2. If the complainant chooses to file his/her complaint directly with the DCR, this complaint shall be mailed to:

Director of Civil Rights
US Department of Labor

200 Constitution Avenue, NW
Room North 4123
Washington, DC 20210

B. DEADLINE FOR FILING: A complaint filed on the basis of the grounds indicated above must be filed within 180 days of the alleged discrimination, unless this deadline is extended by the Director of DCR for good cause shown.

C. COMPLAINT PROCEDURES:

1. All complaints must be signed by the complainant or authorized representative and filed in writing. Complaints must include the following information:
 - a. The full name, address, and telephone/TTY number of the complainant, or in lieu of this information, another specified means of contacting the complainant.
 - b. The full name and address of the person or agency against whom the complaint is made.
 - c. A clear and concise statement of the act or acts which are thought to be a violation.
 - d. Only with regard to complaints of discrimination on the grounds of disability, evidence that the complainant is disabled; and,
 - e. Other information that will help explain and resolve the complaint.

2. If the complainant chooses to file his/her complaint with the Administrative Entity for WIOA Activities in Foothills Region:
 - a. The person or group filing the complaint will be provided a dated receipt acknowledging delivery of the complaint to the EO Officer of the Administrative Entity. The date of filing will be the date the complaint is received by the EO Officer.
 - b. The EO Officer will work with the complainant throughout the complaint process to insure an understanding of the procedures to be followed and to assist in preparation of the complaint, if necessary. The EO Officer may, at the option of the complainant, serve as an intermediary between the complainant and the person, agency or group against whom the complaint is filed.
 - c. Complaints filed with the Administrative Entity should be sent to:
Laura Lynch, Equal Opportunity Officer
Foothills Regional Commission
PO Box 841
Rutherfordton, NC 28139
Phone: 828 287 2281

D. HEARING PROCEDURES: Hearings on any complaint filed must be conducted within 15 days of filing. In the event the complaint is filed with the Administration Entity for WIOA Activities Programs in Foothills Region, the Executive Committee of the Foothills Region Workforce Development Board's Executive committee will serve as the WIOA Grievance Committee. Complaint hearing procedures are as follows:

1. All parties involved in the complaint will be given reasonable notice of the hearing by registered or certified mail, or by hand delivery supported by a signed receipt. This notice shall specify:
 - a. The date, time, and place of the hearing;
 - b. The authority and jurisdiction under which the hearing is to be held;
 - c. The particular section of the Act, regulation, grant or other agreements under the Act involved in the complaint;
 - d. The specific charges contained in the complaint;
 - e. The right of both parties involved in the complaint to be represented by legal counsel or other individuals of their choosing;
 - f. The right of each party to present evidence, both written and through witnesses;
 - g. The right of each party to cross examination; and
 - h. The right of each party to a decision by an impartial party who has not been directly involved in the events from which the complaint arose.
2. The hearing will be tape recorded. The EO Officer named above shall maintain complete records and documentation of all aspects of the contested case, including minutes of testimony, data submitted, findings, appeals, and final decisions. Copies of such records and documentation shall be provided to either party upon submission of a written request to the EO Officer.
3. A written decision made strictly on the recorded evidence will be rendered by the Grievance Committee, as defined above, and provided to both parties within twenty-five days of the date the complaint was initially filed.

E. APPEAL PROCEDURES: If a complainant receives an unsatisfactory decision or does not receive a decision at the local level within 40 days of the filing of the complaint, the complainant has a right to request a review of the complaint by the North Carolina Division of Workforce Solutions. Requests for such review shall be submitted to:

Mose Dorsey
NC Department of Commerce
Division of Workforce Solutions

4316 Mail Service Center
Raleigh, North Carolina 27699-4316
Phone: 919 814 0419

1. Such request must be filed within 10 days of receipt of the adverse decision, or, in the event the complainant has not received a written decision within the 40 days of the date the complaint was filed with the Foothills Region Local Area.
2. The Division of Workforce Solutions will conduct a review of the complaint and issue a decision within 30 days from the date of receiving the review request.
3. Should the Division of Workforce Solutions provide a decision unsatisfactory to the complainant, or fail to provide a decision as specified above, the complainant may file the complaint with the Directorate of Civil Rights or the United States Department of Labor. This complaint must be submitted in writing no later than 30 days following the Division of Workforce Solutions' decision or 90 days from the date the complaint was initially filed at the local level, whichever is earlier. Complaints filed with the Director, Directorate of Civil Rights shall be mailed to the address contained in Section II.A.2 of this document.

F. RECORD KEEPING: The Administrative Entity of WIOA programs in Foothills Region shall maintain a log of complaints filed. The log shall include:

- The name and address of the complainant;
- The ground of the complaint;
- The date the complaint was filed;
- The disposition and date of disposition of the complaint, and;
- Other pertinent information.

Records regarding complaints and actions taken thereunder shall be maintained for a period of not less than three years from the date of resolution of the complaint and made available to the Directorate of Civil Rights (DCR) or the NC Division of Workforce Solutions upon request. Information concerning all complaints shall be kept confidential.

NONCRIMINAL COMPLAINT PROCEDURES

- A. **BACKGROUND:** In accordance with 29 CFR 38.35 of the regulations, WIOA programs establish procedures for concerned participants, program operators, contractors, or other interested persons to file grievances or complaints about its programs and activities. The procedures outlined below are to be used by any person or party which takes issue with policies and procedures utilized in the operation and administration of WIOA programs by Foothills Region; or any other agency or person who is paid to provide services to applicants or participants of WIOA programs operated or administered by or through the Foothills Region Local Area. Complaints may also be filed by persons taking issue with actions taken or decisions made by the Foothills Region Job Training Consortium, or any other agency or person who is paid to provide services to applicants or participants of WIOA programs operated or administered by or through the Foothills Region Local Area. This includes complaints arising from investigations, audits, or monitoring reports of individuals or agencies who provide services to applicants or participants of WIOA programs through employment, or contractual relationship, with the Foothills Region. These procedures will not be used by individuals, agencies, or groups which allege that illegal discrimination, fraud, or other criminal activity has taken place in the provision of WIOA services. Such allegations of criminal activity will utilize other grievance and complaint procedures established in the non-discrimination complaint procedures. When grievances stem from an alleged act that also violates a federal statute other than WIOA or a state or local law, the individual or agency may, with respect to the non-WIOA cause of action, institute a civil action or pursue other remedies authorized under other federal, state, or local law without first exhausting the remedies under WIOA.
- B. **FILING DEADLINE:** Non-criminal program complaints as described in this section of this document must be filed within one year of the alleged occurrence. Complaints arising at the local level (Foothills Region) must be filed at the local level using local procedures before being forwarded to the State of North Carolina for review.
- C. **COMPLAINT PROCEDURES:**
1. All complaints must be signed by the complainant or authorized representative and filed in writing with the Equal Opportunity (EO) Officer of the administrative entity for Foothills Region's WIOA programs (Laura Lynch).
 - a. The full name, address, and telephone number of the person, agency, or group who is filing the complaint.
 - b. The full name and address of the person or agency against whom the complaint is made.
 - c. A clear and concise statement of the nature of the complaint, including the specific act or acts which are thought to be a violation.

- d. The provisions of the Act, regulations, grant or other agreement believed to have been violated (to the extent this is applicable and can be determined); and
 - e. Other information that will help explain and resolve the complaint.
 2. The person or group filing the complaint will be provided a dated receipt acknowledging delivery of the complaint to the EO Officer of the Foothills Region Workforce Development Consortium. The date of filing will be the date the complaint is received by the EO Officer.
 3. The EO Officer will work with the complainant throughout the complaint process to insure an understanding of the procedures to be followed and to assist in preparation of the complaint, if necessary. The EO Officer may, at the option of the complainant, serve as an intermediary between the complainant and the person, agency or group against whom the complaint is filed.

D. HEARING PROCEDURES: The Executive Committee of the Foothills Region Workforce Development Board serves as the WIOA Grievance Committee for the Local Area. No later than thirty (30) days following the date the complaint is filed, this committee shall conduct a hearing of the complaint.

1. All parties involved in the complaint will be given reasonable notice of the hearing by registered or certified mail, or by hand delivery supported by a signed receipt. This notice shall specify:
 - a. The date, time, and place of the hearing;
 - b. The authority and jurisdiction under which the hearing is to be held;
 - c. The particular section of the Act, regulation, grant or other agreements under the Act involved in the complaint (to the extent this is applicable and can be determined);
 - d. The specific charges contained in the complaint;
 - e. The right of both parties involved in the complaint to be represented by legal counsel or other individuals of their choosing;
 - f. The right of each party to present evidence, both written and through witnesses;
 - g. The right of each party to cross examination; and
 - h. The right of each party to a decision by an impartial party who has not been directly involved in the events from which the complaint arose.
2. The hearing will be tape recorded. The EO Officer named above shall maintain complete records and documentation of all aspects of the contested case, including minutes of testimony, data submitted, findings, appeals, and final decisions. Copies of such records and documentation shall be provided to either party upon submission of a written request to the EO Officer.

3. A written decision made strictly on the recorded evidence will be rendered by the Grievance Committee, as defined above, and provided to both parties within sixty days of the date the complaint was initially filed.

E. APPEAL PROCEDURES: If a complainant receives an unsatisfactory decision or does not receive a decision at the local level within 60 days of the filing of the complaint, the complainant has a right to request a review of the complaint by the North Carolina Division of Workforce Solutions. Requests for such review shall be submitted to:

Mose Dorsey
NC Division of Workforce Solutions
4316 Mail Service Center
Raleigh, North Carolina 27699-4316

1. Such request must be filed with 10 days of receipt of the adverse decision, or, in the event the complainant has not received a written decision within the 60 day time frame stated in item I.D.3 above, within 75 days of the date the complaint was filed with the Foothills Region Local Area.
2. The Division of Workforce Solutions will conduct a review of the complaint and issue a decision within 30 days from the date of receiving the review request.
3. With the exception of complaints alleging violations of labor standards, the Division of Workforce Solutions decision is final unless the Secretary, United States Department of Labor, exercises the authority for Federal-level review.
4. Should the Division of Workforce Solutions fail to provide a decision as specified above, the complainant may request a determination from the Secretary, United States Department of Labor, as to whether reasonable cause exists to believe that the WIOA or its regulations have been violated. This request must be submitted in writing no later than 45 days following the date the Division of Workforce Solutions received the request to review the complaint. This request must contain the following information:
 - a. The full name, address, and telephone number of the complainant;
 - b. The full name and address of the person against whom the complaint is made, if applicable;
 - c. A clear and concise statement of the acts considered to be a violation including the date filed with the Division of Workforce Solutions and the date on which the decision should have been issued and an attestation that no decision was issued;
 - d. The provisions of the Act, regulations, grant, or other agreement under the Act believed to have been violated; and,

- e. Other information that will help explain and resolve the complaint such as information concerning remedies and sanctions sought outside the Act.
 5. The Secretary, United States Department of Labor, shall act within 90 days of the receipt of the request for a determination.
 6. Where appropriate, the Secretary, United States Department of Labor, will direct the Division of Workforce Solutions to take further action pursuant to State and local procedures. The Division of Workforce Solutions has 60 days to comply with the Secretary's directive(s).
- F. NOTIFICATION PROCEDURES: Foothills Region will inform other employers, including private-for-profit employers, of these procedures and insure that these employers have a grievance procedure relating to the terms and conditions of employment which is available to participants of WIOA-funded activities whom they employ. Similar notice will be provided to organizations which operate WIOA activities under contractual agreement with Foothills Region. Employers and contractors may utilize their own grievance procedure or they may utilize the grievance system established and described in this document. Employers and contractors shall inform participants of the grievance procedures they are to follow when the participant begins work or training. If the employer chooses to utilize its own grievance procedures in lieu of those described in this document, complainants may request a review of an employer's decision regarding their complaint by the administrative entity for Foothills Region's WIOA activities and the Division of Workforce Solutions, if necessary. The employer's grievance system shall make provisions for such review.
- G. For Complaints that pertain to conditions of employment and the provision of working conditions for WIOA participants which are the same as those provided to similarly employed workers, complainants will follow the same procedures as other non-criminal program complaints, as set forth above, except that they may be submitted by either party to the Secretary, United States Department of Labor, when all state and local grievance procedures have been exhausted. In addition, a person alleging a violation as an alternative to utilizing the state and local procedures established above, may submit the grievance to a binding arbitration procedure if there is in place a collective bargaining agreement covering the parties to the grievance and if this collective bargaining agreement provides for binding arbitration of grievances. If the complainant chooses to have his/her grievance alleging a violation reviewed under binding arbitration provisions:
1. Binding arbitration must be chosen prior to, and in lieu of, the initiation of the complaint under other grievance procedures established above, and;
 2. Binding arbitration may not be chosen for a complaint that was, or is currently, subject to any other grievance procedures established under the Job Training Partnership Act.