

§ 37.71

this part, may file a written complaint, either by him/herself or through a representative.

§ 37.71 Where may a complaint be filed?

A complainant may file a complaint with either the recipient or the Director. Complaints filed with the Director should be sent to the address listed in the notice in § 37.30.

§ 37.72 When must a complaint be filed?

Generally, a complaint must be filed within 180 days of the alleged discrimination. However, for good cause shown, the Director 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.

§ 37.73 What information must a complaint contain?

Each complaint must be filed in writing, and must contain the following information:

- (a) The complainant's name and address (or another means of contacting the complainant);
- (b) The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination);
- (c) A description of the complainant's allegations. This description must include enough detail to allow the Director or the recipient, as applicable, to decide whether:
 - (i) CRC or the recipient, as applicable, has jurisdiction over the complaint;
 - (ii) The complaint was filed in time; and
 - (iii) The complaint has apparent merit; in other words, whether the complainant's allegations, if true, would violate any of the non-discrimination and equal opportunity provisions of WIA or this part; and
- (d) The complainant's signature or the signature of the complainant's authorized representative.

§ 37.74 Are there any forms that a complainant may use to file a complaint?

Yes. A complainant may file a complaint by completing and submitting CRC's Complaint Information and Privacy Act Consent Forms, which may be obtained either from the recipient's EO Officer, or from CRC at the address listed in the notice contained in § 37.30.

§ 37.75 Is there a right of representation in the complaint process?

Yes. Both the complainant and the respondent have the right to be represented by an attorney or other individual of their choice.

§ 37.76 What are the required elements of a recipient's discrimination complaint processing procedures?

- (a) The procedures that a recipient adopts and publishes must provide that the recipient will issue a written Notice of Final Action on discrimination complaints within 90 days of the date on which the complaint is filed.
 - (b) At a minimum, the procedures must include the following elements:
 - (1) Initial, written notice to the complainant that contains the following information:
 - (i) An acknowledgment that the recipient has received the complaint, and
 - (ii) Notice that the complainant has the right to be represented in the complaint process;
 - (2) A written statement of the issue(s), provided to the complainant, that includes the following information:
 - (i) A list of the issues raised in the complaint, and
 - (ii) 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;
 - (3) A period for fact-finding or investigation of the circumstances underlying the complaint;
 - (4) A period during which the recipient attempts to resolve the complaint. The methods available to resolve the complaint must include alternative dispute resolution (ADR), as described in paragraph (c) of this section
 - (5) A written Notice of Final Action, provided to the complainant within 90

days of the date on which the complaint was filed, that contains the following information:

(i) For each issue raised in the complaint, a statement of either:

(A) The recipient's decision on the issue and an explanation of the reasons underlying the decision, or

(B) A description of the way the parties resolved the issue; and

(ii) Notice that the complainant has a right to file a complaint with 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.

(c) The procedures the recipient adopts must provide for alternative dispute resolution (ADR). The recipient's ADR procedures must provide that:

(1) The choice whether to use ADR or the customary process rests with the complainant;

(2) A party to any agreement reached under ADR may file a complaint with the Director in the event the agreement is breached. In such circumstances, the following rules will apply:

(i) The non-breaching party may file a complaint with the Director within 30 days of the date on which the non-breaching party learns of the alleged breach;

(ii) The Director 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 CRC based upon his/her original allegation(s), and the Director will waive the time deadline for filing such a complaint.

(3) If the parties do not reach an agreement under ADR, the complainant may file a complaint with the Director as described in §§37.71 through 37.74.

§37.77 Who is responsible for developing and publishing complaint processing procedures for service providers?

The Governor or the LWIA grant recipient, as provided in the State's Methods of Administration, must develop and publish, on behalf of its service providers, the complaint processing procedures required in §37.76. The serv-

ice providers must then follow those procedures.

§37.78 Does a recipient have any special obligations in cases in which the recipient determines that it has no jurisdiction over a complaint?

Yes. If a recipient determines that it does not have jurisdiction over a complaint, it must notify the complainant, in writing, immediately. This Notice of Lack of Jurisdiction must include:

(a) A statement of the reasons for that determination, and

(b) Notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the complainant receives the Notice.

§37.79 If, before the 90-day period has expired, a recipient issues a Notice of Final Action with which the complainant is dissatisfied, how long does the complainant have to file a complaint with the Director?

If, during the 90-day period, the recipient issues its Notice of Final Action, but the complainant is dissatisfied with the recipient's decision on the complaint, the complainant or his/her representative may file a complaint with the Director within 30 days after the date on which the complainant receives the Notice.

§37.80 What happens if a recipient fails to issue a Notice of Final Action within 90 days of the date on which a complaint was filed?

If, by the end of 90 days from the date on which the complainant filed the complaint, the recipient has failed to issue a Notice of Final Action, the complainant or his/her representative may file a complaint with the Director within 30 days of the expiration of the 90-day period. In other words, the complaint must be filed with the Director within 120 days of the date on which the complaint was filed with the recipient.

§37.81 Are there any circumstances under which the Director may extend the time limit for filing a complaint with him or her?

Yes. The Director may extend the 30-day time limit: