



OFFICE FOR CIVIL RIGHTS
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Discrimination Complaint Procedures

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INTRODUCTION

This document is designed to inform all interested parties about the procedures used by the Office for Civil Rights (OCR) to resolve complaints of discrimination. The OCR investigates alleged violations of the federal and state nondiscrimination laws that apply to the Department of Economic Opportunity, referred to herein as “the Department,” and to the entities that receive federal financial assistance from or through the Department.

The OCR investigates all legally sufficient complaints of discrimination filed with the Department that are within the Department’s scope of authority. Authority is limited to complaints of alleged discrimination which are:

- 1) filed by employees or applicants for employment with the Department, the one-stop career-center operators, or service providers in programs administered by the Department, or
- 2) filed by persons seeking or receiving services provided under federal or state programs administered by the Department.

The OCR does not have authority to accept and investigate complaints that do not meet the above criteria.

It is also important to note the following:

- Filing a complaint of discrimination with the OCR does not preclude the filing of the same or a similar complaint with another State, federal, or local agency having jurisdiction.
- Filing a complaint of discrimination with the OCR does not extend the deadline for filing the same complaint with another State, federal, or local agency having jurisdiction.

The complaint process that the OCR has established is designed to comply with the requirements of 29 CFR Part 37 (*Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998*). This process complies with the requirements for discrimination complaint processing under other federal and state law applicable to the Department and its programs. When the OCR conducts an investigation, it acts as a neutral, unbiased fact-finder and is not an advocate for either the complainant or the respondent.

The Department has taken several measures to ensure the neutrality and impartiality of the OCR while simultaneously providing necessary resources. A conflict of interest exists for the Equal Opportunity (EO) Officer when any responsibility, expectation or interest exists that could interfere with the EO Officer’s ability, motivation, or authority to perform his or her responsibilities under 29 CFR Part 37. In recognition of this, the Department provides administrative resources to the OCR through its Office of General Counsel while requiring the OCR to report directly to the Executive Director on Equal Opportunity matters. In addition, the OCR is physically separated from the Office of General Counsel to allow for private and confidential meetings with complainants.

PROHIBITED DISCRIMINATION

It is against the law for this recipient of federal financial assistance to discriminate on the following bases:

- Against any individual in the United States on the basis of race, color, religion, sex, national origin, age, disability, marital status, political affiliation or belief; and
- Against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his/her participation in any WIA 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 WIA 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.

HOW TO FILE A COMPLAINT¹

Who May File: A complaint may be filed by any person who believes he or she, or any specific class of individuals, has been or is being discriminated against by a policy, program, activity or employee of the Department or a recipient of federal financial assistance through the Department. This includes all applicants for employment with and employees of the Department who believe they have been discriminated against - either on the job or during the hiring, promotion, or discharge process. It also includes all customers, beneficiaries, or applicants for services who believe they have been denied services or treated differently than others in the receipt of services. A complaint may also be filed through a representative. (To obtain requirements and procedures for filing complaints with other state and federal agencies, refer to Table 1 for contact information.)

Where to File: Most individuals who wish to file a discrimination complaint about a program or activity offered through the One-Stop system have several options concerning where to file. The options that are available depend on:

- whether the alleged victim of discrimination is 1) an employee or applicant for employment or 2) a customer, and

¹ A complaint filed with the OCR is officially called a "charge of discrimination." Throughout these procedures, the terms "complaint" and "charge of discrimination" may be used interchangeably.

- the specific source of financial assistance for the program or office that allegedly discriminated.

Discrimination complaints filed under the provisions of the Workforce Investment Act of 1998 may be filed with the Department's OCR or the U.S. Department of Labor's Civil Rights Center. Either the OCR or the Civil Rights Center will answer any questions a potential complainant has about complaint filing and investigation. Contact information for the OCR, the Civil Rights Center, and the other state and federal agencies that will accept complaints under the laws applicable to the Department and its programs is provided in Table 1.

Note: The complaint must be filed with the appropriate state or federal agency if the complainant wishes to preserve his or her rights to seek any of the remedies provided under the Florida Civil Rights Act or federal equal employment opportunity laws.

Filing a Complaint with the OCR in the Department of Economic Opportunity

Those wishing to file a discrimination complaint with the OCR should do so using the Department's *Discrimination Complaint Information Form*, available on line at <http://www.floridajobs.org/civilrights/docs/Complaint%20form.docx> or by contacting the OCR by telephone, in writing, or electronic mail.

Complaints filed with the OCR that do not use the forms package (for example, a signed letter or faxed statement of allegations) will be accepted so long as the information provided substantially complies with the requirements of the Content of Complaint section below. However, persons filing a complaint with the OCR without using the forms package must subsequently submit such additional information as the OCR may request.

With the exception of sexual harassment allegations or situations posing an immediate, recognizable threat to the complainant's safety and well being, the OCR will not begin investigating the complaint until the mediation election form and the additional information are received.

When to File: A charge of discrimination filed with the OCR must be filed within 180 calendar days of the alleged act of discrimination. "Filing" means a written complaint must be received by the OCR before the expiration of the 180-day period for filing. Complaints received after the filing deadline will be returned to the complainant with a notice of options for filing with either a federal or state enforcement agency, unless the Civil Rights Center's director has extended the filing time, as described below.

A charge of discrimination filed with the Civil Rights Center must be filed and received by the Civil Rights Center within 180 calendar days of the act of alleged discrimination, unless the Civil Rights Center's director has extended the filing time.

The Civil Rights Center director may extend the deadline for filing a discrimination complaint if the complainant specifically asks the director for an extension and proves that s/he has good cause for the late filing. The OCR will accept a complaint filed after the deadline if the complaint is accompanied by a written extension from the Civil Rights Center's director.

Employees and applicants for employment should note that filing a charge of discrimination with state or federal enforcement agencies, namely the Florida Commission on Human Relations, the Civil Rights Center, or the United States Equal Employment Opportunity Commission (EEOC), is a prerequisite to challenging an employment decision in court. Filing with the OCR or another agency does not extend the deadline for filing a complaint with the Florida Commission or the EEOC.

Content of the Complaint: A complaint filed with the OCR or the Civil Rights Center must be in writing and include the following:

- 1) The complainant's name and address (or other means of contacting the complainant);
- 2) The identity of the respondent (the recipient and/or individual allegedly responsible for the discrimination);
- 3) A description of the complainant's allegations. The description must include enough detail to allow the OCR or the Civil Rights Center to decide whether:
 - a) the OCR or the Civil Rights Center has jurisdiction over the complaint;
 - b) the complaint was filed in time; and,
 - c) the complaint states a case of discrimination, i.e., that the allegations, if true, would violate a federal or state nondiscrimination law; and,
- 4) The signature of the complainant.

Complaints filed with the OCR must also include:

- 1) Indication whether or not there is a willingness to mediate; and
- 2) A completed consent form regarding the release of personal information.

If the complainant has a personal representative in this complaint, his or her name, contact information and signature are also required, whether the complaint is filed with the OCR or the Civil Rights Center.

Incomplete Complaint: If a complaint filed with the OCR does not contain enough information to permit the OCR to determine that it has jurisdiction, the OCR will request that the complainant provide the needed information. Within seven days of receiving the forms package from the complainant, the OCR will notify the complainant, in writing, of any deficiencies. Where the complainant is unreachable or does not provide the needed information within the time specified in the request, the OCR may close the complainant's file without prejudice. ("Without prejudice" means that the complainant can resubmit the complaint, so long as it is filed by the deadline.) If the OCR closes the complainant's file for lack of required information or for lack of authority to investigate, the OCR will send written notice of the closure to the complainant's last known address. Should the complainant supply the missing information after the file is closed, the complaint can be reopened and investigated provided the deadline for filing, discussed above under "When to File," has not passed, and jurisdiction can be established. The complaint will be logged as received on the date the file is reopened and the 90 calendar-day resolution period will commence with the later date.

Calculation of Time Periods: The date used by the OCR to determine whether a complaint has been timely filed is the date the OCR actually receives written notice of an allegation of discrimination. The written notice can be made by submitting an official OCR *Discrimination Complaint Information Form* or through other means, such as a letter or memorandum. Where a complaint is received in some form other than on the OCR or the United States Department of Labor's complaint form, the complainant must subsequently complete and submit the OCR *Discrimination Complaint Information Form* and the appropriate consent forms. Under these circumstances, an OCR form that would otherwise be untimely will relate back to the date the first letter or memorandum was received, so long as the complaint form states the same facts or additional facts related to or growing out of the subject matter of the first letter or memorandum.

The other time periods in these procedures will not commence until the OCR actually receives a completed forms package including: the complaint form, mediation election form and Privacy Act consent form. The time period for determining jurisdiction, initial notification letter, mediation, and the 90-day deadline for issuing a Report of Investigation will not commence until the complainant has submitted these forms in a manner that substantially complies with the Content of the Complaint section, above.

Where the last day of any time period in these procedures falls on a weekend or official state holiday, the next regularly scheduled workday will be the deadline for completing the action. Any time period in these rules which is less than ten days will be calculated excluding weekends or official state holidays.

For information about how the Civil Rights Center calculates applicable time periods, contact the Civil Rights Center directly. Contact information is provided in Table 1.

COMPLAINT PROCESSING PROCEDURES

Note: The procedures described in this section are used by the OCR. The procedures used by the Civil Rights Center for processing discrimination complaints are explained in the Workforce Investment Act nondiscrimination regulations, 29 CFR part 37, beginning at section 37.81. Other agencies have different complaint-processing procedures. Contact information is provided in Table 1.

I. Determining Jurisdiction

When the OCR receives a charge of discrimination, it is reviewed to determine whether the complaint contains the required information and whether the OCR has the legal authority to investigate. Authority will be determined within five business days after the OCR receives the charge of discrimination.

The OCR has authority only for complaints that meet all of the following requirements:

- 1) The complaint alleges a violation of a state or federal antidiscrimination law;
- 2) The complaint was received by the OCR by the deadline for filing, as discussed above under “When to File,” unless the deadline has been extended by the Civil Rights Center’s director or, for other federal agencies, the proper authority;
- 3) The recipient against which the complaint is filed is either the Department or an entity that receives federal financial assistance through the Department.

Notice of Lack of Jurisdiction: Where the OCR determines it does not have jurisdiction over a complaint, the OCR will, within 10 business days after receiving the complaint, notify the complainant in writing that the OCR will not accept the complaint. The notice will give a statement of the reasons underlying that determination and also inform the complainant of his or her options for filing a complaint with agencies other than the OCR. For complaints involving entities that receive financial assistance through the Department from the United States Department of Labor, the complainant will be notified that he or she has the option of filing the complaint with the Civil Rights Center within 30 days after receipt of the notice of lack of jurisdiction from the OCR.

Deferral: Even if the OCR has jurisdiction and the complaint is filed within the allowable time period, the OCR may decline to process the complaint if the complainant has a similar case pending in another forum and the OCR has reasonable assurance that the complainant was aware of his or her right to file with the OCR at the time the complaint was filed in that forum. If the

complainant chooses to continue with the complaint filed in another forum, the OCR will close its case file and defer to the investigation by the other authority.

Where the OCR defers its investigation, the OCR will immediately notify the complainant in writing. This notification will advise the complainant that he or she may request that the OCR reopen its investigation after the complainant receives a determination in the case that is pending. The request to reopen the investigation must be received within 30 days of receipt of determination in the other case. The OCR may request and review the other case file as part of its investigation.

Where the respondent has been given notice of the complaint, the investigator will also notify the respondent in writing that the OCR case file has been closed for administrative reasons unrelated to the merit of the allegations made in the complaint.

When the complainant has a career-service grievance pending with the Department's Human Resource Management Office, the OCR will not accept a complaint on issues filed and investigated as a grievance. Under the Department's grievance procedures, claims of discrimination or sexual harassment are excluded from the career-service grievance process and must be filed with the OCR, not Human Resources.

Just because a person has filed a complaint or participated in an OCR investigation, a respondent is not prevented from taking standard personnel actions against that person. However, the respondent should act with caution and only where there is independent justification for the standard personnel action. The respondent should be prepared to show that an action would have been taken regardless of the existence of the complaint or investigation.

