



November 2, 2022

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TO: Program Managers, SETA Funded Workforce Innovation and Opportunity Act (WIOA) Service Providers, Site Supervisors, Sacramento Works America’s Job Center (SWAJCC) Staff

FROM: Denise T. Lee, Interim Executive Director

SUBJECT: Nondiscrimination and Equal Opportunity Procedures - WIOA Directive #WDD22-1

Purpose

The purpose of this directive is to provide guidance on Nondiscrimination and Equal Opportunity procedures for the Sacramento Works America’s Job Centers of California (SWAJCC), including SETA and WIOA-funded partner staff, for customers served under Workforce Innovation and Opportunity Act (WIOA) and Wagner-Peyser (W-P) funded activities and programs. This guidance also contains the standard discrimination complaint form that is to be used when processing a discrimination complaint.

This policy supersedes Workforce Development Department Directive Nondiscrimination and Equal Opportunity Procedures (WDD21-1), dated November 15, 2021.

Effective Date

This directive is effective on the date of issuance.

REFERENCES

- *Civil Rights Act of 1964* (Public Law 88-352) Titles VI and VII
- *Education Amendments of 1972* (Public Law 92-318) Title IX
- *Rehabilitation Act of 1973* (Rehab Act) (Public Law 93-112) Title V, Section 504
- *Age Discrimination Act of 1975* (Public Law 94-135)
- *Americans with Disabilities Act of 1990* (ADA) (Public Law 101-336)
- *Workforce Innovation and Opportunity Act* (WIOA) (Public Law 113-128) Sections 121(b), 183(c), and 188
- Title 20 *Code of Federal Regulations* (CFR) Section 658.400
- Title 28 CFR Part 35, Subpart A

“Preparing People for Success: in School, in Work, in Life”

- Title 29 CFR Parts 31, 32, 34, 38, and 1690-1691
 - Title 41 CFR Part 101-19, Subpart 101-19.6
 - Title 45 CFR Part 90, Subpart D, Section 90.43(c)(3)
 - Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (LEP)
 - *Fair Employment and Housing Act*, Government Code, Section 12900 - 12996
 - *Dymally-Alatorre Bilingual Services Act* (DABSA), Government Code, Section 7290-7299.8
- *State of California Employment Development Department (EDD) Workforce Services Directive WSD17-01, *Nondiscrimination and Equal Opportunity Procedures* (August 1, 2017)

POLICY AND PROCEDURES

This SETA WIOA Directive has been developed to ensure that SWAJCC system staff, including SETA and WIOA-funded partner staff, are meeting all notice and communication requirements in regards to nondiscrimination and equal opportunity.

Initial and continuing notice of nondiscriminatory practices must be provided to all SWAJCC customers. **Attachment A** of this directive contains the required language that must be contained within the notice/poster relating to *Equal Opportunity is the Law* along with the language highlighting the right to file a complaint under *What to Do if You Believe You Have Experienced Discrimination* that must be provided. This notice/poster must be:

- Posted prominently, in reasonable numbers and places, in available and conspicuous physical locations, as well as SETA and WIOA-funded partner websites
- Disseminated through internal memoranda and other written or electronic communications
- Included in employee handbooks or manuals regardless of form, including electronic and paper form, if both are available
- Made available to each participant
- Posted at heights that can be read easily by all customers, including wheelchair bound customers
- Posted in both English & Spanish languages
- Read to customers who are visually impaired.

The initial notice of nondiscrimination practices to customers is documented through the collection of the SWAJCC Authorization for Release of Confidential Information form (**Attachment B**), signed and dated by SWAJCC customers acknowledging receipt of the notice, as well as the Code of Conduct form, and WIOA Complaint-Grievance Procedures (**Attachment C**).

The signed Authorization for Release of Confidential Information form must be scanned into CalJOBS, the State of California's participant data tracking and case management system, and the original must be returned to the customer. Where the notice has been given in an alternate format to a customer with a visual impairment, a record that such notice has been given must be made part of the customer's file/record.

Customers believing that they or any specific class of individuals have been or are being subjected to discrimination that is prohibited by the nondiscrimination and equal opportunity provisions of

WIOA, may file a written complaint by using the Discrimination Complaint Form (**Attachment D**). It should be noted that a representative may file a complaint on behalf of an individual who believes that he or she has been subject to discrimination.

ACTIONS

Bring this directive to all relevant parties.

INQUIRIES

For questions on this policy directive, please contact Michelle O’Camb at Michelle.Ocamb@seta.net.

Attachments indicated below support this policy directive and SETA’s Nondiscrimination and Equality Opportunity procedures. All attachments have been made available on SETA’s website at www.SETA.net, or may be accessed by clicking the link below:

- ATTACHMENT A - “Equal Opportunity is the Law” and “What to Do…” Notices
- ATTACHMENT B - Authorization for Release of Confidential Information Form
- ATTACHMENT C - WIOA Complaint/Grievance Procedures
- ATTACHMENT D - Discrimination Complaint Form

EQUAL OPPORTUNITY IS THE LAW

It is against the law for this recipient of federal financial assistance to discriminate on the following basis: against any individual in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas: deciding who will be admitted, or have access, to any WIOA Title I-financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or, making employment decisions in the administration of, or in connection with, such a program or activity.

Recipients of federal financial assistance must take reasonable steps to ensure that communications with individuals are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

WHAT TO DO IF YOU BELIEVE YOU HAVE EXPERIENCED DISCRIMINATION

If you think that you have been subjected to discrimination under a Workforce Innovation and Opportunity Act (WIOA) Title I financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either:

D'et Saurbourne, SETA, 925 Del Paso Blvd., Suite 100, Sacramento, CA 95815
(*SETA's designated Equal Opportunity Officer*)

OR

Director, Civil Rights Center (CRC), U.S. Department of Labor
200 Constitution Avenue NW, Room N-4123, Washington, DC 20210,
or electronically as directed on the CRC website at www.dol.gov/crc.

If you file your complaint with the recipient, you must wait either until the recipient issues a written *Notice of Final Action*, or until 90 days have passed (whichever is sooner), before filing with the CRC (see address above).

If the recipient does not give you a written *Notice of Final Action* within 90 days of the day on which you filed your complaint, you may file a complaint with CRC before receiving that notice. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).

If the recipient does give you a written *Notice of Final Action* on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with the CRC. You must file your CRC complaint within 30 days of the date on which you received the *Notice of Final Action*.

La Igualdad De Oportunidades Es La Ley

Es contra la ley que este beneficiario de asistencia financiera federal discrimine de la siguiente manera: contra cualquier individuo en los Estados Unidos, sobre la base de raza, color, religión, sexo (incluyendo embarazo, parto y afecciones médicas relacionadas, estereotipos sexuales, estatus de transexuales e identidad de género), origen nacional (incluyendo la competencia limitada en inglés), edad, incapacidad, o afiliación o creencia política o contra cualquier beneficiario de, solicitante o participante en programas con asistencia financiera bajo el Título 1 del Workforce Innovation and Opportunity Act (WIOA), sobre la base del estatus de ciudadanía del individuo o la participación en cualquier programa o actividad con asistencia financiera del Título de WIOA.

El destinatario no debe discriminar en ninguna de las siguientes áreas: decidir quién será admitido, o tendrá acceso, a cualquier programa o actividad con asistencia financiera del Título 1 de WIOA; proporcionar oportunidades o el tratar a cualquier persona con respeto a dicho programa o actividad; o, tomar decisiones de empleo en la administración de, o en relación con, tal programa o actividad.

Los destinatarios de la asistencia financiera federal deben tomar medidas razonables para garantizar que las comunicaciones con las personas sean tan efectivas como las comunicaciones con los demás. Esto significa que, previa solicitud y sin costo para el individuo, se requiere que los destinatarios proporcionen ayuda y servicios auxiliares adecuados a personas calificadas con discapacidades.

