

OPERATIONS MANUAL
CHAPTER 9
EQUAL OPPORTUNITY POLICY, COMPLAINT
AND GRIEVANCE PROCESS, AND CRIMINAL
ACTIVITY REPORTING PROCEDURES

REVISED DECEMBER 9, 2016

TABLE OF CONTENTS

Sec 1. Introduction.....3

Sec 2. References3

Sec 3. Definitions3

Sec 4. Equal Opportunity (EO) Policy3

 (a) Designation of EO-Responsible Staff3

 (b) Notice & Communication of the EO Policy and Procedures.....4

 (c) Program Access to Individuals with Limited English Proficiency5

 (d) Program and Site Access to Individuals with Disabilities.....5

 (e) EO Policy Assurances in Sub-Contracts, Plans and Agreements5

 (f) Data/Information Retention, Reporting and Confidentiality.....6

 (g) State Biennial Monitoring.....7

Sec 5. Program Complaint Procedures7

 (a) Equal Opportunity (EO) and Nondiscrimination Policy Complaint (Non-criminal)7

 (b) Program Grievance and Complaint (Non-criminal)7

 (c) Criminal Activity Reporting.....7

Sec 6. General Complaint Guidelines7

 (a) Contents of the Complaint8

 (b) Timelines for Filing.....8

 (c) Finding of EO Policy Violation9

Sec 7. Subrecipient Complaint Resolution Process 10

 (a) Complaints Filed with SDWP10

Sec 8. SDWP Resolution Process 11

 (a) SDWP Complaint Resolution Timeline.....11

 (b) Alternative Dispute Resolution (ADR)/Informal Conference11

 (c) Investigation12

 (d) Formal Hearing12

 (e) Written Decision13

Sec 9. Resolution of Discrimination Complaints 14

 (a) Dismissal of Complaint14

 (b) Appeal Rights to the Civil Rights Center (CRC)15

Sec 10. Criminal Activity Reporting Process 15

 (a) Policy and Procedures16

 (b) Reporting16

Sec 11. Conclusion 17

Sec 1. Introduction

The purpose of this Chapter is to assist the SDWP Operators, Service Providers and Subrecipients in establishing and maintaining an Equal Opportunity (EO) and nondiscrimination policy and a procedure for grievances and complaints from participants and other interested parties served by the local workforce development system.

Sec 2. References

[Workforce Services Directive \(WSD\) 15-24](#)

Sec 3. Definitions

Complaint, for this directive only, means an allegation of a violation of the nondiscrimination and equal opportunity provisions.

Recipient, taken from Title 29 CFR Part 38, means any entity to which financial assistance under WIOA Title I is extended, either directly from Department of Labor (DOL) or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIOA Title I funded program or activity. In addition, One-Stop partners, as defined in Section 121(b) of the WIOA, are treated as "recipients" and are subject to the nondiscrimination and equal opportunity requirements of Title 29 CFR Part 38, to the extent that they participate in the One-Stop delivery system.

For the purposes of this Chapter, the policies mentioned herein and references to Recipient or Subrecipients applies to and includes any funded partner, employer, entity or service provider utilizing SDWP's program funding.

Small recipient means a recipient who (1) serves a total of fewer than 15 beneficiaries during the entire grant year and (2) employs fewer than 15 employees on any given day during the grant year.

Sec 4. Equal Opportunity (EO) Policy

SDWP, Recipients, and Subrecipients must maintain a policy to provide equal opportunity in all services and activities. Discrimination is strictly prohibited on the grounds of race, ethnicity, orientation, religion, sex, gender, national origin, age, disability, political affiliation or belief, and for beneficiaries' only, citizenship or participation in a WIOA Title I financially assisted program or activity.

Subrecipients are required to adhere to all of the rules and regulations contained in the EDD Directive [WSD15-24](#)

(a) Designation of EO-Responsible Staff

Subrecipients must designate an individual who will operate as the EO point of contact (POC). The POC is responsible for developing and publishing complaint procedures and processing complaints.

The POC is responsible to:

- Ensure staff are familiar with the EO policy and procedures;
- Ensure all SDWP-funded activities are operated in compliance with this policy;
- Ensure all employees and participants are informed of their rights and responsibilities;
- Hear, answer and advise individuals on any complaints of discrimination filed;
- Ensure that no retaliation or reprisal is taken against an individual that has filed a complaint or assisted in the filing or the investigation of a complaint; and
- Serve as a liaison with the SDWP EO officer and/or the Civil Rights Center (CRC) in resolving EO complaints.

(b) Notice & Communication of the EO Policy and Procedures

The EO Policy and related procedures must be communicated to all staff of the Subrecipient's organization. Initial and continuing notice of nondiscriminatory practices, as well as the right to file a complaint, must be:

- Posted in prominent locations, such as the front customer entry and reception area.
- Disseminated in internal memoranda and other written or electronic communications.
- Made available to each participant.
- Notified and maintained in each participant's case file. Where a hard copy case file is maintained, a copy of an acknowledgement of receipt of the "Equal Opportunity is the Law" notice and The "Program Grievance and Criminal Complaint Policy Notice" must be signed by the participant and included in each participant's case file.

A copy of the "Equal Opportunity is the Law" notice is available in both English and Spanish (Attachment B) The "Program Grievance and Criminal Complaint Policy Notice" (Attachment D) must also be made available to each participant. In addition, participants wishing to file an EO/Nondiscrimination complaint must have a copy of the EO-Grievance Complaint Form (Attachment A) made available to them to use in filing a formal EO complaint or program complaint/grievance.

Individuals with visual impairments must be provided with the "Equal Opportunity is the Law" notice and the "Program Grievance and Criminal Complaint Policy Notice" in alternative formats, e.g., by being read aloud and then provided in audio format to be retained by the participant. A record that such notice has been given to the participant in an alternative format shall be included as a part of the participant's file.

Distributed publications, broadcasts, electronic media and other communications including the homepage of the Subrecipient's website, which promote WIOA programs or activities, shall include the following taglines: "This WIOA Title I financially assisted program or activity is an equal opportunity employer/program," and "Auxiliary aids and services are available upon request to individuals with disabilities."

Where hard copy or electronic materials indicate that the Subrecipient may be reached by telephone, the telephone number of any TDD/TTY or relay service used by the recipient must be indicated. If the recipient does not have a TDD/TTY, they can use the California Relay Service (CRS), which can be

reached at 1-800-735-2922. A caller can contact the relay service by voice or TDD, and an operator will contact the party to be called using voice or TDD/TTY. A TDD/TTY or relay service should be available where services provided by telephone are a major function of the program or activity.

(c) Program Access to Individuals with Limited English Proficiency

Operators and Service Providers must take reasonable steps to ensure that individuals having Limited English Proficiency (LEP) receive the language assistance necessary to give meaningful access to programs, services and information. As needed, bilingual staff must be employed in public contact positions and to translate documents explaining available services into their LEP clients' languages.

The Dymally-Alatorre Bilingual Services Act (ACT), enacted in 1973, requires state and local agencies ensure that they provide information and services in the various languages of their constituents. Specifically, when state and local agencies serve a "substantial number of non-English-speaking people," they must:

- Employ a "sufficient number of qualified bilingual staff in public contact positions;"
- Translate documents explaining available services into the languages of their constituents.

(d) Program and Site Access to Individuals with Disabilities

The Americans with Disabilities Act (ADA) of 1990 guarantees equal opportunity for persons with disabilities in employment, public accommodations, transportation, state and local government services and telecommunication relay services. All Subrecipients who receive federal or state funding are required to prepare a Self-Evaluation and Transition Plan.

The purpose of the Self-Evaluation is to review all policies, programs, services, activities, and/or practices to ensure that they do not discriminate against persons with disabilities. The purpose of the Transition Plan is to document the Subrecipient's plans to modify, as soon as feasible, any policies, program services, activities, and facilities that are determined to be inconsistent with ADA requirements.

At a minimum, Subrecipients are required to ensure that all programs and activities are accessible as prescribed by ADA standards (https://www.ada.gov/2010ADASTandards_index.htm) to persons with disabilities.

The EDD's Reasonable Accommodation Policy and Procedure Guide can be used to process reasonable accommodation requests. The Reasonable Accommodation Guide can be found as Attachment 4 of the EDD Directive [WSD15-24](#). The Guide provides general guidance and definitions for use when processing reasonable accommodation requests and step-by-step instructions on how to process these requests

(e) EO Policy Assurances in Sub-Contracts, Plans and Agreements

In the event that Subrecipients enter into a sub-contract for provision of services funded all or in part by the SDWP, all contracts, plans and agreements entered into must contain the nondiscrimination assurance. The nondiscrimination assurance must state that "the sub-contractor will comply fully with

the nondiscrimination and equal opportunity provisions of the WIOA and acknowledge the government's right to seek judicial enforcement of the nondiscrimination assurance.”

(f) Data/Information Retention, Reporting and Confidentiality

In compliance with 29 CFR Sections 38.37 through 38.41 and Section 188 of WIOA, any entity to which financial assistance under WIOA Title I is extended must:

- Collect data on race/ethnicity, gender, age, and where known, disability status (EO data) of each applicant, registrant, eligible applicant registrant/participant and exited participant. Also, each Operators and Service Providers must collect and maintain EO data on all applicants for employment and employees;
- Maintain records of EO data in the program's system of record;
- Safeguard the confidentiality of the required information;
- Only use confidential information for recordkeeping and reporting purposes;
- Maintain a log of complaints filed alleging discrimination on the grounds of race, color, religion, gender, sexual orientation, national origin, age, physical or mental disability, political affiliation or belief, limited English proficiency and for beneficiaries only, citizenship/status as a lawfully admitted immigrant authorized to work in the U.S., or his/her participation in any SDWP-funded program or activity.

The log must include: (1) name and address of complainant; (2) grounds of the complaint (3) description of the complaint (4) date complaint was filed; (5) disposition and date of disposition of the complaint; and (6) any other pertinent information.

In addition to subrecipient complaint logs, SDWP shall maintain a log of complaints filed alleging discrimination, including disposition of the complaint, which shall be submitted to the CRC upon their request.

EO data for eligible applicants, registrants/participants and exited participants will be reported using the information management system prescribed by the SDWP. EO data on applicants for employment and employees will not be reported to the SDWP unless it is required in response to a complaint of discrimination.

Within one working day, subrecipients must notify the SDWP of any administrative enforcement actions or lawsuits filed against the Subrecipient alleging discrimination on the grounds of race, color, religion, gender, sexual orientation, national origin, age, mental or physical disability, political affiliation or belief, limited English proficiency, and for beneficiaries only, citizenship/status as a lawfully admitted immigrant authorized to work in the U.S., or his/her participation in any SDWP-funded program or activity.

Subrecipient must also provide a description of any findings in any civil rights compliance reviews where the Subrecipient was found in noncompliance. Records of any complaints must be retained for a period of not less than eight (8) years from the close of the applicable year or resolution of the complaint. Subrecipients must safeguard the confidentiality of the required information, including medical information, and prevent the improper use of such information.

(g) State Biennial Monitoring

As indicated in the [EDD Directive WSD 15-24](#), (“Nondiscrimination and Equal Opportunity Procedures,” General Provisions, Section 7, Monitoring), the EEO Office requires that each Local Workforce Development Area (LWDA) complete and submit the Electronic Monitoring Checklist (EMC) on a biennial basis to evaluate compliance with federal and State disability laws of the America’s Job Centers of California (AJCC). SDWP will distribute the EMC and the Physical and Program Accessibility (PPA) self-assessment checklists to the AJCCs through an Operations Issuance, describing the timeline and instructions for completion. The EEO Office will review the completed self-assessments, along with additional equal opportunity-related data, to coordinate and determine if an on-site EEO review is necessary during a given program year. Through the self-assessments, AJCCs can identify the EEO compliance status of their programs and areas in which they need technical assistance. In addition, the SDWP’s contracted monitors will review compliance with EEO requirements during their regular on-site visits of all contracted Operators and Service Providers.

Sec 5. Program Complaint Procedures

The three types of complaints are as follows:

(a) Equal Opportunity (EO) and Nondiscrimination Policy Complaint (Non-criminal)

A discrimination complaint includes one of the following factors prohibited by State and/or federal law(s) on the basis of:

- Race, color, religion, gender, sexual orientation, national origin, age, physical or mental disability, political affiliation, or belief;
- Against any beneficiary of programs financially assisted under WIOA on the basis of the beneficiary’s citizenship/status as a lawfully admitted immigrant, authorized to work in the US, or his/her participation in any SDWP-funded program or activity; or
- Against persons with Limited English Proficiency (LEP).

(b) Program Grievance and Complaint (Non-criminal)

These procedures cover complaints alleging noncriminal violations of the requirements of WIOA in the operation of local WIOA programs and activities. A program complaint often results from misunderstandings and/or objections regarding programs or activities from program participants, subrecipients, subcontractors, and other interested persons.

(c) Criminal Activity Reporting

Criminal activity reporting includes fraud, misapplication of funds, gross mismanagement of government resources, employee/participant misconduct, and standard of conduct violations. Details for addressing a criminal complaint are provided in section 10, below.

Sec 6. General Complaint Guidelines

(a) Contents of the Complaint

The complainant may use the Complaint Form Attachment A, or may prepare a letter with the following information regarding the complaint:

- Complainant's full name, mailing address, and other means of contacting him/her (e.g. telephone, fax number, e-mail address, etc.);
- Name, address and telephone number of the organization and/or the individual the complaint is being filed against (respondent);
- A clear, concise statement of the facts describing the complaint(s), including the date(s) the alleged violation(s) occurred;
- If known, the provisions under the law, regulations, grant, or contract believed to have been violated;
- A description of the attempts made to resolve the matter with the organization and/or the individual where the alleged violation occurred;
- Complainant's requested remedy; and
- Complainant's signature, and in the case of a minor, the parent or guardian's signature.

The absence of any of the requested information will not be a basis for dismissing the complaint. A grievance or complaint may be amended to correct inaccuracies and add additional information any time up to the time of the Hearing. Grievances or complaints may not be amended to add new issues. The one (1) year time period in which a grievance or complaint may be filed is not extended for grievances or complaints that are re-filed with amendments. Grievances or complaints may be withdrawn at any time prior to the issuance of the Hearing Officer's decision. SDWP is required to send a copy of the grievance or complaint to the respondent.

When the complainant is a minor (17 years and under), a parent or legal guardian must sign the complaint and must attend any formal hearings. In this event, decisions will be issued to the parent/guardian with a copy to the minor.

(b) Timelines for Filing

The official filing date of the complaint is the date the written complaint is received by SDWP. Please note that all timelines indicated throughout this Chapter refer to calendar days, unless otherwise noted.

If a subrecipient receives a complaint from an individual, member, applicant, participant, or employee against any SDWP-funded program, as mentioned above, an attempt must first be made to resolve the problem through the director of the program where the complaint has occurred.

If there is not a resolution of the complaint at the Subrecipient level within five (5) working days, or if the resolution received is not satisfactory to the complainant, the complainant must be instructed on how to proceed with filing a formal written grievance with SDWP within one (1) year of the alleged violation.

If a service provider has a grievance or complaint against SDWP, regarding resolution of complaints/appeals arising from actions taken by SDWP with respect to investigations or monitoring

reports, an attempt must first be made to resolve the problem at the source through SDWP's EO Officer (see contact information below).

If there is not a resolution of the complaint at SDWP level within five (5) working days, or if the resolution received is not satisfactory, then the Subrecipient must be instructed on how to proceed with filing a formal written grievance against SDWP within one (1) year of the alleged violation.

All program complaints must be reported to SDWP and are addressed to:

Andy Hall
Equal Opportunity Officer/Grievance Officer
San Diego Workforce Partnership, Inc.
3910 University Avenue, Suite 400
San Diego, CA 92105

The Subrecipient's program manager (or designee) where the complaint occurred, or SDWP's EO Officer (or designee), will provide the Complaint Form (Attachment A), the details of the process, and any needed assistance to file the complaint.

(c) Finding of EO Policy Violation

In situations where there is a finding of an EO Policy violation, the EO Officer will document the facts of the alleged violation. These facts will be used to advise the complainant of any recourse available and to determine what corrective action will be taken against the Subrecipient. The Workforce Development Board (WDB), with concurrence from the Policy Board, will take such corrective action, up to and including contract termination.

Once a complaint is filed with SDWP, the complainant(s) may not file a complaint with the CRC until they have received a written decision from the SDWP. The SDWP EO Officer will provide the complainant with a written decision or Notice of Final Action within the 90-day period.

SDWP will acknowledge receipt of the complaint and notify the complainant of the right to representation in the complaint resolution process. SDWP's EO Officer will be responsible to get all necessary facts to ensure the complainant receives fair treatment. Once the complaint information is as complete as possible, the EO Officer will make a determination whether or not to accept the complaint.

1. Acceptance of the Complaint - Acceptance of the complaint will be based on the following:
 - Complaint must be related to a program funded all or in part by the SDWP; and
 - Complaint must be related to an allegation of a violation of the EO Policy; and
 - Complaint must have been received within 365 days of the alleged violation.

2. Dismissal of the Complaint - During the complaint resolution process, a complaint may be dismissed for one or more of the following reasons:
 - Complaint is not accepted by the SDWP due to lack of jurisdiction;
 - Complainant provides written notice to the EO Officer that the complaint is being withdrawn; or

- Complainant is unavailable after reasonable means are used to locate him/her.

The SDWP will notify the complainant in writing immediately upon determining that it does not have jurisdiction over a complaint that alleges a violation of the EO Policy. The Notice of Lack of Jurisdiction must also include the basis for such determination, as well as a statement of the complainant's right to file a written complaint with the CRC, within 30 days of receipt of the notice. If a complaint is dismissed, a notice will be sent to the complainant's last known address.

Sec 7. Subrecipient Complaint Resolution Process

Any individual who believes that they, or any specific class of individuals, have been or are being subjected to discrimination prohibited by the EO Policy, may attempt to solve the problem informally, at the source, by contacting the director of the program where the alleged violation has occurred. If the individual is unable to resolve the problem at the source, the Subrecipient shall refer the individual to the SDWP so that he/she may file a formal written complaint with the SDWP, or be guided to file directly with the CRC.

The Subrecipient must implement procedures for addressing complaints of alleged violations of EO Policy noncompliance. The complaint processing procedures at Subrecipient should specify:

- Who may file – any person who believes that they or a class of individuals has been or is being subjected to discrimination prohibited by the EO Policy;
- Where to file – the informal complaint may be filed with the Subrecipient(s) 's EO designated staff;
- Time for filing – the complaint should be filed within 30 days of the alleged discrimination;
- Contents of the complaint – the complaint should clearly describe when the alleged discrimination occurred, who was responsible, what the nature of the discrimination was, and what remedy the complainant is seeking;
- Time frame for resolution of complaint – the complaint should be addressed by the Subrecipient within ten (10) working days from receipt of the complaint;
- Referral to the SDWP or the Director of the CRC – in the event that an informal resolution cannot be reached between the Operators and Service Providers and the complainant, the complainant must be provided with instructions for filing a formal complaint with the SDWP or the Director of CRC.

The Subrecipient shall establish a system to record discrimination complaints received. The Subrecipient shall inform the SDWP's EO Officer within 30 days that there was a filing, in the case of any discrimination-based complaint.

(a) Complaints Filed with SDWP

Complaints filed with the SDWP must be in writing and:

- Be signed by the complainant or his/her representative;
- Contain the complainant's name, address, and other means of contacting him/her;
- Identify the respondent (person or organization the complaint is against);
- Describe the complaint in sufficient detail to allow CRC or the SDWP, as applicable, to determine whether 1) the CRC or the SDWP has jurisdiction over the complaint; 2) the

complaint was filed timely; and 3) the complaint has apparent merit, i.e. whether the allegations would violate any of the nondiscrimination and equal opportunity provisions of WIOA.

If the complainant files with the SDWP, the written complaint may be mailed or delivered to the EO Officer, or designee at the address indicated below.

Andy Hall
Equal Opportunity Officer/Grievance Officer
San Diego Workforce Partnership, Inc.
3910 University Avenue, Suite 400
San Diego, CA 92105
Phone: (619) 228-2900
TDD: (619) 228-2983; *TDD relays text messages to deaf persons via the telephone.

Sec 8. SDWP Resolution Process

(a) SDWP Complaint Resolution Timeline

The Complaint Resolution Process timetable begins on the actual day on which the written complaint is filed, as follows:

1. Filing with SDWP – the SDWP will acknowledge receipt of the complaint within 10 working days of the date of filing.
2. Alternative Dispute Resolution (ADR) Process or Informal Hearing – The SDWP shall offer Mediation as an ADR Process or conduct an investigation and hold an informal hearing immediately upon receipt of the complaint.
3. Formal Hearing - Hearings on any grievance or complaint shall be conducted within 30 days of the filing of the formal written grievance or complaint.
4. Written Decision/Notice of Final Action - The SDWP EO Officer will have 90 days from the date of filing of the formal complaint to provide the complainant with a written decision/Notice of Final Action.

(b) Alternative Dispute Resolution (ADR)/Informal Conference

The first step in the SDWP's resolution process will be an attempt to resolve the complaint on an informal basis. Informal conferences will be used wherever possible to resolve complaints. Such informal conferences will not extend the 90-day period within which a decision must be issued unless the complainant and respondent agree, in writing, to waive time frames.

The ADR will be offered, with mediation as the preferred procedure. Mediation is a voluntary process during which a neutral third party assists both parties (complainant and respondent), communicate their concerns and come to an agreement about how to resolve the dispute. Mediation proceedings and the information shared are confidential and no information divulged during this mediation may be used in court, or any legal or administrative proceedings.

If the complainant does not select ADR and the SDWP's EO Officer believes the complaint can be resolved informally, he/she may arrange a meeting between the complainant and the respondent to attempt to reach a mutually satisfactory resolution. If a satisfactory resolution is reached, the resolution will be documented by the EO Officer and will be signed by both the complainant and the respondent.

(c) Investigation

If the complainant elects not to participate in the ADR process, the EO Officer will conduct an investigation into the specifics of the complaint.

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

The investigation may include, but not be limited to the following:

- Thorough review of the written complaint;
- Review of any paperwork completed by the complainant relative to the program in question (e.g. case notes, correspondence, etc.);
- Review of the Subrecipients' written policies;
- Interviews with the complainant;
- Interviews with the respondent named by the complainant in the written complaint;
- Interviews with other employees or participants in the Subrecipients, program operators, or employer in question;
- Interviews with SDWP staff affiliated with the program in question; and
- Review of other similar actions (e.g. terminations, suspensions, demotions) taken by the Subrecipients within the recent past.

(d) Formal Hearing

If the grievance or EO complaint cannot be resolved informally, EO Officer or his/her designee will conduct an investigation into the specifics of the complaint and schedule a Formal Hearing (Hearing). Hearings on any grievance or complaint shall be conducted within thirty (30) calendar days of the filing of the formal written grievance or complaint. SDWP must issue a written decision within sixty (60) calendar days of the filing of the written grievance or complaint, unless the timeframe is waived in writing by the complainant.

In the event of a Hearing, the complainant and the respondent must be notified in writing of the date, time and place of the hearing at least ten (10) calendar days prior to the date of the hearing. If the complainant is a minor, their parent or guardian must also attend the Hearing. The 10-day notice period may be shortened with written consent of both parties. The Hearing notice shall be in writing and contain the following information:

- The date of the notice, name of complainant, and the name of the Respondent;
- The date, time and place of the Hearing before an impartial Hearing Officer;

- A statement of the alleged violations. These statements must accurately reflect the content of the grievance or complaint, as submitted by the complainant. However, clarifying notes may be added to assure that the grievance or complaint is addressed accurately;
- The name and address and telephone number of the contact person issuing the notice.

An impartial/independent Hearing Officer shall conduct the Hearing. SDWP will select a Hearing Officer that will not be directly affected by, or will not implement the final resolution of, a specific grievance or complaint. The independent Hearing Officer may be from SDWP, if the complaint is not against SDWP.

The Hearing will be conducted in an informal manner with strict rules of evidence not being applicable, and according to the procedures established by SDWP. The Hearing will be recorded electronically or by a court reporter.

Both parties will be given ample opportunity to respond to, or rebut the other side. Both the complainant and the respondent will have the right during the Hearing to:

- Present either written or oral testimony and/or arguments;
- Question others who present evidence;
- Call and question witnesses in support of his/her position;
- To examine records and documents relevant to the issue(s); and
- To be represented at his/her own expense.

The complainant will be asked to provide the facts that led to the filing of the complaint without interruption by the respondent. Following this, the respondent will be provided the same opportunity to present the facts, without interruption by the complainant. Once both parties have equally communicated all information, the Hearing Officer may ask additional questions to clarify the facts and/or obtain additional information.

At the conclusion, the Hearing Officer will either call for a recess to pursue a mutually acceptable resolution, or may adjourn the Hearing. If a mutually acceptable resolution can be reached, the Hearing Officer will communicate the resolution to the EO Officer who will issue a written decision of findings, based on the merits of the complaint and the facts presented at the Hearing.

(e) Written Decision

The EO Officer will make a decision strictly on the evidence on record. The EO Officer will provide Notice of Final Action, in writing, of his/her decision to both the person making the complaint and the respondent within 90 days of receipt of the complaint. The Notice will include a summary of the following:

- Names of the parties involved;
- Statement of the alleged violation of the EO Policy and issues related to the alleged violation;
- Statement of the facts;
- EO Officer's decision and reasons for the decision;
- Statement of the corrective action, if any, to be taken; and
- The process for filing a complaint with the CRC.

Sec 9. Resolution of Discrimination Complaints

Any individual who believes that they, or any specific class of individuals, have been, or are being subject to discrimination prohibited by the nondiscrimination and equal opportunity provisions of WIOA, may file a written complaint via the Discrimination Complaint Form, or a representative may file the complaint on his or her behalf.

A complaint must be filed within 180 days with either:

Andy Hall
Equal Opportunity Officer / Grievance Officer
San Diego Workforce Partnership
3910 University Avenue, Suite 400
San Diego, CA 92105
Phone: (619) 228-2900
TDD: (619) 228-2983

Or

The Director
Civil Rights Center (CRC)
U.S. Department of Labor
200 Constitution Avenue, N.W.,
Washington, D. C. 20210
Phone (202) 219-8927

If a complaint is filed with the SDWP's EO Officer, the complainant must wait until either the SDWP issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the CRC.

If the SDWP does not provide the complainant with a written Notice of Final Action within 90 days of the day on which the individual filed the complaint, the individual does not have to wait for the SDWP to issue the Notice before filing a complaint with CRC. However, the complaint must be filed with the CRC within 30 days of the 90-day deadline (120 days after the day on which the complaint was filed with the SDWP).

If the SDWP provides a Notice of Final Action on a complaint, but the individual is dissatisfied with the decision, the individual may file a complaint with the CRC within 30 days of the date on which the Notice of Final Action was received.

When the complainant is a minor (aged 17 and under), a parent or legal guardian must sign the complaint and must attend any formal resolution conference. Decisions will be issued to the parent/guardian, with a copy to the minor.

(a) Dismissal of Complaint

During the complaint resolution process, a complaint may be dismissed for one or more of the following reasons:

- The SDWP, for lack of jurisdiction, does not accept the complaint;
- Complainant provides written notice to the EO Officer that the complaint is being withdrawn; or
- Complainant is unavailable after reasonable means are used to locate him/her.

If a complaint is dismissed, a notice will be sent to the complainant's last known address. The complainant will, as a result, then have the opportunity to file a complaint with the CRC at the following address:

The Director, Civil Rights Center
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210
Phone: (202) 219-8927

(b) Appeal Rights to the Civil Rights Center (CRC)

If the complainant is dissatisfied with the SDWP's resolution of a complaint, they may also file with the CRC. Such a complaint must be filed within 30 days of the date the complainant received notice, in writing, of the SDWP's proposed resolution. The CRC may extend the filing time, if deemed necessary based on the circumstances.

If the SDWP has not provided the complainant with a written decision within 90 days of filing the complaint, the complainant may file his/her complaint with the CRC within 30 days of the expiration of the 90-day period (i.e., within 120 days from the date on which the complaint was filed with the SDWP).

The CRC may extend the 30-day time limit for filing a complaint if the SDWP has not provided the complainant with a written decision/Notice of Final Action and if the complainant has not been properly notified, or for other good cause shown.

Sec 10. Criminal Activity Reporting Process

Per Title 20 CFR Section 667.630, information and complaints involving criminal fraud, waste, abuse or other criminal activity must be reported immediately to SDWP through DOL's Incident Reporting System to the OIG with a copy simultaneously provided to the ETA. Complaints of a noncriminal nature, such as mismanagement and gross waste of funds, may also be reported through DOL's Incident Reporting System.

The Employment Development Department [Workforce Services Directive 12-18](#) requires that information and complaints of criminal activity must be reported within 24 hours to the Department of Labor (DOL) Office of Inspector General (OIG), with a copy simultaneously provided to the Employment and Training Administration (ETA) and the State Compliance Review Division (CRD).

Within one working day of discovery of potential criminal activity, and incident report (see attachment C) must be submitted to:

SDWP:

Andy Hall
Equal Opportunity Officer/Grievance Officer
San Diego Workforce Partnership, Inc.
3910 University Avenue, Suite 400

San Diego, CA 92105
(619) 228-2900

EDD: Attention: Compliance Resolution Unit
Compliance Review Division, MIC 22M
Employment Development Department
PO Box 826880
Sacramento, CA 94280-0001

OIG: *(choose one of the following methods)*
Website: www.oig.dol.gov/hotlinecontact.htm
Telephone: 1-800-347-3756
FAX: (202) 693-7020
Mail: Office of Inspector General Complaints Analysis Office
200 Constitution Avenue, N.W., Room S-5506 Washington, D.C. 20210

Allegations considered to be of an emergency nature may be reported by telephone to the Compliance Resolution Unit Supervisor at (916) 653-3270, and by calling the OIG hotline at 1-800-347-3756, and followed immediately thereafter by a written report.

Upon receipt, SDWP will forward the incident report to EDD, OIG, and appropriate law enforcement agency(ies).

(a) Policy and Procedures

Each contracted Subrecipient shall establish appropriate internal program and financial management procedures to detect fraud, abuse, and criminal activity committed by staff, sub-contractors, or program participants.

These procedures must include a reporting process to ensure that SDWP is notified immediately of any allegations of fraud, abuse, or criminal activity related to programs funded by SDWP. SDWP will in turn notify the DOL/OIG and the State's Compliance Review Division (CRD) as required and stated above.

(b) Reporting

Subrecipients detecting the presence or appearance of fraud, abuse or other criminal activity must obtain sufficient information to provide a clear, concise report of each incident.

All such reports must be made immediately, once the detection of the incident occurs, and include the following information:

- Statement of all facts;
- Any known or estimated loss of SDWP funds resulting from the incident; and

- Any immediate actions taken or planned that are determined to be necessary to prevent further financial loss or other damage, or recovery of funds or property.

During an investigation, based on a report of fraud or abuse, State CRD or DOL/OIG investigators or auditors may contact a Subrecipient directly, regarding an incident of which the Subrecipient was not previously aware. In the event this occurs, the Subrecipient must contact the SDWP Vice President & Chief Programs/EO Officer immediately, to report that they have been contacted.

Sec 11. Conclusion

The goal of the SDWP is to ensure that each of its programs offers equal opportunity by enforcing federal and state laws prohibiting discrimination, fraud, waste, abuse, and program grievances and ensuring high-quality service to the customers and businesses we serve. The complaint process is designed to ensure that all individuals receive equal treatment.

If an individual has any questions regarding the EO complaint process, or has any recommendations to make the programs more accessible, he/she should contact the SDWP's EO Officer. If any assistance is needed in complying with the requirements specified in this Chapter, the Subrecipient should contact the SDWP's EO Officer, the Vice-President and Chief Programs Officer, or his/her designee at (619) 228-2900.

Attachments:

[Attachment - EO-Grievance Complaint Form](#)

[Attachment - Equal Opportunity Notices English](#)

[Attachment - Equal Opportunity Notices Spanish](#)

[Attachment - Incident Report Form](#)

[Attachment - Program Grievance and Criminal Complaint Policy Notice](#)