

	<b>Policy No:</b> P-211
	<b>Effective Date:</b> July 1, 2019 <b>Original Approval:</b> January 1, 2019
	<b>New</b> <input type="checkbox"/> <b>Revised</b> <input checked="" type="checkbox"/>
<b>GRIEVANCE</b>	

**PURPOSE**

This policy provides guidance and procedures under which the Southwestern Oregon Workforce Investment Board (SOWIB) and its sub-recipients/contractors accept and process grievances and complaints that allege a violation of the Workforce Innovation and Opportunity Act (WIOA), regulations, grants or other agreements administered under the Act, terms and conditions of employment, or discrimination.

**REFERENCES**

Workforce Innovation and Opportunity Act, Sections 181 & 188 Americans with Disabilities Act of 1990, Title II, Subpart A  
 Age Discrimination Act of 1975, as amended Section 504 of the Rehabilitation Act of 1973  
 Title IX of the Education Amendments of 1972  
 Titles VI & VII of the Civil Rights Act of 1964, as amended 20 Code of Federal Regulations (CFR) Part 636  
 29 CFR Parts 31, 32, 34 & 37  
 Oregon Administrative Rules (OAR) 589-020-0110, 589-020-0300 Oregon Revised Statutes (ORS) 183.502 Alternative Dispute Resolution ORS Chapter 36 Mediation and Arbitration  
 Workforce Innovation and Opportunity Act (WIOA) Title 1 Guidance Letter – Non-Criminal Grievance/Complaint Procedure

**POLICY**

The SOWIB values customer service and customer satisfaction and prefers that dissatisfaction and complaints be resolved amicably as close to the point of service delivery as possible. Whenever possible all parties are encouraged to use the Alternative Dispute Resolution (ADR) process. When this is not possible, written complaints including those related to discrimination or involving criminal conduct are to be processed following the guidelines established within this policy.

This policy:

- Provides guidelines for the resolution of grievances or complaints related to:
  - o Non-criminal violations of WIOA, and allegations of criminal

- o violations or allegations of fraud and/or abuse related to the provision of WIOA services;
- o Nondiscrimination and equal rights provisions of WIOA.
- Designates the SOWIB's Equal Opportunity Officer as the local area Equal Employment Opportunity (EO) Officer.
- Establishes requirements for the SOWIB to ensure:
  - o Designation of an EO Officer, in compliance with the State of Oregon Methods of Administration (MOA);
  - o The SOWIB EO Officer provides notification to the SOWIB Executive Director immediately upon the receipt of any complaint related to the provision of WIOA services or services provided through a sub-recipient/contractor that is a recipient or beneficiary of WIOA funding; and,
  - o Each sub-recipient/contractor that is a recipient or beneficiary of WIOA funding has established a written process ensuring that grievances related to WIOA or non-WIOA programs or services are referred to the appropriate program for resolution.

## **GENERAL PROVISIONS**

Under this policy, written complaint procedures shall be made available to every applicant of WIOA services. Reasonable efforts will be made to ensure that complaint procedures are understood by participants, individuals and recipients of federal assistance under WIOA. The written complaint procedure will include notice that the complainant and respondent have the right to be represented by an attorney or other individual of their own choice. With the exception of discrimination complaints, all complaints must be filed within one year (365 days) from the date of the alleged occurrence. Discrimination complaints must be filed within one half year (180 days) from the date of the alleged act of discrimination unless the time is extended by the Assistant Secretary of the U.S. Department of Labor for good cause.

All references to days shall be defined as calendar days, with timelines beginning on the day a complaint is received by the EO Officer initially receiving the complaint. Timelines may be extended if good cause is shown, and if both the complainant and respondent parties agree in writing to waive the timelines. A complaint may be withdrawn by the complainant at any time. Such a withdrawal must be in writing.

## **NONCRIMINAL COMPLAINTS EXCLUDING DISCRIMINATION**

The procedures described below apply to all non-criminal WIOA complaints filed against the SOWIB or its sub-recipients and contractors. The SOWIB EO Officer will coordinate and assist in the resolution of all WIOA non-criminal complaints filed against the SOWIB or its sub-recipients/ contractor.

## **Filing Requirements**

The complainant must file the complaint with the SOWIB EO Officer. The complaint shall be in writing and shall include:

- Name, address, phone and social security number of the complainant;
- Name and address of person or organization complaint is against;
- Statement of allegation(s) and date of occurrence(s);
- Provision of the Act, regulations, grant, or other agreement believed to have been violated, if applicable;
- Synopsis of the informal resolution efforts; and
- Satisfaction being sought.

The SOWIB EO Officer will determine if the complaint relates to discrimination, a violation or alleged violation of the **WIOA**, regulations, grant or other agreements under the Act, or to terms and conditions of employment, or is more appropriately referred to another program or organization offering services through the WorkSource Oregon system.

The SOWIB EO Officer will notify the complainant in writing of the determination within five (5) days of the receipt of a complaint and will include a written copy of SOWIB's complaint process describing the process for resolution based on the determination of the nature of the complaint. As appropriate, notification will include the referral of the complaint to the appropriate non-WIOA program or organization offering the services.

## **Processing of Complaints**

### Complaints Not Involving a Violation or Alleged Violation of the WIOA

Within ten (10) days of the filing of a complaint SOWIB EO Officer will attempt to resolve the matter informally with the complainant and respondent. If the complaint is related to employment, the complainant will be given the opportunity to be heard by a party other than the respondent's direct supervisor.

Within ten (10) days after this meeting to clarify issues and early efforts at informal resolution, a written summary of the meeting and its outcomes will be provided to the complainant. The summary shall include the:

- Filing date of the complaint;
- Date of informal meeting to clarify or resolve the complaint
- Determination of the nature of the complaint
- Summary of the process used to investigate the complaint
- Findings regarding the complaint, including the names and contact information for the parties involved;
- Proposed resolution of the complain

- Signed receipt or statement that a copy of the complaint process was transmitted to the complainant; and,
- Date and method of transmittal of the summary to the complainant.

If the complainant is dissatisfied with the proposed resolution, an appeal may be submitted to the Office of Workforce Investments (OWI). The appeal must be submitted in writing, within 10 days of SOWIB's decision.

If it is determined that a non-criminal violation of the WIOA, regulations, grant or other agreement under the Act has occurred, the SOWIB EO Officer will notify the complainant.

### Complaints Alleging Non-Criminal Violation of the WIOA or Regulations

If it is decided that the complaint does relate to a non-criminal violation or alleged violation of the Act, regulations, grant, or other agreement under the Act, the parties to the complaint are afforded the opportunity to informally resolve the matter. Both parties may agree, in writing, to waive the thirty (30) day timeline for formal hearing and sixty (60) day timeline for a decision in order to attempt to resolve this matter informally.

SOWIB EO Officer will set a date for an informal resolution and issues clarification meeting within ten (10) days of the receipt of the complaint.

### **Requesting and Scheduling a Formal Hearing**

If dissatisfied with the results of the informal resolution meeting, the complainant may request a formal hearing. Such requests must be made in writing and, if no informal resolution was attempted, within twenty-five (25) days of the date of filing of the complaint. The request for hearing should be directed to the SOWIB EO Officer. The complaint may be amended, in writing, at any time within ten (10) days before the formal hearing.

The SOWIB EO Officer will schedule the formal hearing within thirty (30) days from the receipt of the complaint, notify the complainant in writing of the hearing date, time and place, unless the parties have agreed, in writing, to waive this timeline.

### **Hearing Officer**

Upon receipt of a request for a formal hearing, the SOWIB EO Officer shall designate a Hearing Officer. The complainant or respondent may request a different Hearing Officer be appointed. The request for a change in Hearing Officer

must be filed within five (5) days after parties received notification of the hearing schedule and the designation of the Hearing Officer. No party shall be permitted to make more than one (1) claim of partiality in any one complaint, and only one request for designation of an alternate Hearing Officer may be made by either party for each complaint. In such a case all timelines shall automatically be extended ten (10) days.

### **Conducting the Formal Hearing**

The Hearing Officer coordinates the formal hearing. Both parties shall be provided an opportunity to present evidence, cross-examine witnesses, and be represented by legal counsel. The hearing shall be taped, and a record, including all exhibits, shall be maintained. The complainant may withdraw the complaint in writing at any time. The Hearing Officer shall provide to all parties a written recommendation, defining issues, facts, and suggested resolution. If the complainant or representative does not appear for the hearing, the complaint may be dismissed, or the Hearing Officer may rule on the evidence presented.

### **Decision by the SOWIB Executive Director**

The SOWIB Executive Director shall consider the complaint, informal resolution efforts, and the Hearing Officer's recommendation. The SOWIB Executive Director shall then issue a written decision defining issues, facts and resolution and forward a copy of the decision to each party. The decision shall include notice that the complainant has the right to request that OWI review the decision. The decision shall be made no later than sixty (60) days after the filing of a complaint, unless extended upon a showing of good cause and agreement by both parties, in writing, to waive the timelines.

### **Recourse Available to the Complainant Under the Formal Resolution Process**

If the complainant receives an unsatisfactory decision or if SOWIB fails to issue a decision within the prescribed timelines, unless the timelines have been waived, the complainant or respondent may request a review by the OWI.

### **State Review**

The request for OWI review of the decision must be submitted to the:

Workforce Programs Director  
Office of Workforce investments  
3<sup>rd</sup> Floor, #310  
875 Union St NE  
Salem, OR 97311

The complainant or respondent within ten (10) days of the decision of the SOWIB Executive Director, or in the absence of a decision, within fifteen (15) days from the date of the complainant should have received a decision. The OWI may request all necessary information, including, but not limited to the following:

- Copy of the written complaint/grievance
- Synopsis of the informal resolution efforts
- Tapes of and exhibits from the hearing
- Hearing Officer's recommendation
- SOWIB's decision

The OWI will review the complaint within ten (10) days of receipt of the Request for Review to ensure that the hearing process was followed and that any regulations were correctly interpreted. For purposes of the review, SOWIB's factual determination will be accepted. If the record contains enough information to render a decision, the OWI will issue a final decision within thirty (30) days of receipt of the request for review as to whether the process was followed and whether a material regulation or legal requirement was incorrectly or inadequately interpreted.

If the hearing was in accordance with the hearing procedure, and the material regulations were correctly interpreted, OWI shall issue a final written decision to all parties affirming SOWIB's hearing decision. If within ten (10) days of receipt of the Request for Review the OWI finds any evidence of an irregularity in the hearing process, or determines that a material regulation was incorrectly or inadequately interpreted and additional information is needed to render a final decision, SOWIB's will be given fifteen (15) days to gather and provide the OWI the additional information. Such requirement for additional information will include any necessary instructions. The OWI will review the additional information and issue a final decision to all parties within thirty days of receipt of the Request to Review, either affirming or denying SOWIB's hearing decision.

### **Recourse Available to the Claimant after State Review Process**

If the State does not complete a review within thirty (30) days of receipt of request, the complainant or respondent may request a review with the Secretary of Labor within sixty (60) days from the original review completion date.

If either party has received an adverse decision from the State, they may appeal to the Secretary of Labor within one hundred twenty (120) days from the date of filing of the complaint with the State, or the filing of the appeal of a local complaint with the State.

All appeals must be submitted by certified mail, return receipt requested, and addressed to:

Secretary of Labor  
U. S. Department of  
Labor Washington, D.C.  
20210 Attention: ASET

A copy of the appeal must be simultaneously provided to the opposing party and to the Employment and Training Administration Regional Administrator addressed as follows:

Regional Administrator  
Employment and Training Administration  
U. S. Department of Labor  
71 Stevenson Street, 8th Floor  
San Francisco, CA 94119

## **PROCEDURE FOR DISCRIMINATION COMPLAINTS**

Complaints alleging violation of the equal employment opportunity and nondiscrimination provision of the Workforce Innovation and Opportunity Act and implementing regulations will follow the state of Oregon Methods of Administration (MOA) and will be processed in such a manner as to assure accurate and timely communication among the OWI, and SOWIB.

The complaint may be filed either with the SOWIB EO Officer, the OWI EO Officer, State of Oregon EO Officer or directly with the Director of the U.S. Department of Labor Civil Rights Center (CRC). In order to provide for prompt and informal resolution, any complainant alleging violation of the equal employment opportunity or nondiscrimination provisions of the WIOA relating to a sub-recipient/ contractor of SOWIB or an affiliate is encouraged to file the complaint directly with that agency or with the SOWIB EO Officer.

To the extent possible, complaints will be resolved amicably as close to the point of service as possible. The complainant has the option of resolving the complaint through the Alternative Dispute Resolution (ADR) process.

### **Notification and Responsibilities in the Receipt of a Complaint**

All complaints received by the OWI EO Officer will be referred to the SOWIB's EO officer.

When a complaint is filed against a partner in a WorkSource Oregon setting, the EO Officer accepting the complaint must notify the co-located partners and ensure that the SOWIB's EO Officer is notified. The EO Officer accepting the

complaint must notify the SOWIB's EO Officer that a complaint has been received and the basis for the complaint without revealing confidential information. The SOWIB's EO Officer is responsible for notifying the SOWIB's Executive Director.

### **Complaint Processing Procedures**

The complaint process is defined in considerable detail in the body of the State of Oregon Methods of Administration (MOA). SOWIB will comply with the procedures defined in the state of Oregon MOA in the event a complaint is filed against a WIOA-financially assisted program or activity on the basis of prohibited grounds of discrimination or lack of equal opportunity. All other complaints filed with subrecipients/contractors, on the basis of grounds not described herein, such as food stamp eligibility, are not subject to this complaint procedure and are resolved by the state partner agencies using their own established complaint processes.

### **Basis for a Complaint**

Complaints may be filed under the MOA on the basis of:

- Alleged discrimination on the basis of race, color, national origin, religion, sex, age, disability, political affiliation or belief, and for beneficiaries only, citizenship and WIOA participation; and
- If an individual believes they have been intimidated, retaliated against, threatened or coerced because they have:
  - o Filed a complaint under WIOA;
  - o Opposed a practice prohibited by the non-discrimination and equal opportunity provisions of WIOA;
  - o Furnished information to, or assisted or participated in any manner, an investigation, review, hearing, or any other activity related to the provisions under 29 CFR 37; or
  - o Exercised any rights and privileges under WIOA.

### **Elements of the Complaint Process**

The complaint process includes five general elements:

- Jurisdiction;
- Methods of resolution or disposition
- Notice of final disposition
- Processing timeframes; and,
- Recordkeeping.

SOWIB's EO Officer oversees the complaint process, which may progress to the OWI

EO Officer (in the case of WIOA funds) or to the sub-recipient/contractor's state agency EO Officer (in the case of non-WIOA funds) and on to DOL's CRC through the statewide EO Officer.

## **Who May File Complaints and When**

Complaints may be filed by:

- Applicant/registrant for aid, benefits, services or training, eligible applicants/ registrants, participants; or
- Employees; applicants for employment; or
- Eligible service providers, and service providers; that may be attributed a characteristic protected under the WIOA.

Generally, there are three types of complaints;

- Individuals filing on their own behalf;
- Individuals or a group filing on a class basis; or,
- A third-party complaint authorized by the complainant in writing.

All complaints must be submitted in writing within 180 days of the alleged incident and must contain standard information as described in 29 CFR 37.73 as printed in the Department of Labor 's Civil Rights Center's (CRC) Complaint Information Form. However, for good cause shown, the Directorate of the CRC may extend the filing time. The time period for filing is for the administrative convenience of CRC, and does not create a defense for the respondent.

## **The Complaint Process**

On receipt of a complaint, the SOWIB's EO Officer reviews the complaint for:

- Jurisdiction - Any complaint alleging discrimination must meet the following criteria to be considered under this policy
  - That the individual making the complaint believes that he/she, or any class of individuals, has been subjected to discrimination on a basis prohibited by WIOA and/or 29 CFR 37.
  - That the individual or entity against which the complaint is filed receives financial assistance under the WIOA (refer to 29 CFR Part 37.4 for definitions of recipient, etc.);
- Timeliness - The written complaint is filed within 180 days of the alleged discriminatory act. If received later than 180 days from when the discriminatory action took place, the office may close the complaint as being untimely (The Director, Civil Rights Center may extend the filing time if good cause is shown); and
- Basis of the complaint - The complaint is filed in writing, is signed by the complainant or their authorized representative, contains the complainant's name and address (or gives other specific means of contact), identifies the

respondent, and describes the complainant's allegations in sufficient detail to allow the recipient of the complaint to determine if the complaint has merit.

## **Complaint Format**

The written complaint must contain the following information:

- The complainant's name and address (or other means of contact);
- The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination);
- A description of the complainant's allegations. This description must include enough detail to allow the recipient of the complaint to decide whether:
  - USDOL CRC or the recipient of the complaint has jurisdiction over the complaint;
  - The complaint was filed in time; and
  - The complainant has apparent merit; in other words, whether the complainant's allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIOA or this part; and
- The complainant's signature or the signature of the complainant's authorized representative.

## **Written Notification**

Immediately upon receipt of a written complaint the SOWIB's EO Officer must send written notice to the complainant. This written notice must contain:

- A complaint process timeline, including that written Notice of Final Action is due 90 days after the complaint is filed;
- References to ADR options;
- Option of direct filing with USDOL CRC; and
- An acknowledgment that the recipient has received the complaint.

The complaint must be entered in the local Complaint Log and a copy of the written complaint shall be forwarded to the Statewide EO Officer and agency EO Officer within 5 days of the filing of the written complaint. The SOWIB's EO Officer also notifies other state recipient partners at the WorkSource Oregon site (if applicable) and other required parties that a complaint has been filed against a specific recipient, the alleged basis for the complaint, and determines the recipient agency EO Officer that will assist in preparing the Initial Response.

The SOWIB's EO Officer works with the recipient agency EO Officer that is assigned jurisdiction (the state recipient partner agency's EO Officer, for example) to investigate and prepare the Initial Response within 20 days. The Initial Response must contain a statement of the issue(s), including a list of the issues raised in the complaint, and for each such issue, a statement whether the recipient will accept the

issue for investigation or reject the issue, and the reasons for each rejection.

### **Notice of Lack of Jurisdiction**

The SOWIB's EO Officer will notify the complainant in writing immediately, if it is determined that:

- There is no jurisdiction, or multi-jurisdiction. In such cases, the complainant must be notified immediately in writing of the reason(s), noting the right to file a complaint with the CRC within 30 days of the date on which the complainant receives the notice. Lack of jurisdiction may be based upon untimely filing of a complaint that is filed more than 180 days from the alleged incident. Should the complainant appeal a decision based on late filing with the CRC, the complainant has the burden of proving to the Directorate of the CRC that the time limit should be extended as described at 29 CFR 37 .81.
- The complaint falls outside the scope of the State of Oregon MOA. In such cases the complainant will be referred to the appropriate jurisdiction and the complaint will be processed through the appropriate complaint process.

The written Notice of Lack of Jurisdiction must include:

- A statement of the reasons for that determination;
- Notice that the complainant has a right to file a complaint with USDOL CRC within 30 days of the date on which the complainant receives the Notice. If the complaint does not involve a recipient as defined under 29 CFR Part 37.4, the SOWIB's EO officer will assist the complainant in forwarding the complaint to the most appropriate agency for resolution; and
- Referral, as appropriate, to the recipient agency with jurisdiction over the complaint.

### **Alternative Dispute Resolution (ADR)**

The SOWIB's EO Officer will attempt to initiate the Alternative Dispute Resolution (ADR) process with the complainant and contact the state/recipient agency EO Officer if necessary. The complainant must be offered ADR immediately upon receipt of the complaint. The choice whether to use ADR rests with the complainant; the preferred form of ADR is mediation.

Mediation is a voluntary process during which a neutral third party assists both parties (complainant and respondent) to communicate their concerns and come to an agreement about how to resolve a dispute. The mediator does not make decisions, rule as to who is right or wrong, take 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. 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 ADR fails, the complaint will be processed through the recipient's standard complaint resolution process. A party to any agreement reached under ADR may file a complaint with the Director, USDOL CRC in the event the agreement is breached. In such circumstances, the following rules will apply:

- The non-breaching party may file a complaint with the Director, USDOL CRC within 30 days of the date on which the non-breaching party learns of the alleged breach;
- The Director, USDOL CRC must evaluate the circumstances to determine whether the agreement has been breached. If he or she determines that the agreement has been breached, the complainant may file a complaint with USDOL CRC based upon his/her original allegation(s), and the Director will waive the time deadline for filing such a complaint.

If the parties do not reach an agreement under ADR, the complainant may file a complaint with the Director, USDOL Civil Rights Center.

### **Fact Finding/Investigation**

The SOWIB's EO Officer has 30 days in which to resolve the complaint. During this time the EO Officer should gather all available information relating to the alleged discriminatory actions. At a minimum this fact finding should include:

- Discussion with the complainant to identify the elements of the complaint;
- Interviews with witnesses or others who have knowledge of the issue involved;
- Review of written and electronic files and records which pertain to the complainant and the alleged discrimination; and
- Interviews with the person(s) accused of the act (the respondent).

The investigator should take extensive notes during this process to assure nothing is missed and to help with the resolution of the complaint.

### **Initial Response**

The SOWIB's EO Officer has up to 20 days from receipt of the complaint to investigate and prepare and issue the Initial Response, which includes acknowledgment that:

- The recipient has received the complaint;
- The complainant has the right to be represented in the complaint process;
- A statement of issues accepted or denied and reasons for denial; and
- Other required elements specified at 29 CFR 3 7.70 et seq.

Following the Initial Response, the state recipient agency's EO Officer continues to investigate and attempts to resolve the complaint for up to 20 additional days.

## **Notice of Final Action**

Within 90 days of the receipt of a complaint, a written Notice of Final Action must be provided to the complainant. The Notice must contain the following information, for each issue raised in the complaint, a statement of either:

- The recipient's decision on the issue and an explanation of the reasons underlying the decision, or a
- Description of the way the parties resolved the issue; and
- Notice that the complainant has a right to file a complaint with USDOL CRC within 30 days of the date on which the Notice of Final Action is issued if he or she is dissatisfied with the recipient's final action on the complaint.

The state recipient agency's EO Officer prepares a draft Notice of Final Action for review by the statewide EO Officer residing at the Oregon Employment Department. The statewide EO Officer takes up to 30 days to provide technical support to those preparing the Final Notice to assure that it contains the required elements per CFR, before the SOWIB's EO Officer returns the Final Notice to the complainant. The written Final Notice explains for each issue raised:

- The recipient's decision and basis for it; or
- A description of the way the parties resolved the issue; and
- Appeal rights.

The statewide EO Officer logs the complaint, informs the Governor and US DOL CRC of its resolution, and recommends to the Governor or Governor's representative corrective action and/or sanctions that may be needed to cure the complainant. If corrective actions are required, the statewide EO Officer monitors them and reports to the Governor and USDOL CRC on their satisfactory completion, within the 20 days remaining in the 90-day complaint process.

The Final Notice is due 90 days from the date of initial filing of the complaint. If the complainant is dissatisfied with the Final Notice, or there is no Final Notice issued, the complainant must wait an additional 30 days from the issue of the Final Notice, or the date the Final Notice was due, before filing a complaint with US DOL CRC.

## **Resolution**

Resolution means that legitimate complaints (those complaints with merit) are resolved to the satisfaction of the complainant. If the complaint is determined not to have merit the complainant must be notified immediately as explained under Notice of Lack of Jurisdiction.

If the SOWIB's EO Officer is unable to reach resolution within 30 days of the complaint all information gathered during the local -level investigation must be passed to the State EO Officer responsible for resolution.

An extension may be requested by the SOWIB's EO Officer, with the permission of the state/recipient agency EO Officer and in consultation with the State EO Officer, to facilitate resolution. Resolution may include such actions as:

- Disciplinary action against the party found responsible for discriminatory action(s);
- Corrective actions required by the recipient; and
- Sanctions against the recipient of WIOA funding, including the withdrawal of WIOA funding.

### **Due Process**

During the process of attempting to come to resolution of the complaint, the State EO Officer shall ensure that all parties involved are given due process.

These due process elements include:

- Notice to all parties of the specific charges;
- Notice to all parties of the responses to the allegations;
- The right of both parties to representation;
- The right of each party to present evidence, and to question others who present evidence; and
- A decision made strictly on the evidence of the record.

### **Determinations**

At the conclusion of the investigation of the complaint, the investigating authority must take the following actions:

- Determine whether there is reasonable cause to believe that the respondent has violated the nondiscrimination and equal opportunity provisions of WIOA or 29 CFR Part 37; and
- Notify the complainant and respondent, in writing, of that determination.

### **Violation Found**

If the investigating authority finds reasonable cause to believe that the respondent has violated the nondiscrimination and equal opportunity provisions of WIOA or 29 CFR Part 37, an Initial Determination must be issued. The Initial Determination must include:

- The specific findings of the investigation;
- The corrective or remedial action that the Governor's Office and State EO Officer's proposes to the respondent, under Element Nine of the MOA and 29 CFR Part 37.94;
- The time by which the respondent must complete the corrective or remedial action;
- Whether it will be necessary for the respondent to enter into a written agreement under Element Nine of this MOA and 29 CFR Part 37.95 and 37.96; and
- The opportunity to engage in voluntary compliance negotiations.

**Violations Not Found**

If the investigating authority determines that there is no reasonable cause to believe that a violation has taken place, a Final Determination must be issued. The Final Determination represents the Governor's Office and State EO Officer's final action on the complaint. The Final Determination must:

- Be issued within the 90-day complaint resolution period;
- Give the investigating authority's decision on the issue and an explanation of the reasons underlying the decision; and
- Notice that the complainant has the right to file the complaint with the Director, Civil Rights Center.

**Corrective Actions**

If, during the course of investigating the complaint, discriminatory actions are discovered, corrective action will be taken immediately, regardless of whether the complaint is resolved at the state level or is filed with USDOL CRC. This process of corrective actions and sanctions is described in Element Nine of the State of Oregon MOA.

**Record Maintenance**

SOWIB shall maintain records regarding complaints and actions taken for at least three years. Such records shall be maintained in a secure area and made available only to those with authorization. The complaint and any information gathered during the investigation may not be discussed or revealed to anyone not legitimately entitled to access (29 CFR 37.41). Investigators from the USDOL CRC will have access to any information collected by each recipient as outlined in 29 CFR 37.40.

**ACTION**

SOWIB and its sub-recipients/contractors will take the necessary action to support and assure adherence to this policy. This policy will remain in effect from the date of issue until such time that a revision is required.