Qué Hacer Si Usted Cree Que Ha Experimentado Discriminación

Si usted piensa que ha sido sometido a discriminación bajo una ley de Workforce Innovation and Opportunity Act I (WIOA) Título I programa o actividad asistida financieramente, usted puede presentar una queja dentro de 180 días a partir de la fecha de la presunta violación con cualquier:

(o la persona a la que el destinatario ha designado para este propósito);

D'et Saurbourne, SETA, 925 Del Paso Bulevar, Suite 100, Sacramento, CA 95815
(*SETA's funcionario de Igualdad de Oportunidades del destinatario*)

O

Director, Civil Rights Center (CRC/Centro de Derechos Civiles), U.S. Department of Labor (Departamento de Trabajo de Estados Unidos)

200 Constitution Avenue NW, Room N-4123, Washington, DC 20210, o electrónicamente como se indica en el sitio web de CRC en <https://www.dol.gov/crc>

Si presenta su queja con el destinatario, debe esperar hasta que el destinatario emita una Notificación por escrito de la Acción Final. o hasta que hayan pasado 90 días (lo que ocurra primero), antes de presentar su queja con el CRC (véase la dirección anterior).

Si el destinatario no le da una Notificación por escrito de la Acción Final dentro de los 90 días del día en que usted presento su queja, usted puede presentar una queja ante el CRC antes de recibir ese aviso. Sin embargo, usted debe presentar su queja de CRC dentro de 30 días de la fecha límite de 90 días (en otras palabras, dentro de los 120 días después del día en que usted presento su queja con el destinatario).

Si el destinatario le da una Notificación por escrito de la Acción Final sobre su queja, pero usted no está satisfecho con la decisión o resolución, usted puede presentar una queja ante el CRC. Usted debe presentar su queja de CRC dentro de 30 días de la fecha en que recibió Notificación de le Acción Final.

Sacramento Works Job Center
AUTHORIZATION FOR RELEASE OF CONFIDENTIAL INFORMATION

The Sacramento Works Job Centers are part of an employment and training system that involves the following agencies:

1. Sacramento Employment and Training Agency (SETA)
2. State of California Department of Rehabilitation
3. State of California Employment Development Department
4. Sacramento County Department of Human Assistance and Department of Health & Human Services
5. Probation Department
6. Senior Community Service Program
7. Social Community Service Program
8. Child Care Program (Head Start & Child Action)
9. Local community-based organizations
10. California Youth Authority
11. Local Educational Agencies/School Districts
12. Colleges of the Los Rios Community College District
13. Other _____

I hereby authorize co-located staff of the Sacramento Works Job Center to discuss and/or release information between any of the above agencies, or to a designated representative thereof, about my eligibility, assessment, counseling, attendance, progress and termination. Additional information regarding my job search training and employability status may also be released.

By signing below, I acknowledge that I have also received copies of: 1) Code of Conduct; 2) Grievance, Non-discrimination and Equal Opportunity complaint Procedures; and 3) Release of Confidential Information.

Please Print Name:

Signature:

Date:

WIOA COMPLAINT/GRIEVANCE PROCEDURES**A. COMPLAINTS OF VIOLATION(S) OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT**

If you are a participant or other interested party affected by the America's Job Center of California System operated by the Sacramento Employment and Training Agency ("SETA"), including a one-stop partner or service provider, and you believe that a violation of the requirements of the Workforce Innovation and Opportunity Act ("WIOA") has occurred, you may file a grievance or complaint with SETA as provided in 20 CFR 683.600, *et seq.* Such grievance or complaint must be filed with SETA within one (1) year of the alleged violation. Participants have the right to receive technical assistance. Such technical assistance includes providing instructions on how to file a grievance or complaint, providing relevant copies of documents such as the WIOA regulations, local policies, contracts, etc., and providing clarifications and interpretations or relevant provisions.

The grievance or complaint must be in writing, signed and dated by the grievant/complainant and shall contain the following information:

1. The full name, telephone number (if any) and mailing address of the grievant/complainant.
2. The full name, telephone number (if any) and mailing address of the respondent (the person or entity against whom the grievance/complaint is made).
3. A statement of the basis for the complaint, including the requirement of the WIOA that the grievant/complainant alleges has been violated.
4. A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.
5. The remedy being sought, which must be consistent with the requirement violated and the facts presented, and may only be one or more of the following remedies:
 - a. A suspension or termination of payments under the WIOA;
 - b. A prohibition of placement of a participant with an employer that has violated any requirement of the WIOA;
 - c. Reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and
 - d. Other appropriate forms of equitable relief.

Upon receipt of any such complaint or grievance, SETA will process the matter consistent with SETA's Complaint Resolution Procedure and will provide for an informal resolution or hearing of the matter within sixty (60) days of the filing of the grievance or complaint. Any grievance or complaint that alleges a labor standards violation may be submitted to binding arbitration between the parties, if a collective bargaining agreement covering the parties to the grievance or complaint so provides.

Any grievance or complaint may be appealed to the State of California, Employment Development Department (or other designated state department) if: (a) no decision is reached within sixty (60) days; or (b) either party is dissatisfied with SETA's determination.

Appeal of Local Level Decisions or Requests for EDD Review

If the Local Area has issued an adverse decision or failed to follow the procedures in this Directive, the complainant may file an appeal with the state. Additionally, if the Local Area has not issued a decision within the 60-day time limit, or if there has been any incident(s) of restraint, coercion, or reprisal at the local level as a result of filing a grievance or complaint, the complainant may file a request for EDD review.

The appeal or request for EDD review must be in writing, signed, and dated by the complainant. The state will attempt to obtain the following information. However, the absence of any of the requested information will not be used as a basis for dismissing the appeal or request for EDD review.

- The full name, telephone number, and mailing address of the complainant and the Local Area's administrative entity.
- A statement of the basis of the appeal or request for EDD review.
- Copies of relevant documents, such as the complaint filed with the Local Area and their decision, if any was received.

Appeals must be filed or postmarked within 10 days from the date on which the complainant received an adverse decision from the Local Area. Requests for EDD review must be filed or postmarked within 15 days from either of the following:

- The date on which a complainant should have received a decision regarding a locally filed complainant, which is defined as five days from the date the decision was due.
- The date on which an instance of restraint, coercion, or reprisal was alleged to have occurred as a result of filing the complaint.

Complainants must submit appeals or requests for EDD review to the following address:

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

B. COMPLAINTS OF DISCRIMINATION

If you believe that you have been discriminated against, you may file a complaint with SETA, consistent with 29 CFR Part 38 and Part 32, Subparts B and C and Appendix A. Complaints alleging discrimination should be filed within one hundred eighty (180) days of the alleged act of discrimination and should be filed with either SETA's Affirmative Action/Equal Employment Opportunity Officer (or his/her designee) or directly with the Director, Civil Rights Center, U. S. Department of Labor.

Director
 Civil Rights Center ("CRC")
 U.S. Department of Labor
 200 Constitution Avenue, N.W.
 Room N-4123
 Washington, D.C. 20210

D'et Saurbourne
 Deputy Director-Administrative Services
 Sacramento Employment & Training Agency
 925 Del Paso Blvd.
 Sacramento, CA 95815-3512
 Phone: (916) 263-3811