II. Issuing the Initial Notification Letter

Within five business days after it receives the complaint and determines it has jurisdiction to investigate, the OCR will provide written notice to the complainant.

Where the OCR decides to reject an issue, it will also give the reason or reasons for the rejection. The letter will again explain options available to the complainant for filing with other agencies.

If the complainant has requested mediation, the initial notification letter will explain that the complainant will be contacted regarding the date, time, and location of the mediation conference. The notice will also explain that any investigation will be suspended until the mediation process has been concluded.

If mediation is not requested, the respondent's notice will indicate that a complaint has been received, accepted for investigation by the OCR and will be processed as described in Section IV below.

III. Conducting Mediation (Alternative Dispute Resolution)

Mediation is offered as an alternate means of resolving the complaint that allows the parties to avoid the traditional investigative or litigation process. In mediation, a neutral third party, trained in dispute resolution, listens to both the complainant and respondent and encourages them to reach a voluntary, negotiated settlement of the charge of discrimination. Mediation gives the parties a chance to discuss the issues raised in the complaint, clear up misunderstandings, find areas of agreement, and incorporate those areas of agreement into solutions. Under regulations applicable to United States Department of Labor financially assisted programs, the decision to use mediation rests with the complainant.

The mediator will arrange for and send written confirmation of the mediation conference to the parties and their representatives, if any. The letter will include the date, time and location² of the mediation conference and a statement of the issues presented and the relief sought. Both the complainant and respondent may be represented by an attorney or another person of their choice at the mediation conference, or may appear on their own behalf with or without a personal representative or attorney present. However, both parties are required to have someone present at the mediation conference with the authority to resolve the dispute.

A mediator does not resolve the charge of discrimination or impose a decision on the parties; instead, the mediator helps the parties achieve a mutually acceptable resolution of the complaint. The mediation process is separate from the formal complaint investigation, and anything disclosed by the parties during mediation will not be revealed to the OCR by the mediator.

Where the complainant does not elect to mediate, an investigator will immediately begin fact finding as described in Section IV, below. Where the complainant elects to mediate, within five business days of receipt of the complainant's election to mediate, the OCR will prepare a memorandum to the respondent informing the respondent that a complaint has been received and requesting the respondent to contact the OCR within five business days about mediation arrangements. The mediation conference will be held within 15 business days following the response to the OCR. Where the respondent is located in Tallahassee, the memorandum and a copy of the complaint will be delivered to the respondent's chief administrative officer, with a copy to the equal opportunity representative, by close of business of the following day. Where the respondent is located outside Tallahassee, the memorandum and a copy of the complaint will be sent by overnight mail.

While the OCR or mediator will attempt to schedule the mediation conference at a time convenient to all parties, the OCR retains the final authority to set the date and time of the mediation conference, and the parties may have to adjust their schedules in order to participate.

If the parties are able to resolve the dispute at the mediation conference, a written settlement agreement will be prepared and signed by all parties prior to the adjournment of the conference. The agreement will have the force of a binding contract. A copy of the agreement will be given to all parties.

² The mediation may also be held via a conference call with some or all parties to the mediation.

If the parties are unable to resolve the complaint at the mediation conference, neither party suffers any negative effect whatsoever. The mediator will immediately notify the OCR that mediation did not resolve the dispute, and the standard formal investigation of the charge of discrimination may begin. The OCR will contact the complainant to ascertain whether or not the complainant wishes to continue with a formal investigation or withdraw the complaint.

Breach of the Mediation Agreement: In the event a mediation agreement is subsequently breached, the non-breaching party should notify the OCR. If the mediation was conducted by another entity, such as the Florida Commission on Human Relations, the U.S. Equal Employment Opportunity Commission, or the Civil Rights Center, that entity should be notified.

United States Department of Labor regulations provide that the non-breaching party may file a complaint directly with the Civil Rights Center's director within 30 calendar days of the date when the non-breaching party learns of the alleged breach. If the director determines that the agreement has been breached, the complainant may file a complaint with the Civil Rights Center based upon the original allegations, even if more than 180 days have elapsed since the alleged discrimination. The Civil Rights Center will process the complaint based upon the original allegations.

IV. Fact Finding and Investigation

Written Requests for Information and Documents; Telephone Interviews: Once the OCR learns mediation either will not be used or did not resolve the complaint, an investigator will be assigned to begin the fact-finding process. Within five business days the OCR will send the respondent an initial notification letter, as indicated above. The notice informs the respondent that the OCR will be investigating the complaint and that the respondent has the right to be represented by an attorney or other individual of its choice.

The letter also will contain a request for a position statement and, where deemed necessary, a request for documents and/or response to written questions designed to elicit information needed to resolve the complaint. The respondent will be advised it must reply to the letter within 14 calendar days of the date of the letter, and that any statements of witnesses should be made in the form of a sworn affidavit. The letter from the OCR will be addressed to the appropriate contact person in the Department, or the chief administrative officer of the recipient receiving federal financial assistance through the Department. The materials furnished by the respondent will be given to the investigator by the OCR.

The investigator may send the complainant a request for documents and/or written questions to elicit information concerning the issues raised in the complaint. The complainant must respond to the request for information within 14 calendar days of the date of the letter.

Additional requests for documents and/or written questions may be sent to the complainant and/or respondent as necessary during the investigation process. The investigator may also examine evidence from other sources, such as personnel records, grievances, inspector-general reports, and other agency or recipient records. The investigator may interview witnesses by telephone or in person where necessary. Where the information obtained using the above

methods is sufficient to determine whether or not there is reasonable cause to believe that the respondent has violated a nondiscrimination law, the fact-finding stage of the investigation may conclude without an on-site investigation.

On-Site Investigation: An on-site investigation may be necessary where the review of documents and information obtained through written requests or telephone interviews is not sufficient to enable the investigator to reach a conclusion whether or not discrimination occurred. Factors used to decide when an on-site investigation is necessary include: whether the issues are complicated; numerous witnesses must be interviewed or voluminous documentation reviewed; or several contemporaneous complaints against the same respondent have been received by the OCR.

The investigator will call the respondent to establish a date and time for the on-site investigation, identify records and other documents to be made available for review, and identify individuals to be interviewed. This call will be followed up with written confirmation of the date, time, and scope of the on-site investigation.

The local office or recipient should assign responsibility to a staff person for preparing for and coordinating the on-site visit. Where appropriate, this individual should be the equal opportunity representative for the recipient. The investigator may first meet with the complainant to review the complaint and to obtain any additional information not contained in the complaint or case file.

An opening conference with the respondent and its representatives should follow. The purpose of the opening conference is to:

- 1) describe the complaint being investigated, the specific issues under investigation and the OCR's authority to investigate;
- 2) confirm arrangements made by the respondent to assure privacy, including setting aside a private area for the investigator to conduct interviews and review documents; and,
- 3) schedule other meetings, such as a meeting for information collection and an exit conference.

The investigator will not discuss the merits of the complaint during the opening conference.

The investigator will interview the respondent's representatives and the persons named in the complaint. The investigator should strive to determine the respondent's account of the facts, additional people the respondent wants interviewed, the matters on which each witness is knowledgeable, and the documentation the respondent wishes reviewed.

The investigator may interview the witnesses named either by the complainant or the respondent, or determined independently by the investigator to have relevant information. As the investigation progresses, the investigator may identify additional individuals who should be interviewed and attempt to arrange a meeting. The investigator will also review records and other documents, beginning with those initially requested, and progressing to additional records identified during the on-site visit. When the records required are voluminous or complex, the

investigator may hold a meeting with the staff responsible for keeping records to ascertain the respondent's information system, explain the investigator's information needs, and make specific requests to the appropriate staff for copies of the information.

An exit conference with the respondent's representative or representatives may be held at the conclusion of the on-site portion of the investigation. The purpose of the exit conference is to clarify information obtained during the on-site portion, to request additional information, and/or to answer any questions about the investigative process. Since information gathered on-site usually needs to be reviewed and analyzed before a conclusion about discrimination can be reached, the investigator should remain neutral and express no opinion about information collected and state no conclusions about any issues, especially any feelings about whether or not discrimination has occurred. However, the investigator may entertain a resolution offer if either party should wish to present a conciliation agreement.

V. Reviewing and Analyzing the Evidence

Once the fact-finding stage of the investigation has been completed, the investigator will review and analyze the evidence and determine whether there is reasonable cause to believe the respondent violated a nondiscrimination law and, therefore, whether or not unlawful discrimination occurred.

Types of Evidence:

- **Direct Evidence** – An example might be the failure by the respondent to take appropriate corrective action where it knew or should have known of discriminatory practices or policies.
- **Comparative Evidence** - This may be evidence obtained through a comparison with similarly situated employees or program participants to ascertain differences in treatment.
- **Statistical Evidence** - Statistical analysis may indicate that a greater disparity exists than would be expected when comparing data for members of protected groups to data for employees or program participants not in said groups.

Conclusions regarding each allegation of discrimination must be supported by reliable and verifiable evidence, including any of the above types of evidence. Written documentation is the preferred type of evidence to substantiate or refute a complainant's allegation(s). In the absence of written documentation, however, the investigator can use witnesses' testimony as corroborating evidence. Use of direct, observable, or first-hand knowledge of one or more witnesses to substantiate a conclusion is permissible. Hearsay or second-hand knowledge is not considered to be supporting evidence.

Frequently in a complaint investigation there are allegations raised by a complainant that cannot be supported by written documentation or corroborated by witnesses' testimony. If the respondent denies the allegation(s), in the absence of supporting written documentation or witnesses' testimony, the investigator cannot draw a conclusion regarding the alleged discriminatory act: the evidence is inconclusive. It does not exonerate an alleged offender and it

does not suggest that the complainant filed false or frivolous allegations: no conclusion can be drawn.

Where the OCR requires additional resources in order to thoroughly and timely complete an investigation, the EO Officer may access the resources of the Office of General Counsel (OGC). This benefit is made possible through an arrangement whereby the OCR administratively falls under the OGC. Under the direction of the EO Officer, an attorney or administrative assistant within the OGC may assist in processing a discrimination complaint. When this occurs, the OGC attorney is permanently prevented from advising any person other than the EO Officer regarding the complaint, and from representing the Department in any future litigation arising from the complaint. Furthermore, the EO Officer maintains a direct reporting relationship to the Executive Director with respect to the complaint in order to ensure the greatest degree of independence. In all cases, the EO Officer makes independent determinations regarding complaint allegations.

VI. The Report of Investigation

The OCR issues a written determination, called a *Report of Investigation*, upon completion of any investigation. The final determination will be furnished to the respondent, and a copy will be given to the complainant. The Report must be issued to the complainant and respondent within 90 calendar days of the date on which the complaint is filed.

Contents of the Report: The Report of Investigation must discuss each of the issues raised in the complaint and, for each issue, state the investigator’s decision and provide an explanation of the reasons underlying the decision. Where an issue was resolved by the parties through mediation or by another means not requiring a final determination by the investigator, the Report will contain a statement describing the way the parties resolved the issue.

The letter to the complainant accompanying the Report of Investigation will contain a statement that the complainant has the right to file a complaint with the Civil Rights Center under Section 188 of the Workforce Investment Act. Where the Report of Investigation is issued by the OCR within the 90-day period after the complaint is received, the Report must state that if the complainant is dissatisfied with the OCR’s decision, the complainant or his or her representative may file a complaint with the director of the Civil Rights Center within 30 days of the date on which the Report of Investigation is received by the complainant.

Note: If the OCR does not expect to issue a Report of Investigation within the 90-day period allowed for conduct of the investigation after the filing of the complaint, the OCR will send the complainant a “90-day letter” at least 10 days prior to the expiration of the 90-day period. The 90-day letter will notify the complainant or his or her representative that a complaint of discrimination under Section 188 of the Workforce Investment Act may be filed with the director of the Civil Rights Center within 30 days of the expiration of the 90-day period—in other words, within 120 days of the date on which the complaint was filed with the OCR. The letter will also inform complainants who allege employment discrimination of their right to file with the U.S. Equal Employment Opportunity Commission and Florida Commission on Human Relations, as well as with the Civil Rights Center.

VII. A Cause Finding

Where the Report of Investigation contains a determination that there is cause to believe the respondent violated a federal or state antidiscrimination law, the Report of Investigation sent to the respondent may also contain a list of recommended corrective actions. Corrective actions must be designed to make the complainant whole, eliminate the discrimination and ensure that the discrimination does not recur. The OCR may recommend changes in policies and procedures, personnel changes, disciplinary action, additional record keeping, accommodations, training, changes to physical facilities, and monetary relief, where appropriate. The recommendations should be narrowly tailored to address and eliminate the discrimination found by the investigation.

Where the complaint involves the Department of Economic Opportunity as the respondent, the Report of Investigation containing the recommendations will be sent to the Department's Executive Director with copies to the responding office. Included will be a request that a reply be sent to the OCR within 30 days as to how the recommendations will be implemented. The respondent may offer alternatives to the recommended resolution.

When the complaint does not involve the Department as the respondent, the Report of Investigation containing the recommendations will be sent to the chief administrative officer of the respondent. Included will be a request that the respondent reply to the OCR within 30 days as to how the recommendations will be implemented.

In either case, the OCR will monitor the situation to ensure that the respondent makes the required reply and that the respondent follows through on implementation of the recommendations. Where the respondent fails to implement the recommendations and eliminate the discrimination, the respondent may face sanctions that may result, after opportunity for a hearing, in the suspension, termination, denial or discontinuance of federal financial assistance, and other sanctions as provided by law. The OCR will also be available to provide technical assistance to the respondent in changing policies and procedures, record keeping, accommodations, and training.

The OCR also may use the above procedure to make recommendations in cases where there is no determination that discrimination occurred but where the investigation has revealed circumstances that warrant a change in policies and procedures, personnel, disciplinary action, record keeping, accommodation, training, or remodeling of facilities to assure compliance with the applicable laws and regulations.

VIII. Miscellaneous Provisions

Negotiated Settlement: Even if the parties choose not to mediate, they may settle the complaint on mutually agreeable terms at any time during the OCR investigation, and the OCR encourages parties to do so. If settlement is achieved, its terms shall be reduced to writing and signed by the complainant and the respondent. A copy of the settlement agreement shall be filed with the OCR along with a withdrawal of complaint executed by the complainant. The withdrawal will be

without prejudice and the complainant will be able to re-file the complaint as noted below in the section “Complainant’s “Right to Withdraw the Complaint.”

Right to Representation: Both the complainant and the respondent have the right to be represented at all stages of the complaint process by an attorney or other individual of their choice. Before a complainant’s representative will be recognized by the OCR, the complainant should submit a completed “Authorization of Representative” notice in writing.

Respondent’s Duty to Maintain Records: Once the respondent becomes aware that a complaint has been filed with the OCR or with the Civil Rights Center, the respondent shall preserve all original personnel or participant records and other evidence relevant to the complaint until the OCR or the Civil Rights Center issues the Report of Investigation. Where the respondent fails to preserve such records, an inference of discrimination may arise where there is a lack of documentation to refute the complainant’s allegations. WIA regulations require that records related to the complaint be kept for three years from the date the case file is closed.

Respondent’s Duty to Provide Information: A respondent has a duty to provide the investigator with relevant information necessary to the investigation. Where a respondent fails to provide requested information in the custody and control of the respondent in a timely manner, after notice and an opportunity to cure have been given, the failure may give rise to an inference of discrimination where there is a lack of information to refute the complainant’s allegations.

Complainant’s Duty to Provide Information: A complainant has a duty to provide the investigator with relevant information necessary to the investigation. The OCR may dismiss a complaint where a complainant, after notice and an opportunity to cure has been given, fails to provide requested information, refuses to submit to an interview or attend meetings, or otherwise refuses to cooperate to such an extent that the OCR is unable to resolve the complaint. Under such circumstances, the complaint may be dismissed without a final determination of whether there is cause to believe the respondent violated a federal or state nondiscrimination law.

Complainant’s Right to Amend the Complaint: The complainant has the right to amend the complaint at any time prior to the issuance of the initial notification letter. After that letter has been issued, the complainant can amend the complaint only with the permission of the OCR. The complainant has the duty to amend the complaint if it lacks the required information, as described in the “Content of Complaint” section above. Where an amendment relates to the subject matter of the original complaint, the amendment will relate back to the date the original complaint was received by the OCR. A complainant’s “amendment” may add additional issues (other than retaliation) not covered in the original complaint, and therefore may be considered separately as a new complaint.

Complainant’s Right to Withdraw the Complaint: The complainant has the right to withdraw his or her complaint at any time prior to the issuance of the Report of Investigation. Such a withdrawal must be in writing and will be without prejudice, meaning the complainant reserves the right to re-file the complaint at any time before the filing deadline discussed above, in the section “When to File.”

Access to Files During the Investigation: Florida law [§119.07(2)(g), *Florida Statutes*] states that all records that relate to a charge of discrimination are not public record until the investigation is completed either by a final determination of discrimination or the investigation becoming inactive. Once the OCR issues a Report of Investigation and the OCR can confirm that it has been delivered to the complainant, the complaint file becomes a public record and, unless exempted by another part of the public-records law, the file is open for public inspection. To assure due process, confirmation of delivery by the United States Postal Service return receipt will document that the Report has been delivered.

Neither the complainant nor the respondent has a right to see information gathered as part of the investigation until the Report of Investigation has been issued. Nonetheless, the investigator may disclose information submitted by the complainant and respondent where it is necessary to further the investigation.

Anyone having a question concerning filing discrimination complaints should contact:

The Department of Economic Opportunity
Office for Civil Rights
107 East Madison Street – MSC 150
Tallahassee, Florida 32399-4129

Phone 850 921-3205 • Fax 850 921-3122
e-mail: Civil.Rights@deo.myflorida.com

Florida Relay Service (TTY): 711 (in English, Spanish, French or Haitian Creole)

The Director, Civil Rights Center (CRC)
U.S. Department of Labor
200 Constitution Avenue NW, Room N-4123
Washington, DC 20210
(202) 693-6500 (voice)
(800) 877-8339 (Federal Relay Service -- for TTY/TDD)
e-mail: CivilRightsCenter@dol.gov

**Table 1
Contact Information
for
Filing a Discrimination Complaint**

**Department of Economic Opportunity
Office for Civil Rights**
107 East Madison Street MSC 150
Tallahassee, Florida 32399-4129
(850) 921-3205
TTY (via the Florida Relay Service): 711
in English, Spanish, French and Haitian Creole
FAX: (850) 921-3122

Florida Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, Florida 32301
(850) 488-7082
1-800-342-8170
TTY (via the Florida Relay Service): 711
in English, Spanish, French and Haitian Creole
FAX: (850) 488-5291

**U.S. Department of Labor
Civil Rights Center**
200 Constitution Avenue, NW
Room N-4123
Washington, DC 20210
(202) 693-6500
TTY: (202) 693-6515
FAX: (202) 693-6505

**Equal Employment Opportunity Commission
Miami District Office**
One Biscayne Tower, Suite 2700
2 South Biscayne Boulevard
Miami, Florida 33131
(305) 808-1740 or 1-800-669-4000
TTY: (305) 536-5721 or 1-800-669-6820
FAX: (305) 536-4011

**U.S. Department of Health & Human Services
Office for Civil Rights**
61 Forsyth Street, SW - Suite 3B70
Atlanta, Georgia 30323
(404) 562-7886
TTY: (404) 331-2867
FAX: (404) 562-7881

**Equal Employment Opportunity Commission
Tampa Area Office**
501 East Polk Street, Suite 1000
Tampa, Florida 33602
(813) 228-2310 or 1-800-669-4000
TTY: (813) 228-2003 or 1-800-669-6820
FAX: (813) 228-2841

**U.S. Department of Agriculture
Office of Civil Rights**
300 7th Street, SW; Suite 400
Stop Code 9430
Washington, DC 20250-9410
(202) 401-1014
TTY: (202) 401-0216
FAX: (202) 690-5686