

3. Policy

Grant recipients of public funds from DETS must establish procedures to administer complaints in accordance with Federal and State laws and regulations.

A grant recipient/program provider must provide initial and continued notice that it does not discriminate on any prohibited ground. A copy of the “Notice of Rights to File a Complaint” is provided to each participant and made a part of each participant’s file. If a complaint is filed, a copy of this Equal Opportunity (EO) Discrimination Complaint Processing Policy and Procedures is to be provided to the complainant.

Grant recipients must inform registrants and other interested parties of the equal opportunity complaint policy, as well as the process for reporting criminal activity. Any provisions contained in the DETS programs or other laws and regulations shall apply, even if they are not explicitly stated in this policy. Nothing in this policy shall be construed to contradict prevailing laws and requirements for complaints or equal opportunity matters.

Filing a Complaint

It is recommended, but not required, that the complaint be filed on the [USDOL/CRC Complaint Information Form](#) and [Privacy Act Consent Form](#).

The filing period may be extended for good cause in some limited circumstances. However, only the Director of CRC may extend the filing time.

The complaint document must contain the following information:

- a) Complainant’s name and address, or other means by which the complainant may be contacted;
- b) Identification of individual(s) or organization(s) responsible for the alleged discrimination; and
- c) A description of the complainant’s allegations, which must include enough details to determine:
 - i) recipient’s jurisdiction of the complaint;
 - ii) if the complaint was filed timely;
 - iii) specific prohibited bases of the alleged discrimination (i.e., race, sex, etc.);
 - iv) apparent merit of the complaint;
 - v) complainant’s signature or the signature of his/her authorized representative.

No individual, organization or agency may discharge or retaliate in any manner against any person because that person has filed a complaint, instituted any proceeding related to the Act, testified, or is about to testify, in any proceeding or investigation, or has provided information or assisted in an investigation.

Receipt of Complaint

DETS staff will immediately accept the complaint and forward the complaint to the Equal Opportunity (EO) Officer. The EO Officer is responsible for providing intake services for discrimination complaints and for resolving jurisdictional issues, if any.

If the EO Officer determines s/he does not have jurisdiction over the complaint, the complainant will be notified in writing, including reasons for the determination. This Notice of Lack of Jurisdiction will advise the complainant that s/he has a right to file with the Director of CRC within thirty (30) calendar days of the date of the Notice.

If the EO Officer determines that another entity has jurisdiction, s/he will promptly refer the complaint to that entity and also promptly notify the complainant of the referral.

Initial Letter/Contents and Timeframes for Processing a Complaint

Within ten (10) working days of receipt of the complaint, the EO Officer shall issue an initial written notice to the complainant.

Immediately after issuance of the initial written notice to the complainant, the EO Officer shall either begin the fact-finding or investigation of the complaint, or arrange to have an investigation conducted.

- a) If the complainant or designated representative has not responded to the invitation within ten (10) calendar days, the complainant will be considered to have waived the right to mediation.
- b) If the complainant refuses to participate in mediation, and/or mediation is unsuccessful, the EO Officer will continue with the investigation.
- c) The EO Officer will issue a Notice of Final Action to the complainant by the end of ninety (90) calendar days from the date on which the complaint was filed. If the EO Officer fails to issue a Notice of Final Action, the complainant may file a complaint with the Director of CRC. This must take place within thirty (30) calendar days of the expiration of the ninety (90) calendar-day period.

The Director of CRS may extend the time limits for good cause shown if:

- a) The complaint has not been filed within 180 calendar days of the alleged discrimination;
- b) A complaint has not been filed with CRC within 30 days of receipt of the recipient's determination; or
- c) The complainant has failed to file a complaint with CRC within 30 calendar days after the expiration of the 90 calendar-day period provided to the EO Officer for a response.

Alternative Dispute Resolution (ADR)/Mediation Process

During the ninety (90) calendar-day period, complainants may elect to participate in mediation. The EO Officer will process the request and then immediately forward it to the State EO Officer.

If the parties do not reach resolution under mediation, the complainant will be advised of his/her right to file a complaint with the CRC/USDOL; however, the EO Officer/State EO Officer will continue with the investigation.

If at all possible, the mediation process should be completed within thirty (30) calendar days of receipt of the complaint. This will assist in keeping within the ninety (90) calendar-day timeframe of the written Notice of Final Action if the mediation is not successful.

a) Notice of Final Action

A written Notice of Final Action will be provided to the complainant within ninety (90) calendar days of the date the complaint was filed.

b) Corrective Action

If discrimination is found through the process of a complaint investigation, the respondent shall be requested to voluntarily comply with corrective action(s) or conciliation agreement to correct the discrimination.

c) Confidentiality

Program providers and staff must protect the confidentiality of complainants to the maximum extent possible, consistent with applicable law and fair determination of the complaint. When consent has been provided for the release of the complainant's identity, program providers must ensure that such disclosure is made under conditions that promote the continued receipt of confidential information:

- i) The fact that the complaint has been filed;
- ii) The identity of the complainant(s);
- iii) The identity of individual respondents to the allegations; and
- iv) The identity of any person(s) who furnished information relative to, or assisting in, a complaint investigation.

Distinguishing Between Program and Discrimination Complaints

A complaint cannot be processed as both a program complaint and discrimination complaint.

Discrimination complaints concern whether program staff made decisions on a *prohibitive basis*. A discrimination complaint includes as a reason for mistreatment one of the prohibited factors; race, color, national origin, sex, religion, age, disability, political affiliation or belief or, for participants in a public funded program.

Program complaints pertain to whether program staff applied the law, regulations, and professional protocol appropriately while making program decisions

4. Responsibilities

Participants under partner programs may file a complaint with DETS if they are affected by DETS funded programs. Appeal processes available in partners' programs are those available under the law authorizing that program and must be followed if filing a complaint with the partner program. A person (or entity) that believes a DETS partner may have violated the DETS program may use the complaint process available under the DETS program.

Accommodation must be made for individuals with limited English-speaking, writing, or reading ability, hearing impairment, or other disability, which restricts the normal processing of an alleged discrimination complaint.

Record Keeping - Grant recipients/program providers must maintain a log of complaints filed that allege discrimination based on race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a financially assisted program or activity. The log must include:

- a) the name and address of the complainant; basis of complaint;
- b) description of complaint; date filed; disposition and date; and
- c) any other pertinent information.

All records regarding complaints and actions taken on complaints must be maintained for a period of not less than three (3) years from the final date of resolution of the complaint.

Monitoring - The State EO Officer will review complaint data on a routine basis and during monitoring visits. Should deficiencies be noted in the implementation of these complaint procedures by any program provider, the State EO Officer will work in conjunction with the EO Officer to review the information and/or provide technical assistance in the complaint process, alternative dispute resolution, and/or investigation. Complaint data will be available for review by CRC/USDOL upon request.

The complainant has the right to withdraw the complaint, in writing, at any time.

5. Definitions

- a) **Alternative Dispute Resolution (ADR) Mediation Process** is a form of alternative dispute resolution (ADR) attempted in a conference between the parties to the complaint (Complainant and Respondent) that is facilitated by a disinterested third party. Both parties must agree to participate; it is on a voluntary basis. The intended outcome is an agreement between the parties that resolves the issues raised in the complaint. The agreement will be reduced to writing, signed by all parties, and thereby becomes an enforceable contract designed to resolve identified issues and preserve the rights of a complainant.

- b) **Civil Rights Center (CRC)** is the federal enforcement agency with the United States Department of Labor (USDOL) located in Washington D.C., with jurisdiction over discrimination complaints alleging violations of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Workforce Innovation and Opportunity Act of 2004.
- c) **Equal Opportunity (EO) Officer** is the Division's and/or Department's designated staff person responsible for the administration of the sub-recipients' or service providers' discrimination complaint processing as outlined in the policy or procedure.
- d) **Recipient/Program Provider** means any entity or participants that receive Alaska Department of Labor funds.
- e) **State Equal Opportunity (EO) Officer** is the State EO Officer is the individual designated at the state level with the oversight responsibility for coordinating, implementing, maintaining and monitoring the nondiscrimination and equal opportunity requirements.