If you elect to file your complaint with SETA, you must wait either until SETA issues a written Notice of Final Action or until ninety (90) days have passed (whichever is sooner), before filing with the CRC (see address above). If SETA has not provided you with a written Notice of Final Action within ninety (90) days of the day on which you filed your complaint, you need not wait for such a Notice to be issued, but may file a complaint with the CRC within thirty (30) days of the expiration of the ninety (90) day period (in other words, within one hundred twenty (120) days after the day on which you filed your complaint with SETA). If you are dissatisfied with SETA's resolution of your complaint, you may file with CRC. Such a complaint must be filed within thirty (30) days of the date you received SETA's Notice of Final Action. A form for filing discrimination complaints with CRC is available from SETA's AA/EEO Officer. Complaints containing a variety of allegations, some of which address discrimination and others which do not, shall be bifurcated (divided into two separate parts) with the discrimination allegations forwarded to CRC and the remaining allegations to be heard by SETA.

C. ALTERNATIVE DISPUTE RESOLUTION (ADR)

As a complainant, you will be offered ADR immediately upon receipt of your complaint. The choice whether to use ADR rests with you.

If ADR is chosen, mediation will be provided. Mediation is a voluntary process during which a neutral third party will assist you and SETA to communicate concerns, and to come to an agreement about how to resolve the dispute. The mediator will not make a decision, rule as to who is right or wrong, nor will take sides or advocate for one side or the other. The role of the mediator will be to help with communication so you and SETA can reach an understanding about how to best resolve your differences.

Mediation proceedings and the information shared will be confidential and no information divulged during mediation may be used in court or any legal or administrative proceedings.

If you and SETA do not reach an agreement under ADR, you may file a complaint directly with the Civil Rights Center (CRC), as described in 29 CFR Sections 38.69 through 38.72. Either party to the agreement reached under ADR may file a complaint with the CRC in the event the agreement is breached. In such a circumstance, the following rules will apply:

- The non-breaching party may file a complaint with the CRC within thirty (30) days of the date on which the non-breaching party learns of the alleged breach.
- The CRC must evaluate the circumstances to determine whether the agreement has been breached. If the CRC determines that the agreement has been breached, you may file a complaint with the CRC based upon your original allegation(s), and the CRC will waive the time deadline for filing your complaint.

If you elect not to participate in the ADR process, SETA shall investigate the circumstances underlying the alleged complaint.



**DISCRIMINATION COMPLAINT FORM
SACRAMENTO WORKS AMERICA'S JOB CENTERS OF CALIFORNIA**

This form should be used by anyone in the workforce development community system who wishes to file a discrimination complaint against any person(s)/entity. To file a discrimination complaint, complete this form, sign on page 4 and return to the One-Stop Career Center (currently branded as America's Job Center of CaliforniaSM) Equal Opportunity Officer or Employment Development Department Field Office complaint representative.

1. Complainant Information

Miss Ms. Mrs. Mr. Other Home Phone: () -
Work Phone: () -
Name: _____ Cell: () -
Street Address: _____
City: _____ Email: _____
State: _____ Zip Code: _____

2. Complainant Contact Information

When is it a convenient time during business hours (8 a.m. to 5 p.m.) to contact you by phone about this complaint?

Day	Monday	Tuesday	Wednesday	Thursday	Friday
Time					
Phone					

3. Contact Information for the Person(s) Who You Claim Discriminated Against You

Provide the name of the entity where person(s) work(s):

Name of person(s) who discriminated against you:

Address of person(s)/entity:

City: _____ State: _____ ZIP Code: _____

Phone: () -

Date of first occurrence:

Date of most recent occurrence:

4. Tell Us About the Incident(s)

- Explain briefly what happened and how you were discriminated against.
- Provide the date(s) when the incident(s) occurred.
- Indicate who discriminated against you. Include names and titles if possible.
- If other people were treated differently than you, tell us how they were treated differently.
- Attach any documents that you think might help us better understand your complaint.

5. Please List Below Any Person(s) (Witnesses) That We May Contact for Additional Information to Support or Clarify the Complaint.

Name	Address	Phone

6. Basis for the Discrimination

Check the type of discrimination you experienced, such as age, race, color, national origin, disability, etc. If you believe more than one basis was involved, you may check more than one box.

- | | |
|---|---|
| <input type="checkbox"/> Age - provide date of birth:
<input type="checkbox"/> Color
<input type="checkbox"/> National Origin (Including limited English proficiency)
<input type="checkbox"/> Retaliation
<input type="checkbox"/> Gender - Specify <input type="checkbox"/> F <input type="checkbox"/> M
<input type="checkbox"/> Race - indicate race:
<input type="checkbox"/> Political Affiliation or Belief | <input type="checkbox"/> Citizenship
<input type="checkbox"/> Disability
<input type="checkbox"/> Religion
<input type="checkbox"/> Harassment
<input type="checkbox"/> Sex (including including pregnancy, childbirth, or related medical conditions, gender identity, and transgender status)
<input type="checkbox"/> Status as a program participant under the <i>Workforce Innovation Opportunity Act</i>
<input type="checkbox"/> Other (Specify): |
|---|---|

7. Have You Previously Filed a Complaint Against this Person(s)/Entity? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If YES, answer the questions below, if NO move to section 8.	
a.	Was your complaint in writing? <input type="checkbox"/> Yes <input type="checkbox"/> No
b.	On what date did you file the complaint?
c.	Name of office where you filed your complaint: Address: _____
	City: _____ State: _____ ZIP Code: _____
	Phone number: () -
	Contact person (<i>if known</i>): _____
d.	Have you been provided a final decision or report? <input type="checkbox"/> Yes <input type="checkbox"/> No
If you marked "YES", please attach a copy of the complaint.	

8. What Corrective Action or Remedy Do You Seek? Please Explain.

9. Choosing a Personal Representative	
<ul style="list-style-type: none"> ▪ You may choose to have someone else represent you in dealing with this complaint. It may be a relative, friend, union representative, an attorney, or someone else. ▪ If you choose to appoint someone to represent you, all of our communication to you will be routed through your representative. 	
Do you want to authorize a personal representative to handle this complaint?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If YES, complete the section below. If NO, go to Section 10.	
AUTHORIZATION OF PERSONAL REPRESENTATIVE	
I wish to authorize the individual identified below to act on my behalf as my personal representative, in matters such as mediation, settlement conferences, or investigations regarding this complaint.	
Name: _____	
<input type="checkbox"/> I am an attorney representing the complainant. <input type="checkbox"/> I am not an attorney representing the complainant.	
Mailing Address: _____	
City: _____	State: _____ Zip Code: _____
Phone : () -	Fax: () -
Email: _____	

10. Alternate Dispute Resolution (ADR) Also Known as Mediation

Notice—You must indicate if you wish to mediate your case. The Local Area Workforce Development Area cannot begin to process your complaint until you have made a selection. Please check **YES** or **NO** in the spaces below.

- Mediation is an alternative to having your complaint investigated.
- Neither party loses anything by mediating.
- The parties to the complaint review the facts, discuss opinions about the facts, and strive for an agreement that is satisfactory for both.
 - Agreement to mediate is not an admission of guilt by the person(s)/entity that you claim discriminated against you.
 - Mediation is conducted by a trained, qualified and impartial mediator.
 - You (or your Personal Representative) have control to negotiate a satisfactory agreement.
 - **Terms of the agreement are signed by the complainant and the person(s)/entity that you claim discriminated against you.**
 - **Agreements are legally binding on both parties.**
 - If an agreement is not reached, a formal investigation will start.
 - Failure to keep an agreement will result in a formal investigation.
 - A formal investigation will be opened if retaliation is reported.

- **Do you wish to mediate your complaint?**
(Please check only one box)

YES, I want to mediate. **NO**, please investigate.

If you select “YES” you will be contacted within five business days with more information.

11. Complainant Signature

Your signature on this form will initiate the processing of this complaint. By signing this form, you are declaring under penalty of perjury that the information included is true and correct to the best of your knowledge of belief.

Signature:

Date: