

**OPERATIONS MANUAL CHAPTER 9:
NONDISCRIMINATION & EQUAL OPPORTUNITY POLICY
AND COMPLAINT PROCEDURES**

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I. PURPOSE

The purpose of this chapter is to assist Subrecipients in establishing and maintaining policy and procedures for handling (1) Nondiscrimination & Equal Opportunity, (2) Program Grievance, (3) Incident Report complaints and (4) Appeals from applicants and other interested parties served by the local workforce development system.

The policies mentioned herein references to *Subrecipient* applies to and includes any funded partner, employer, entity, and service provider utilizing San Diego Workforce Partnership (the Workforce Partnership) program funding ([29 CFR 38.4\[zz\]](#)).

A. REFERENCES

Subrecipients are required to adhere to all of the rules and regulations outlined in Workforce Services Directives (WSD):

- [WSD 20-12: Incident Reporting](#)
- [WSD17-01: Nondiscrimination and Equal Opportunity Procedures](#)
- [WSD17-03: Limited English Proficiency](#)
- [WSD17-05: Oversight and Monitoring of Nondiscrimination and EO Procedures](#)
- [WSD18-05: WIOA Grievance and Complaint Resolution Procedures](#)

B. DEFINITIONS

1. Appellant

An appellant is a party (usually the primary applicant) who disagrees with a decision made by the Workforce Partnership and submits an appeal.

2. Babel Notice

A short notice included in a document or electronic medium (e.g. web site, “app,” email) in multiple languages informing the reader that the communication contains vital information and explaining how to access language services to have the contents of the communication provided in other languages ([29 CFR 38.4\[j\]](#)).

3. California Relay Service (CRS)

The California Relay Service (CRS) is a telecommunications relay service that provides full telephone accessibility with TTY users. Specially trained Communication Assistants (CAs) complete all calls and stay on-line to relay messages electronically by typing on a TTY or by voicing information to Hearing parties. The Relay Service is available 24 hours a day, 365 days a year, with no restrictions on the length or number of calls placed. There is no additional cost for the service; calls are billed at regular rates. CRS enables hearing people using a standard telephone to communicate with people who are deaf, deaf-blind, hard-of-hearing, or speech disabled, and use a TTY or a specially equipped personal computer, and vice versa.

4. Complainant

Any participant or other interested party or personally affected party alleging a violation of WIOA Title I requirements.

5. **Civil Rights Center (CRC)**

U.S. Department of Labor/Office of the Assistant Secretary for Administration and Management/Civil Rights Center.

6. **Disability-Related Question**

Means a question that is likely to elicit information about a disability.

7. **Days**

Means consecutive calendar days, including weekends and holidays.

8. **Employment-related training**

Training that allows or enables an individual to obtain skills, abilities and/or knowledge that are designed to lead to employment ([29 CFR 38.4\[t\]](#)).

9. **Nondiscrimination & Equal Opportunity (EO) Complaint**

An allegation of a violation of the nondiscrimination and equal opportunity provisions.

10. **Hearing Officer**

An impartial person or group of persons that shall preside at a hearing on a complaint.

11. **Incident Report Complaint**

Criminal and noncriminal complaint that alleges incidents, such as gross waste of funds, mismanagement and dangers to the public health and safety.

12. **LEP Individual**

An individual whose primary language for communication is not English and who has a limited ability to read, speak, write, and/or understand English. An LEP individual may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing) ([29 CFR 38.4\[hh\]](#)).

13. **LEP Plan**

A written language access plan which assists in ensuring that LEP individuals have meaningful access to WIOA Title I – financially assisted programs and activities ([29 CFR 38.9 Appendix](#)).

14. **Local Area Equal Opportunity (EO) Officer**

The San Diego Workforce Partnership Equal Opportunity Officer/Grievance Officer

15. **Meaningful Access**

Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.

16. Primary Language

An individual's primary language is the language in which an individual most effectively communicates, as identified by the individual.

17. Program Grievance Complaint

An allegation of a violation of WIOA Title I, regulations promulgated under WIOA, recipient grants, subgrants, or other specific agreements under WIOA.

18. Recipient/Subrecipient

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 or 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 ([29 CFR 38.4\[zz\]](#)).

19. Service Provider

A public agency, private nonprofit organization, or private-for-profit entity that delivers educational, training, employment, or supportive services to WIOA participants.

20. Small Recipient/Subrecipient

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.

21. Teletypewriter (TTY)

Stands for Teletypewriter (previously known as a Telecommunications Device for the Deaf [TDD] or text telephone). The TTY consists of a keyboard and a display screen. A TTY user types letters that are converted into electrical signals and travel over regular telephone lines (either directly or by the user having placed the telephone handset on the TTY itself) to another TTY, where they appear on a display screen and/or a paper print-out. The TTY has four million users nationwide (three million are deaf or hard of hearing, and one million have severe speech disabilities).

II. SUBRECIPIENT COMPLAINT POLICY & PROCEDURE REQUIREMENT

Subrecipients must establish procedures for resolving (1) Nondiscrimination & Equal Opportunity, (2) Program Grievance, and (3) Incident Report complaints. The Subrecipient complaint procedures must meet the following criteria:

A. REQUIREMENT OF POLICY

1. Designation of Responsible Individual

Subrecipients **must** designate an individual who will operate as the Point of Contact (POC).

The POC must:

- Ensure complaint procedures are developed and/or published;

- Ensure complaints are processed;
- Ensure employees are familiar with the policy and procedures;
- Ensure all the Workforce Partnership funded activities are operated in compliance with this policy;
- Ensure all applicants, participants, and employees are informed of their rights and responsibilities and how the complaint process works;
- Hear, answer, and advise applicants, participants, and employees on any complaints filed;
- Ensure no retaliation or reprisal is taken against applicants, participants, and employees that have filed a complaint or assisted in the filing or the investigation of a complaint; and
- Serve as a liaison with the Workforce Partnership Equal Opportunity (EO) Officer/Grievance Officer, the DOL's Civil Rights Center (CRC), and/or Employment Development Department (EDD) in resolving complaints.

The Subrecipient's POC contact information such as name, position title, business address, email address, and telephone number (including TTY/TDD), must be publicized through a variety of means, including posters, handouts, and listings in local directories.

The Workforce Partnership requires that Subrecipient's notify the Workforce Partnership Equal Opportunity (EO) Officer/Grievance Officer whenever the designation of the Subrecipient's POC changes.

2. EO Policy Assurances in Sub-Contracts, Plans, and Agreements

In the event Subrecipients enter into a sub-contract for provision of services funded all or in part by the Workforce Partnership, all contracts, plans and agreements entered into must contain the nondiscrimination assurance of "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.

3. Notice and Communication

Notice and communication must follow the guidelines below:

i. Communication of notice in orientations

During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title I-financially assisted programs or activity, whether this be in person or over the internet or using other technology:

- Subrecipient must include a discussion of rights and responsibilities under the Nondiscrimination and Equal Opportunity provisions of [WIOA Section 188](#) and [29 CFR 38](#), including the right to file a complaint with the Subrecipient.
- This information must be communicated in appropriate languages as required in [29 CFR 38.9](#) and in formats accessible for individuals with disabilities as required in [29 CFR 38](#) and specified in [29 CFR 38.15](#).

ii. Complaint & Incident Report Policy Notice

Subrecipient must provide a copy of the **ATTACHMENT – COMPLAINT & INCIDENT REPORT POLICY NOTICE** to each applicant and employee and made part of each file:

- It must be part of both paper and electronic files, if both are maintained.

- For participant electronic files add a case note indicating documents were provided to participant, the date of the notification, and the name of the employee who provided it.
- Where a hard copy case file is maintained, staff must include a signed copy of an acknowledgment of receipt of the complaint procedures in each participant's case file.
- For participant paper files use the Universal Participant Agreement Form (UPAF) to indicate participant received a copy of notice. Refer to **SDWP Operations Manual, Chapter 7 Part 1 and 2.**
- Individuals with visual impairments must be provided with the notice in alternative formats (e.g., by being read aloud and then provided in audio format to be retained by the individual).

iii. *Equal Opportunity is the Law Notice*

A Subrecipient must provide initial and continuing notice that it does not discriminate on any prohibited basis ([29 CFR 38.34](#)). This notice must be provided in appropriate formats to:

- Registrants, applicants, and eligible applicants/registrants;
- Participants;
- Applicants for employment and employees;
- Unions or professional organizations that hold collective bargaining or professional agreements with the Subrecipient;
- Subrecipients that receive WIOA Title 1 financial assistance from the Subrecipient; and
- Members of the public, including those with impaired vision or hearing and those with Limited English Proficiency (LEP).

The "Equal Opportunity is the Law Notice" must meet the following criteria:

- Include the contact information for the employee designated as the POC.
- Posted prominently, in reasonable numbers and places, such as the front customer entry and reception area.
- Posted on the Subrecipient's website page(s).
- Disseminated in internal memoranda and other written or electronic communications with employee.
- Included in employee and participant handbooks or manuals regardless of form (e.g., electronic or paper).
- Provided to each participant and employee; the notice must be made part of each employee's and participant's file.
 - It must be part of both paper and electronic files, if both are maintained.
 - For participant electronic files add a case note indicating documents were provided to participant, the date of the notification, and the name of the employee who provided it.
 - For participant paper files use the Universal Participant Agreement Form (UPAF) to indicate participant received a copy of notice. Refer to **SDWP Operations Manual, Chapter 7 Part 1 and 2.**
- Individuals with visual impairments must be provided with the notice in alternative formats (e.g., by being read aloud and then provided in audio format to be retained by the individual).

A copy of the “Equal Opportunity is the Law Notice” is available in both English and Spanish and available in other languages on the CRC’s website at [CRC EO Notice \(Multiple Languages\)](#):

- Subrecipients must download copies of the Notice in the appropriate language(s);
- Insert the name and contact information for the Subrecipient’s POC or designee; and
- **The language specified in the Notice should not be changed.**

4. Publications, Broadcasts, and other Communications

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 - funded program or activity is an equal opportunity employer/program”* and *“Auxiliary aids and services are available upon request to individuals with disabilities.”* This must be included on recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper to employees, participants, or the public at large, to describe programs financially assisted under WIOA Title I.

Where such materials indicate that the Subrecipient may be reached by voice telephone, the materials must also provide the TTY number or equally effective communications system, such as a videophone, captioned telephone, or a relay service. The California Relay Service can be reached by dialing 1-800-735-2922. **A TDD/TTY or relay service should be available where services provided by telephone are a major function of the program or activity.**

Subrecipients that publish or broadcast program information in the news media must ensure that such publications and broadcasts state that the WIOA Title I-financially assisted programs or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIOA Title I-financially assisted program or activity is prohibited by Federal law) and indicate that auxiliary aids and services are available upon requests to individuals with disabilities.

5. Affirmative Outreach

The guidelines found in [29 CFR 38.40](#) require Subrecipients to take appropriate steps to ensure they are providing equal access to their WIOA Title I-financially assisted programs and activities. These steps should involve reasonable efforts to include members of the various groups protected by [29 CFR 38](#) including but not limited to persons of different sexes, various racial and ethnic/national origin groups, various religions, LEP individuals, individuals with disabilities, and individuals in different age groups.

Such efforts may include, but are not limited to, the following:

- Advertising the Subrecipient’s programs and/or activities in media such as newspapers or radio programs that specifically target various populations;
- Sending notices about openings in the Subrecipient’s programs and/or activities to schools or community service groups that serve various populations; and
- Consulting with appropriate community service groups about ways in which the Subrecipient may improve its outreach and service to various populations.

6. Discrimination Prohibited Based on Disability

In providing any aid, benefit, service, or training under a WIOA Title I-financially assisted program or activity, whether directly or through contractual, licensing, or other arrangements, on the basis of disability, a Subrecipient must not do any of the following:

- Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, service, or training, including meaningful opportunities to seek employment and work in competitive integrated settings.
- Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefits, services, or training that is not equal to that afforded others.
- Provide a qualified individual with a disability with any aid, benefit, service, or training that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.
- Provide different, segregated, or separate aid, benefit, service, or training to individuals with disabilities, or to any class of individuals with disabilities, unless such action is necessary to provide qualified individuals with disabilities with any aid, benefit, service, or training that is as effective as those provided to others, and consistent with the requirements of the Rehab Act as amended by the WIOA, including those provisions that prioritize opportunities in competitive integrated employment.
- Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards.
- Otherwise limit a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service, or training.

7. Program and Site Access to Individuals with Disabilities

No qualified individual with a disability may be excluded from participation in, or be denied the benefits of a Subrecipient's service, program, or activity or be subjected to discrimination by any Subrecipient because a Subrecipient's facilities are inaccessible or unusable by individuals with disabilities. Subrecipients that are subject to Title II of ADA of 1990 must also ensure that new facilities or alterations of facilities that began construction after January 26, 1992, comply with the applicable federal accessible design standards, such as the ADA Standards for Accessible Design (1991 or 2010) or the Uniform Federal Accessibility Standards. In addition, Subrecipients that receive federal financial assistance must meet their accessibility obligations under Section 504 of the Rehab Act and the implementing regulations at [29 CFR Part 32](#). Some Subrecipients may be subject to additional accessibility requirements under other statutory authority, including Title III of the ADA that is not enforced by the CRC. As indicated in [29 CFR 38.3\(d\)\(10\)](#), compliance with this part does not affect a Subrecipient's obligation to comply with the applicable ADA Standards for Accessible Design.

Below are some resources that subrecipients can reference regarding ADA standards:

- ADA Standards: https://www.ada.gov/2010ADASTandards_index.htm
- Verify your website is ADA compliant: <https://www.ada.gov/pcatoolkit/chap5toolkit.htm>

8. Reasonable Accommodation

All WIOA Title I-financially assisted programs and activities must be programmatically accessible. This includes providing reasonable accommodations for individuals with disabilities, making reasonable modifications to policies, practices, and procedures, administering programs in the most integrated setting appropriate, communicating with persons with disabilities as effectively as with others, and providing appropriate auxiliary aids

or services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

A reasonable accommodation policy and procedure guide should be used when processing reasonable accommodation requests. This document should contain two sections: (1) provide general guidance and definitions for use when processing reasonable accommodation requests, and (2) provide step-by-step instructions on how to process these requests. Reference **ATTACHMENT – REASONABLE ACCOMMODATION POLICY AND PROCEDURE GUIDE** which provides general guidance and definitions for use when processing reasonable accommodation requests and step-by-step instructions on how to process these requests.

9. Service Animals

Generally, a Subrecipient shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

Subrecipients cannot ban service animals (which is defined in the regulation 29 CFR 38.4 (fff) as well as outlined in 29 CFR 38.16). To assist Subrecipients and the general public, policies can include the following information to indicate what a service animal is:

- 29 CFR 38.4 (fff) *Service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.
- Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

Resources:

- <https://adata.org/faq/how-can-i-tell-if-animal-really-service-animal-and-not-just-pet>

10. Mobile Aids and Devices

A Subrecipient must permit individuals with mobility disabilities to use wheelchairs and manually-powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities, in any areas open to pedestrian use.

A Subrecipient must make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless the Subrecipient can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the Subrecipient has adopted.

11. Program Access to Individuals with Limited English Proficiency (LEP)

In California, The Dymally-Alatorre Bilingual Services Act (DABSA), enacted in 1973, requires state and local agencies ensure they provide information and services in the various languages 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 client’s language.

As indicated in [29 CFR 38.41](#), “LEP” and “Preferred Language” has been added to the list of categories of information that each Subrecipient must record about each applicant, registrant, eligible applicant/registrant, participant, and terminatee. It should be noted that this data collection obligation **would not apply to applicants for employment and employees** because the obligation as to Limited English Proficiency (LEP) individuals in [29 CFR 38.9](#) does not apply to those categories of individuals. A Subrecipients’ collection of information relates directly to serving (not employing) LEP individuals.

i. *Collection of data*

Beginning January 3, 2019, Subrecipients must record the “LEP” and “Preferred Language” data of each applicant, registrant, participant, and terminatee.

Career Centers and Youth providers will collect data using the information management system prescribed by the Workforce Partnership.

ii. *Reasonable steps to ensure meaningful access for LEP individuals*

As indicated in [WSD17-03](#), Subrecipients must take reasonable steps to ensure LEP individuals receive the language assistance necessary to give **meaningful access to programs, services, and information**. Reasonable steps may include, but are not limited to, the following:

- Assessing an LEP individual to determine their language assistance needs.
- Providing oral interpretation or written translation of both hard-copy and electronic materials, in the appropriate non-English languages, to LEP individuals.
- Conducting outreach to LEP communities to improve service delivery in needed languages.

Reasonable steps for providing **meaningful access to training programs** may include, but are not limited to the following:

- Written training materials in appropriate non-English languages by written translation, or by oral interpretation, or summarization.
- Oral training content in appropriate non-English languages through in-person or telephone translation.

iii. *Language Assistance Services*

Language assistance generally comes in two (2) forms: oral interpretation or written translation. Subrecipients must ensure above all, these services are free of charge and provided in a timely manner. An LEP individual must be given adequate notice about the

existence of interpretation and translation services and that they are available free of charge. Language assistance will be considered timely when it is provided at a place and time that ensures equal access and avoids the delay or denial of any aid, benefit, service, or training [29 CFR 38.9\(d\) and \(e\)](#).

iv. *Interpreter Services*

Subrecipients shall not require an LEP individual to provide their own interpreter. Furthermore, Subrecipient shall not rely on an LEP individual's minor child or adult family or friend to interpret or facilitate communication, except for the following circumstances:

- In emergency situations while awaiting a qualified interpreter.
- When the information conveyed is of minimal importance to the services to be provided.
- When an LEP individual specifically requests that an accompanying adult provide language assistance and they agree to provide assistance to the individual. If a Subrecipient permits this, it must make and retain a record of the LEP individual's decision to use their own interpreter.

Where precise, complete, and accurate interpretations or translation of information and/or testimony are critical for adjudicatory or legal reasons, the Subrecipient can still provide their own, independent interpreter, even if an LEP individual wants to use their own interpreter as well. This also applies where the competency of the interpreter requested by the LEP individual is not established.

v. *Concerning Vital Information*

For languages spoken by a significant portion of the population eligible to be served or likely to be encountered, Subrecipients must translate vital information in written materials into these languages. These translations must in turn be readily available upon request in hard copy or electronically. **Written training materials offered or used within employment-related training programs are excluded from these translation requirements.** However, in all cases, Subrecipients must take reasonable steps to ensure meaningful access for LEP individuals.

For languages not spoken by a significant portion of the population eligible to be served or likely to be encountered, Subrecipients must take reasonable steps to meet the particularized language needs of LEP individuals who seek to learn about, participate in, and/or access the aid, benefit, service or training that is available to them. Vital information may be conveyed orally if not translated.

Subrecipients must also be sure to include a Babel Notice, indicating that language assistance is available in all communications of vital information. This includes letters or decisions in hard- copy or electronic formats.

Once a Subrecipient becomes aware of the non-English preferred language of an LEP beneficiary, participant, or applicant for aid, benefit, service, or training, the recipient must convey vital information in that language.

vi. *Developing a Written LEP Plan*

In order to ensure that reasonable steps are taken to allow meaningful access for LEP individuals, the Workforce Partnership recommends that Subrecipients develop a written

LEP plan. When developing an LEP plan, Subrecipients should address the following elements:

- The process the Subrecipient will use to determine the language needs of individuals who may or may seek to participate in programs and activities (self-assessments or needs-assessment) that receive final assistance under WIOA Title I.
- The results of the assessment.
- Timelines of implementing LEP Plan.
- All language services to be provided to LEP individuals.
- The way LEP individuals will be advised of available services.
- Steps LEP individuals should take to request language assistance.
- The manner in which Subrecipient will provide language assistance services.
- What steps must be taken to implement LEP Plan.
- The manner in which Subrecipient will be trained.
- Steps the Subrecipient will take to ensure quality control, including monitoring implementation, establishing a complaint process, timely addressing complaints, and obtaining feedback from stakeholders and employees.
- The manner in which the Subrecipients will document the provision of language services.
- The schedule for revising the LEP Plan.
- The individual(s) assigned to oversee implementation of the LEP Plan.
- Allocation of resources to implement the LEP Plan.

12. Data and Information Retention, Reporting, and Confidentiality

In compliance with [29 CFR 38.41 through 38.45](#) and [WIOA Section 188](#), any entity to which financial assistance under WIOA Title I is extended must collect and maintain nondiscrimination data. Nondiscrimination data must include, but is not limited to:

- Records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment.
- Collect data on race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, participant, terminee, applicant for employment, and employee;
 - EO data for eligible applicants, registrants/participants and exited participants will be reported using the information management system prescribed by the Workforce Partnership.
 - EO data on applicants for employment and employees will not be reported to the Workforce Partnership unless it is required in response to a complaint of discrimination.
- Maintain records, whether they exist in electronic form (including email) or hard copy, for a period of not less than four (4) years from date of the resolution of the complaint.
- Records must be stored in a manner that ensures confidentiality, and must be used for the purposes of any of the following:
 - Recordkeeping and reporting.
 - Determining eligibility, where appropriate, for WIOA Title I-financially assisted programs or activities.
 - Determining the extent to which the Subrecipient is operating its WIOA Title I-financially assisted program or activity in a nondiscriminatory manner.
 - Other use authorized by law.

i. *Medical or Disability related Information*

Any medical or disability-related information obtained about a particular individual, including information that could lead to the disclosure of a disability, must be collected on separate forms. All such information, whether in hard copy, electronic, or both, must be maintained in one or more separate files, apart from any other information about the individual, and treated as confidential. Whether these files are electronic or hard copy, they must be locked or otherwise secured (e.g., through password protection).

Examples of medical or disability related information can include a driver's license indicating an individual uses corrective lenses, documenting an individual is a single or pregnant parent, or an individual providing medical information for program eligibility or for a reasonable accommodation request.

The information shall be treated as confidential medical records, and access to the records must be limited, except to the extent of the following:

- *Knowledge of disability status or medical condition and access to information in related files:*
 - **Program staff** who are responsible for documenting eligibility, where disability is an eligible criterion for a program or activity.
 - **First aid and safety personnel** who need access to underlying documentation related to a participant's medical condition in an emergency.
 - **Government officials** engaged in enforcing this part
- *Knowledge of disability status or medical condition only.*
 - **Supervisors, managers, and other necessary personnel** may be informed regarding restrictions on the activities of individuals with disabilities and regarding reasonable accommodations for such individuals.

13. Complaint Log

Maintain a log of complaints filed with the Subrecipient;

- 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.
- Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential.
- The Subrecipient shall inform the Workforce Partnership's EO Officer/Grievance Officer within 30 days there was a filing, in the case of any Nondiscrimination & Equal Opportunity based complaint.
- Within one (1) business day, Subrecipients must notify the Workforce Partnership's EO Officer/Grievance Officer of any administrative enforcement actions or lawsuits filed against the Subrecipients alleging nondiscrimination.
- Subrecipients must also provide a description of any findings in any civil rights compliance reviews where the Subrecipient was found in noncompliance.
- On an annual basis provide a copy of the complaint log.

B. ADDRESSING NONDISCRIMINATION & EO COMPLAINTS

This type of complaint includes discrimination on the basis of race; color; religion; sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity); national origin (including Limited English Proficiency [LEP]); age; disability; political affiliation or belief; or, for

beneficiaries, applicants, and participants only on the basis of either citizenship status or participation in a WIOA Title I – financially assisted program or activity.

The complaint must be filed within 180 days of alleged incident. If a Subrecipient receives a complaint from an individual, applicant, participant, or employee against any of the Workforce Partnership-funded programs, an attempt must first be made to resolve the problem at the source through the POC (or their designee) of the program where the complaint occurred.

1. Complaint Resolution Timeline

Subrecipients must maintain a Nondiscrimination & Equal Opportunity (EO) policy and procedures. These procedures should also include procedures for resolving allegations against subcontractors.

The Complaint Resolution timeline begins on the actual day on which the written complaint is received by the Subrecipient, as follows:

- A. **Filing with Subrecipient** – the Subrecipient will acknowledge receipt of the complaint within 10 business days of the date of filing.
- B. **Lack of Jurisdiction** – if the Subrecipient determines that it does not have jurisdiction over a complaint, it will notify the complainant in writing within five (5) business days of making such determination.
- C. **Alternative Dispute Resolution (ADR) Process** – The Subrecipient shall offer mediation as an ADR Process immediately upon receipt of the complaint.
- D. **Investigation** – if the complainant elects not to participate in the ADR process, the Subrecipient will conduct an investigation into the specifics of the complaint.
- E. **Notice of Final Action** – the Subrecipient will provide their decision to the complainant and respondent within 90 days of receipt of the complaint.
- F. **Referral to the Civil Rights Center (CRC)** – if during the 90-day period, the Subrecipient issues a decision that is not acceptable to the complainant, the complainant or their representative may file a complaint with the CRC within 30 days after the date on which the complainant receives the Notice of Final Action.

2. Complaint Form

Regardless of the form used, all complaints must include the following information:

- Complainant's full name, mailing address, and other means of contacting them (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.

3. Lack of Jurisdiction

If a Subrecipient determines that it does not have jurisdiction over a complaint, it must notify the complainant, in writing within five (5) business days of making such determination. This Notice of Lack of Jurisdiction must include:

- A statement of the reasons for that determination; and
- Notice that the complainant has a right to file a complaint with the appropriate party within 30 days of the date on which the complainant receives the Notice.

4. Alternative Dispute Resolution (ADR)

The preferred form of ADR is mediation. Mediation is a voluntary process during which a neutral third-party assist both parties (Complainant and Respondent), communicates their concerns, and comes to an agreement about how to resolve a dispute. The mediator does not make decisions, rule as to who is right or wrong, nor takes sides or advocate for one side or the other. The role of the mediator is to help with communication, so the parties can reach an understanding about how to best resolve their differences.

The procedures the Subrecipient adopts must include ADR procedures:

- The complainant must be offered ADR immediately upon receipt of the complaint.
- The complainant may attempt ADR at any time after the complainant has filed a written complaint with the Subrecipient, but before a Notice of Final Action has been issued.
- The choice whether to use ADR or the customary process rests with the complainant.
- As the law allows, 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 parties do not reach an agreement under ADR, the complainant may file directly with the CRC.
- A party to any agreement reached under ADR may file a complaint with the CRC in the event the agreement is breached. In such circumstances the following applies:
 - The non-breaching party may notify the CRC within 30 days of the date on which the non-breaching party learns of the alleged breach; and
 - The CRC must evaluate the circumstances to determine whether the agreement has been breached. If the CRC determines that the agreement has been breached, the complaint will be reinstated and processed in accordance with the Subrecipient's procedures.

5. Investigation

If the complainant elects not to participate in the ADR process, the Subrecipient shall investigate the circumstances underlying the alleged complaint.

6. Conciliation

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

Conciliation is a process whereby the parties to a dispute agree to utilize the services of a conciliator, who then meets with the parties separately in an attempt to resolve their differences. Conciliation differs from mediation in that the main goal is to conciliate, most of the time by seeking concessions.

If the conciliator is successful in negotiating an understanding between the parties, said understanding is almost always committed to writing (usually with the assistance of legal counsel) and signed by the parties, at which time it becomes a legal binding contract and falls under contract law.

7. Notice of Final Action

The Subrecipient will provide Notice of Final Action, in writing, of their decision to the complainant 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 and issues related to the alleged violation;
- Statement of the facts;
- Subrecipient'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.

8. Appeal Rights to the Civil Rights Center (CRC)

If, during the 90-day period, the Subrecipient issues a decision that is not acceptable to the complainant, the complainant or their representative may file a complaint with the CRC within 30 days after the date on which the complainant receives the Notice of Final Action.

If the 90 days expire and the complainant does not receive a Notice of Final Action from the Subrecipient or the Subrecipient fails to issue a Notice of Final Action, the complainant or their representative may file a complaint with the CRC within 30 days of the expiration of the 90-day period. In other words, the complaint must be filed within 120 days from the date on which the complaint was filed with the Subrecipient at the address below:

The Director, Civil Rights Center
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

C. ADDRESSING PROGRAM GRIEVANCE COMPLAINTS

This type of complaint covers complaints alleging programmatic violations of WIOA Title 1 requirements. A program complaint often results from misunderstandings and/or objections regarding programs or activities from program participants, Subrecipients, subcontractors, and other interested persons.

The complaint should be filed within one (1) year of the alleged incident. If a Subrecipient receives a complaint from an individual, applicant, participant, or employee against any of the Workforce Partnership-funded programs, an attempt must first be made to resolve the problem at the source through the POC (or their designee) of the program where the complaint occurred.

1. Complaint Resolution Timeline

Subrecipients must maintain a Program Grievance policy and procedures. These procedures should also include procedures for resolving allegations against subcontractors.

The Complaint Resolution timeline begins on the actual day on which the written complaint is received by the Subrecipient, as follows:

- A. **Filing with Subrecipient** – the Subrecipient will acknowledge receipt of the complaint within 10 business days of the date of filing.
- B. **Lack of Jurisdiction** – if the Subrecipient determines that it does not have jurisdiction over a complaint, it will notify the complainant in writing within five (5) business days of making such determination.
- C. **Informal Resolution** – the Subrecipient will attempt complaint be resolved via the Informal Resolution process.
- D. **Hearing** – If the complaint is not resolved informally, a Hearing will be scheduled within 30 days of the filing date of the complaint.
- E. **Notice of Final Action** – the Subrecipient will provide their decision to the complainant and respondent within 60 days of receipt of the complaint.
- F. **Referral to the Workforce Partnership** – if during the 60-day period, the Subrecipient issues a decision that is not acceptable to the complainant, the complainant or their representative may file a complaint with the Workforce Partnership within ten (10) days of receiving the Notice of Final Action.

2. Complaint Form

Regardless of the form used, all complaints must include the following information:

- Complainant's full name, mailing address, and other means of contacting them (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.

A complaint may be amended to correct technical deficiencies at any time up to the start of the Hearing. Complaints may not be amended to add new issues unless the complainant withdraws and resubmits the complaint. However, for the one (1) year time period in which a complaint may be filed is not extended for complaints filed with amendments. Complaints may be withdrawn at any time prior to the issuance of the Hearing Officer's decision.

The official filing date of a complaint is the date it is received by the Subrecipient. The filing shall be considered a **Request for a Hearing** and the Subrecipient shall issue a written Notice of Final Action within 60 days of the official filing date.

3. Lack of Jurisdiction

If a Subrecipient determines that it does not have jurisdiction over a complaint, it must notify the complainant, in writing within five (5) business days of making such determination. This Notice of Lack of Jurisdiction must include:

- A statement of the reasons for that determination; and
- Notice that the complainant has a right to file a complaint with the appropriate party within 30 days of the date on which the complainant receives the Notice.

4. Informal Resolution

The Subrecipient shall notify the complainant and respondent the opportunity for an informal resolution.

- Notice of Resolution:** If a complainant and respondent are able to reach an informal resolution a Notice of Resolution must be sent to the complainant and entered into the complaint file.
- Notice of Impasse:** If the informal resolution leads to an impasse/deadlock between the complainant and respondent, the complainant may choose to not proceed to a Hearing. If this occurs, a Notice of Impasse must be sent to the complainant and entered into the complaint file.
- Notice of Withdrawal:** In the event of a resolution or impasse, the Subrecipient must request the complainant to provide a written withdrawal of the complaint within 10 days of the receipt of the *Notice of Resolution* or *Notice of Impasse*.

5. Hearing

If the complaint is not resolved informally or not withdrawn, a Hearing must be scheduled within 30 days of the filing date of the complaint.

A. Notice of Hearing

The Subrecipient must notify the complainant and respondent in writing of the Hearing at least 10 days prior to the date of the Hearing. The 10-day notice period may be shortened with written consent from both parties. Then notice shall be in writing and contain the following information:

- The date of the notice, name of complainant, and the name of the party against whom the complaint is filed.
- The date, time, and location of the Hearing.
- A statement of the alleged violation(s). The statement 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 complaint is addressed accurately.
- The name, address, and telephone number of the contact person issuing the notice.

B. Conduct of Hearing

An impartial Hearing Officer shall conduct the Hearing. **The Workforce Partnership suggest that Subrecipients seek impartial Hearing Officers from parties that will not be directly affected by or will not implement the final resolution of a specific complaint.**

The Hearing must be conducted in an informal manner and not be bound by strict rules of evidence. All Hearings must follow any applicable procedures established by the Subrecipient. Both parties have the right to be represented at their own cost, present written and oral testimony, call and question witnesses, and request and examine records and documents relevant to the issues. The Hearing must be recorded electronically.

6. Notice of Final Action/Decision of Hearing

The impartial Hearing Officer shall provide a written Notice of Final Action to the Subrecipient who in turn will mail the written Notice of Final Action to both parties by first class mail no later than 60 days after the filing date of the complaint. The notice shall contain the following information:

- The names of the parties involved.
- A statement of the alleged violations(s) and related issues.
- A statement of the facts.
- The Subrecipient's decision and reasoning.
- A statement of the corrective action or remedies for violations, if any, to be implemented.
- A notice of right of either party to request an appeal of the decision by the Workforce Partnership within 10 days of receipt of the decision.

7. Referral to the Workforce Partnership

If a complainant does not receive a decision within 60 days of the filing date of the complaint, or receives an adverse decision, the complainant has the right to file an appeal and must be provided with instructions for filing a formal written complaint with the Workforce Partnership, within ten (10) days of receiving the Notice of Final Action, by contacting or submitting a written report to:

April House
Equal Opportunity Officer/Grievance Officer
San Diego Workforce Partnership, Inc.
9246 Lightwave Avenue, Suite 210
San Diego, CA 92123
Email: complaints@workforce.org
Phone: (619) 228-2900
TDD Number (619)-228-2983 or California Relay Service* (CRS) at (800) 735-2922

D. ADDRESSING INCIDENT REPORT COMPLAINTS

This type of complaint covers complaints alleging fraud, abuse, and criminal activity committed by employees, subcontractors, or program participants.

Subrecipients shall establish appropriate internal program and financial management procedures to detect fraud, abuse, and criminal activity committed by employees, subcontractors, or program participants. These procedures must include a reporting process to ensure that the Workforce Partnership is notified immediately of any allegations of fraud, abuse, or criminal activity related to

programs funded by the Workforce Partnership. The Workforce Partnership will in turn notify the Department of Labor (DOL)/Office of Inspector General (OIG) and the State's Compliance Review Division (CRD).

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 Workforce Partnership EO Officer/Grievance Officer immediately, to report they have been contacted.

In addition, 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 within one (1) business day by completing the **Incident Report Form** (see attachment), once the detection of the incident occurs, and include the following information:

- Statement of all facts;
- Any known or estimated loss of the Workforce Partnership funds resulting from the incident; and
- Any immediate actions taken or planned determined to be necessary to prevent further financial loss or other damage, or recovery of funds or property.

III. THE WORKFORCE PARTNERSHIP COMPLAINT PROCESSING PROCEDURES

The Workforce Partnership administers Federal, State, and local grants to address workforce issues for the San Diego region. No person or agency receiving funding from the Workforce Partnership may violate the provisions of the legislation governing those funds. All persons filing a complaint or an incident report, shall be free from coercion, reprisal, or discrimination.

If a Subrecipient receives a complaint from an individual, applicant, participant, or employee against any of the Workforce Partnership-funded programs, an attempt must first be made to resolve the problem at the source through the POC (or their designee) of the program where the complaint occurred.

To submit a complaint with the Workforce Partnership, follow the directions on the **ATTACHMENT – EQUAL OPPORTUNITY IS THE LAW NOTICE**.

In order to determine the procedure to use in response to a complaint, it is first necessary to determine which category the complaint falls under, since each complaint type has different filing timelines and resolution requirements. There are three (3) distinct types of complaints or reports, as follows:

A. NONDISCRIMINATION & EO COMPLAINT (NON-CRIMINAL)

For this complaint, the complainant must complete and submit the **ATTACHMENT – COMPLAINT FORM**. **The complaint must be filed within 180 days of alleged incident.** The Workforce Partnership will render decisions within 90 days of the filing date.

1. Complaint Resolution Timeline

The Complaint Resolution timeline begins on the actual day on which the written complaint is received by the Workforce Partnership, as follows:

- A. Filing with The Workforce Partnership** – the Workforce Partnership will acknowledge receipt of the complaint within 10 business days of the date of filing.

- B. **Lack of Jurisdiction** – if the Workforce Partnership determines that it does not have jurisdiction over a complaint, it will notify the complainant in writing within five (5) business days of making such determination.
- C. **Alternative Dispute Resolution (ADR) Process** – The Workforce Partnership shall offer mediation as an ADR Process immediately upon receipt of the complaint.
- D. **Investigation** – if the complainant elects not to participate in the ADR process, the Workforce Partnership EO Officer/Grievance Officer will conduct an investigation into the specifics of the complaint.
- E. **Notice of Final Action** - the Workforce Partnership EO Officer/Grievance Officer will provide their decision to the complainant and respondent within 90 days of receipt of the complaint.
- F. **Referral to the Civil Rights Center (CRC)** – if during the 90-day period, the Workforce Partnership issues a decision that is not acceptable to the complainant, the complainant or their representative may file a complaint with the CRC within 30 days after the date on which the complainant receives the Notice of Final Action.

2. Filing a Complaint

Complete and submit the **ATTACHMENT – COMPLAINT FORM** to:

The Workforce Partnership: April House
Equal Opportunity Officer/Grievance Officer
San Diego Workforce Partnership, Inc.
9246 Lightwave Avenue, Suite 210
San Diego, CA 92123
(619) 228-2900
complaints@workforce.org

Once a complaint is filed:

- The Workforce Partnership will acknowledge receipt of the complaint and notify the complainant of the right to representation in the complaint resolution process.
- The Workforce Partnership is required to send a copy of the complaint to the respondent.
- The absence of any of the requested information will not be a basis for dismissing the complaint.
- A complaint may be amended to correct inaccuracies and add additional information any time up to the time of the Notice of Final Action.
- Complaints may not be amended to add new issues.
- The 180 days' time period in which complaint may be filed is not extended for complaints that are re-filed with amendments.
- Complaints may be withdrawn at any time prior to the issuance of Notice of Final Action.
- When the complainant is a minor, a parent or legal guardian must sign the complaint and must attend any meetings. In this event, decisions will be issued to the parent/guardian with a copy to the minor.

- The complainant may not file a complaint with CRC until they have received a written decision from the Workforce Partnership. The Workforce Partnership EO Officer/Grievance Officer will provide the complainant with a written decision or Notice of Final Action within the 90-day period.

The Workforce Partnership's EO Officer/Grievance 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/Grievance Officer will make a determination whether or not to accept the complaint.

- **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 Workforce Partnership and
 - Complaint must be related to an allegation of a violation of *The San Diego Workforce Partnership Operations Manual, Chapter 9*; and
 - Complaint must have been received within 180 days of the alleged violation.
- **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 Workforce Partnership due to Lack of Jurisdiction;
 - Complainant provides written notice to the EO Officer/Grievance Officer that the complaint is being withdrawn; or
 - Complainant is unavailable after reasonable means are used to locate them.

3. Notice of Lack of Jurisdiction

If the Workforce Partnership determines it does not have jurisdiction over a complaint, the Workforce Partnership will notify the complainant in writing within five (5) business days of making such determination.

- The notice will be sent to the complainant's last known address.
- The notice will include the basis for such determination, as well as a statement of the complainant's right to file a written complaint with CRC within 30 days of receipt of the notice 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

4. Alternative Dispute Resolution (ADR)

The first step in the Workforce Partnership'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 following will apply if complainant elects to participate in ADR process:

- **Written Withdrawal:** If the complainant elects to participate in ADR process and the complaint has been resolved through ADR process, the Workforce Partnership shall attempt to contact the complainant and have them provide a written withdrawal of the complaint within ten (10) days.
- **No Agreement is Reached:** If the complainant elects to participate in ADR process and the parties do not reach an agreement under ADR, the complainant may file directly with the CRC.
- **Agreement Breached:** If agreement is breached, the non-breaching party may notify the CRC within 30 days of the date on which the non-breaching party learned of the alleged breach.

5. Investigation

If the complainant elects not to participate in the ADR process, the Workforce Partnership's EO Officer/Grievance Officer will conduct an investigation into the specifics of the complaint.

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 the Workforce Partnership employee 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.

In situations where there is a finding based on ***The San Diego Workforce Partnership Operations Manual, Chapter 9***, the Workforce Partnership EO Officer/Grievance 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.

6. Conciliation

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

7. Notice of Final Action

The Workforce Partnership's EO Officer/Grievance Officer will make a decision strictly on the evidence on record. The Workforce Partnership's EO Officer/Grievance Officer will provide Notice of Final Action, in writing, of their 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 and issues related to the alleged violation;
- Statement of the facts;
- The Workforce Partnership 's EO Officer/Grievance 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.

8. Appeal Rights to the Civil Rights Center (CRC)

If the Workforce Partnership has not provided the complainant with a written decision within 90 days of filing the complaint or issues a decision that is not acceptable to the complainant, the complainant may file their complaint with the CRC within 30 days after the date on which the complainant receives the Notice of Final Action (e.g., within 120 days from the date on which the complaint was filed with the Workforce Partnership) at the address below:

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

B. PROGRAM GRIEVANCE COMPLAINT (NON-CRIMINAL)

For this complaint, the complainant must complete and submit the **ATTACHMENT – COMPLAINT FORM**. **Complaint must be reported within one (1) year of the alleged violation.**
The Workforce Partnership will render decisions within 60 days of the filing date.

1. Complaint Resolution Timeline

The Complaint Resolution Process timetable begins on the actual day on which the written complaint is received by the Workforce Partnership, as follows:

- Filing with the Workforce Partnership** – the Workforce Partnership will acknowledge receipt of the complaint within 10 business days of the date of filing.
- Lack of Jurisdiction** – if the Workforce Partnership determines that it does not have jurisdiction over a complaint, it will notify the complainant in writing within five (5) business days of making such determination.
- Alternative Dispute Resolution (ADR) Process** - the Workforce Partnership shall offer mediation as an ADR Process immediately upon receipt of the complaint.
- Hearing** – if the complainant elects not to participate in the ADR process, a Hearing will be scheduled within 30 days of the filing date of the complaint.
- Notice of Final Action** - the Workforce Partnership EO Officer/Grievance Officer will provide their decision to the complainant and respondent within 60 days of receipt of the complaint.

- F. **Referral to EDD** – if during the 60-day period, the Workforce Partnership issues a decision that is not acceptable to the complainant, the complainant or their representative may file a complaint with the EDD within ten (10) days of receiving the Notice of Final Action.

2. Filing a Complaint

Complete and submit the **ATTACHMENT – COMPLAINT FORM**:

The Workforce Partnership: April House
Equal Opportunity Officer/Grievance Officer
San Diego Workforce Partnership, Inc.
9246 Lightwave Avenue, Suite 210
San Diego, CA 92123
(619) 228-2900
complaints@workforce.org

Once a complaint is filed:

- The Workforce Partnership will acknowledge receipt of the complaint and notify the complainant of the right to representation in the complaint resolution process.
- The Workforce Partnership is required to send a copy of the complaint to the respondent.
- The absence of any of the requested information will not be a basis for dismissing the complaint.
- A complaint may be amended to correct inaccuracies and add additional information any time up to the time of the Notice of Final Action.
- Complaints may not be amended to add new issues.
- The 1-year time period in which complaint may be filed is not extended for complaints that are re-filed with amendments.
- Complaints may be withdrawn at any time prior to the issuance of Notice of Final Action.
- When the complainant is a minor, a parent or legal guardian must sign the complaint and must attend any meetings. In this event, decisions will be issued to the parent/guardian with a copy to the minor.
- The complainant may not file a complaint with EDD until they have received a written decision from the Workforce Partnership. The Workforce Partnership EO Officer/Grievance Officer will provide the complainant with a written decision or Notice of Final Action within the 90-day period.

The Workforce Partnership's EO Officer/Grievance 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/Grievance Officer will make a determination whether or not to accept the complaint.

- **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 Workforce Partnership; and
 - Complaint must be related to an allegation of a violation of ***The San Diego Workforce Partnership Operations Manual, Chapter 9***; and
 - Complaint must have been received within 1 year of the alleged violation.

- **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 Workforce Partnership due to Lack of Jurisdiction;
 - Complainant provides written notice to the EO Officer/Grievance Officer that the complaint is being withdrawn; or
 - Complainant is unavailable after reasonable means are used to locate them.

3. Notice of Lack of Jurisdiction

If the Workforce Partnership determines it does not have jurisdiction over a complaint, the Workforce Partnership will notify the complainant in writing within five (5) business days of making such determination.

- The notice will be sent to the complainant's last known address.
- The notice will include that the complainant has a right to file a complaint with the appropriate party within 30 days of the date on which the complainant receives the Lack of Jurisdiction Notice.

4. Alternative Dispute Resolution (ADR)

The first step in the Workforce Partnership'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 60-day period within which a decision must be issued unless the complainant and respondent agree, in writing, to waive time frames.

The following will apply if complainant elects to participate in ADR process:

- Notice of Resolution:** If a complainant and respondent are able to reach an informal resolution a Notice of Resolution must be sent to the complainant and entered into the complaint file.
- Notice of Impasse:** If the informal resolution leads to an impasse/deadlock between the complainant and respondent, the complainant may choose to not proceed to a Hearing. If this occurs, a Notice of Impasse must be sent to the complainant and entered into the complaint file.
- Notice of Withdrawal:** In the event of a resolution or impasse, the Subrecipient must request the complainant to provide a written withdrawal of the complaint within 10 days of the receipt of the Notice of Resolution or Notice of Impasse.

5. Hearing

If the complainant elects not to participate in the ADR process, the Workforce Partnership EO Officer/Grievance Officer or their designee will schedule a Hearing. Hearings on any Program Grievance complaint shall be conducted within 30 days of the filing of the formal written complaint. The Workforce Partnership must issue a written decision within 60 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) 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 complaint, as submitted by the complainant. However, clarifying notes may be added to assure that the 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. **The Workforce Partnership will select a Hearing Officer that will not be directly affected by, or will not implement the final resolution of, a specific complaint. The independent Hearing Officer may be from the Workforce Partnership, if the complaint is not against the Workforce Partnership.**

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

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 their position;
- To examine records and documents relevant to the issue(s); and
- To be represented at their 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 Workforce Partnership EO Officer/Grievance Officer who will issue a written decision of findings, based on the merits of the complaint and the facts presented at the Hearing.

In situations where there is a finding based on ***The San Diego Workforce Partnership Operations Manual, Chapter 9***, the Workforce Partnership EO Officer/Grievance 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.

6. Notice of Final Action/Decision of Hearing

The Workforce Partnership's EO Officer/Grievance Officer will make a decision strictly on the evidence on record. The Workforce Partnership's EO Officer/Grievance Officer will provide Notice of Final Action, in writing, of their decision to both the person making the complaint and the respondent within 60 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 and issues related to the alleged violation;
- Statement of the facts;
- The Workforce Partnership's EO Officer/Grievance 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 EDD.

7. Referral to the Employment Development Department (EDD)

If the Workforce Partnership has not provided the complainant with a written decision within 60 days of filing the complaint or complainant is dissatisfied with the Workforce Partnership's resolution, the complainant may file their complaint with the EDD at the address below:

Chief, Compliance Review Division, MIC 22-M
Employment Development Department
P.O. Box 826880
Sacramento, CA 94280-0001

C. INCIDENT REPORT COMPLAINT (CRIMINAL)

For this type of complaint, the detecting entity is required to prepare **ATTACHMENT – INCIDENT REPORT FORM** and submit to the Workforce Partnership within one (1) business day of discovery of potential criminal activity. Upon receipt, the Workforce Partnership will forward the incident report to EDD, OIG, and appropriate law enforcement agency(ies).

1. Contents of the Complaint

The complaint must contain the following information:

- 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; and
- If known, the provisions under the law, regulations, grant, or contract believed to have been violated.

2. Filing a Complaint

The [WSD20-12](#) requires that information and complaints involving criminal fraud, waste, abuse or other criminal activity must be reported immediately to the Workforce Partnership.

Complete and submit the **ATTACHMENT – INCIDENT REPORT FORM** along with any other documentation to:

The Workforce Partnership: April House
Equal Opportunity Officer/Grievance Officer
San Diego Workforce Partnership, Inc.
9246 Lightwave Avenue, Suite 210
San Diego, CA 92123
(619) 228-2900
complaints@workforce.org

The Workforce Partnership will in turn notify *EDD - Compliance Review Office (CRO) - Accountability and Compliance Branch (PACB)* and [DOL- Office of Inspector General \(OIG\)](#).

EDD: PACBCROIncidentReports@edd.ca.gov, Workforce Partnership will also include San Diego's Regional Advisor in all communication.

DOL: <https://www.oig.dol.gov/hotline.htm>, Telephone: 1-800-347-3756.

Allegations considered to be of an emergency nature may be reported by telephone to the EDD Compliance Resolution Unit Supervisor at 1- (916) 654-8354, and by calling the OIG hotline at 1-800-347-3756, and ***followed immediately thereafter by a written Incident Report.***

IV. APPEAL PROCESS

A. ETPL

This section details the appeal process for Training Providers in cases of denial/delisting from Eligible Training Provider List, for more information reference ***The San Diego Workforce Partnership Operations Manual, Chapter 4, Attachment - ETPL, ITA & ATA Policies and Procedures.***

For this type of appeal, the appellant must submit an appeal within 30 days of the issuance of the denial/delisting notice. The Workforce Partnership will render a decision within 60 days of receipt of the appeal.

1. Filing an Appeal

The Appeal Resolution timeline begins on the actual day on which the written appeal is received by the Workforce Partnership.

To appeal the Workforce Partnership's denial/de-listing of a training provider please submit the appeal to complaints@workforce.org within 30 days of the issuance of the denial/delisting notice. The appeal must be in writing and include:

- name of training provider
- training provider point of contact
- point of contact phone and email
- a statement of the desire to appeal
- reasons for the appeal, including documentation supporting the grounds for the appeal
- signature of the appropriate training provider official

The EO Officer/Grievance Officer will make a determination whether or not to accept the appeal.

- **Acceptance of the Appeal** - Acceptance of the appeal will be based on the following:
 - Appeal must be related to the denial/delisting of a training provider in San Diego; and
 - Appeal must have been received within 30 days of the issuance of the denial/delisting notice.

- **Dismissal of the Appeal** - During the appeal resolution process, an appeal may be dismissed for one or more of the following reasons:
 - Appeal is not accepted by the Workforce Partnership due to Lack of Jurisdiction;
 - Appellant provides written notice to the EO Officer/Grievance Officer that the appeal is being withdrawn; or appellant is unavailable after reasonable means are used to locate them.

2. Notice of Lack of Jurisdiction

If the Workforce Partnership determines it does not have jurisdiction over an appeal, the Workforce Partnership will notify the appellant in writing within five (5) days of making such determination.

- The notice will be sent to the appellants last known address.
- The notice will include that the appellant has a right to file with the appropriate party within 30 days of the date on which the appellant receives the Lack of Jurisdiction Notice.

3. Alternative Dispute Resolution (ADR)

The first step in the Workforce Partnership's resolution process will be an attempt to resolve the appeal on an informal basis. Informal conferences will be used wherever possible to resolve appeals. Such informal conferences will not extend the 60-day period within which a decision must be issued unless the Appellant and the Workforce Partnership agree, in writing, to waive time frames.

The following will apply if an appellant elects to participate in ADR process:

- A. **Notice of Resolution:** If an appellant and the Workforce Partnership are able to reach an informal resolution a Notice of Resolution must be sent to the appellant and entered into the appeal file.

- B. **Notice of Impasse:** If the informal resolution leads to an impasse/deadlock between the appellant and the Workforce Partnership, the appellant may choose to not proceed to a Hearing. If this occurs, a Notice of Impasse must be sent to the appellant and entered into the appeal file.

- C. **Notice of Withdrawal:** In the event of a resolution or impasse, the Workforce Partnership must request the appellant to provide a written withdrawal of the appeal within 10 days of the receipt of the Notice of Resolution or Notice of Impasse.

4. Hearing

If the appellant elects not to participate in the ADR process, the Workforce Partnership EO Officer/Grievance Officer or their designee will schedule a Hearing. Hearings on any ETPL Appeals shall be conducted within 30 days of the filing of the formal written complaint. The Workforce Partnership must issue a written decision within 60 days of the filing of the written appeal.

In the event of a Hearing:

- The appellant must be notified in writing of the date, time and place of the Hearing at least ten (10) days prior to the date of the Hearing.
- The 10-day notice period may be shortened with written consent of appellant and the Workforce Partnership.
- The Hearing notice shall be in writing and contain the following information:
 - The date of the notice, name of appellant;
 - The date, time and place of the Hearing before an impartial Hearing Officer;
 - A statement of the appeal. These statements must accurately reflect the content of the appeal as submitted by the appellant. However, clarifying notes may be added to assure that the appeal 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. **The Workforce Partnership will select a Hearing Officer that will not be directly affected by, or will not implement the final resolution of, a specific appeal.**

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

Both parties will be given ample opportunity to respond to or rebut the other side. Both the appellant and the Workforce Partnership 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 their position;
- To examine records and documents relevant to the issue(s); and
- To be represented at their own expense.

The appellant will be asked to provide the facts that led to the filing of the appeal without interruption by the respondent. Following this, the Workforce Partnership will be provided the same opportunity to present the facts, without interruption by the Appellant. 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 Workforce Partnership EO Officer/Grievance Officer who will issue a written decision of findings, based on the merits of the appeal and the facts presented at the Hearing.

5. Notice of Final Action/Decision of Hearing

The Workforce Partnership's EO Officer/Grievance Officer will provide Notice of Final Action, in writing. The notice will include a summary of the following:

- Names of the party(ies) involved;
- Statement of the alleged violation and issues related to the alleged violation;
- Statement of the facts;
- The decision and reasons for the decision;
- Statement of the corrective action, if any, to be taken; and
- The process for filing an appeal with the EDD.

6. Referral to the Employment Development Department (EDD)

If the Workforce Partnership has not provided the appellant with a written decision within 60 days of filing the appeal or appellant is dissatisfied with the Workforce Partnership's resolution, the appellant may file their appeal with the EDD. The appeal to EDD must be submitted within 30 days from the date of the written decision:

- **MAIL:** Employment Development Department Central Office Workforce Services Division, MIC 50 Attn: ETPL APPEAL P.O. Box 826880 Sacramento, CA 94280-0001
- **EMAIL:** wsbetpl@edd.ca.gov

B. PROCUREMENT

This section details the appeal process for respondents as it relates to procurement. For more information reference *The San Diego Workforce Partnership Operations Manual, Chapter 3*.

For this type of appeal, the appellant must submit an appeal within five (5) business days from the date the procurement recommendation is posted on the Workforce Partnership's website. The Workforce Partnership will render a decision within 10 business days of receipt of the appeal.

1. Filing an Appeal

The Appeal Resolution timeline begins on the actual day on which the written appeal is received by the Workforce Partnership.

To appeal, a written letter of appeal will be sent to complaints@workforce.org including evidence for appeal grounds and specific relief sought.

The Workforce Partnership will acknowledge receipt of the appeal within one (1) business day of the date of filing.

The EO Officer/Grievance Officer will review the appeal to determine if it meets the criteria for a valid appeal. Acceptance of the appeal will be based on the following:

- Appeal must have been received within five (5) business days from the date the procurement recommendation is posted on the Workforce Partnership's website.
- Only Respondents may appeal the results if the procurement process was violated in some manner, and/or Federal, State, and/or the Workforce Partnership procurement guidelines have been violated.
- An appeal will not be allowed to contest individual scores, the rating system, disqualification, or dissatisfaction with the evaluation results.

- A notification will be sent to the recommended awardee (the winning respondent) and the appellant to advise of appeal investigation and date of when results and next steps will be available.

2. Review Panel

- An appeal review panel appointed by the Workforce Development Board Chair will review the appeal to render a decision.
- The panel will review the appeal and collect information. At their discretion, the panel may request a meeting with the Respondent and Workforce Partnership staff, and/or use other methods to gather relevant information.
- Once all the information is gathered and reviewed, the panel will issue a written decision to the EO Officer/Grievance Officer.

3. Notice of Final Action

The Workforce Partnership EO Officer/Grievance Officer will notify the appellant and the recommended awardee within 10 business days of receipt of the appeal. The decision of the appeal will be final.

V. CONCLUSION

The goal of the Workforce Partnership 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 San Diego Workforce Partnership Operations Manual, Chapter 9* or has any recommendations to make the programs more accessible, they should contact the Workforce Partnership's EO Officer. If any assistance is needed in complying with the requirements specified in this chapter, the Subrecipient should contact the Workforce Partnership's EO Officer/Grievance Officer, or their designee.

VI. REFERENCED ATTACHMENTS

Complaint & Incident Report Policy Notice

Complaint Form

Equal Opportunity is the Law Notice – English

Equal Opportunity is the Law Notice – Spanish

Incident Report Form

Reasonable Accommodation Policy and Procedure Guide