

**§ 37.82**

(a) If the recipient does not include in its Notice of Final Action the required notice about the complainant's right to file with the Director, as described in §37.76(b)(5)(ii); or

(b) For other good cause shown.

The complainant has the burden of proving to the Director that the time limit should be extended.

**§37.82 Does the Director accept every complaint for resolution?**

No. The Director must determine whether CRC will accept a particular complaint for resolution. For example, a complaint need not be accepted if:

(a) It has not been timely filed;

(b) CRC has no jurisdiction over the complaint; or

(c) CRC has previously decided the matter.

**§37.83 What happens if a complaint does not contain enough information?**

(a) If a complaint does not contain enough information, the Director must try to get the needed information from the complainant.

(b) The Director may close the complainant's file, without prejudice, if:

(1) The Director makes reasonable efforts to try to find the complainant, but is unable to reach him or her; or

(2) The complainant does not provide the needed information to CRC within the time specified in the request for more information.

(c) If the Director closes the complainant's file, he or she must send written notice to the complainant's last known address.

**§37.84 What happens if CRC does not have jurisdiction over a complaint?**

If CRC does not have jurisdiction over a complaint, the Director must:

(a) Notify the complainant and explain why the complaint falls outside the coverage of the nondiscrimination and equal opportunity provisions of WIA or this part; and

(b) Where possible, transfer the complaint to an appropriate Federal, State or local authority.

**29 CFR Subtitle A (7-1-06 Edition)**

**§37.85 Are there any other circumstances in which the Director will send a complaint to another authority?**

Yes. The Director refers complaints to other agencies in the following circumstances:

(a) Where the complaint alleges discrimination based on age, and the complaint falls within the jurisdiction of the Age Discrimination Act of 1975, as amended, then the Director must refer the complaint, in accordance with the provisions of 45 CFR 90.43(c)(3).

(b) Where the only allegation in the complaint is a charge of individual employment discrimination that is covered both by WIA or this part and by one or more of the laws listed below, then the complaint is a "joint complaint," and the Director may refer it to the EEOC for investigation and conciliation under the procedures described in 29 CFR part 1640 or 1691, as appropriate. The relevant laws are:

(1) Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e to 2000e-17);

(2) The Equal Pay Act of 1963, as amended (29 U.S.C. 206(d));

(3) The Age Discrimination in Employment Act of 1976, as amended (29 U.S.C. 621, *et seq.*); and

(4) Title I of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101 *et seq.*).

(c) Where the complaint alleges discrimination by an entity that operates a program or activity financially assisted by a Federal grantmaking agency other than the Department, but that participates as a partner in a One-Stop delivery system, the following procedures apply:

(1) Where the complaint alleges discrimination on a basis that is prohibited both by Section 188 of WIA and by a civil rights law enforced by the Federal grantmaking agency, then CRC and the grantmaking agency have dual jurisdiction over the complaint, and the Director will refer the complaint to the grantmaking agency for processing. In such circumstances, the grantmaking agency's regulations will govern the processing of the complaint.

(2) Where the complaint alleges discrimination on a basis that is prohibited by Section 188 of WIA, but not by

any civil rights laws enforced by the Federal grantmaking agency, then CRC has sole jurisdiction over the complaint, and will retain the complaint and process it pursuant to this part. Such bases generally include religion, political affiliation or belief, citizenship, and/or participation in a WIA Title I-financially assisted program or activity.

(d) Where the Director makes a referral under this section, he or she must notify the complainant and the respondent about the referral.

**§ 37.86 What must the Director do if he or she determines that a complaint will not be accepted?**

If a complaint will not be accepted, the Director must notify the complainant, in writing, about that fact, and provide the complainant his/her reasons for making that determination.

**§ 37.87 What must the Director do if he or she determines that a complaint will be accepted?**

If the Director accepts the complaint for resolution, he or she must notify the complainant, the respondent, and the grantmaking agency. The notice must:

- (a) State that the complaint will be accepted;
- (b) Identify the issues over which CRC has accepted jurisdiction; and
- (c) Explain the reasons why any issues were rejected.

**§ 37.88 Who may contact CRC about a complaint?**

Both the complainant and the respondent, or their authorized representatives, may contact CRC for information about the complaint. The Director will determine what information, if any, about the complaint will be released.

**§ 37.89 May the Director offer the parties to a complaint the option of mediation?**

Yes. The Director may offer the parties to a complaint the option of mediating the complaint. In such circumstances, the following rules apply:

- (a) Mediation is voluntary; the parties must consent before the mediation process will proceed.

(b) The mediation will be conducted under guidance issued by the Director.

(c) If the parties are unable to reach resolution of the complaint through mediation, CRC will investigate and process the complaint under §§ 37.82 through 37.88 of this part.

DETERMINATIONS

**§ 37.90 If a complaint is investigated, what must the Director do when the investigation is completed?**

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

- (a) Determine whether there is reasonable cause to believe that the respondent has violated the nondiscrimination and equal opportunity provisions of WIA or this part; and
- (b) Notify the complainant, the respondent, and the grantmaking agency, in writing, of that determination.

**§ 37.91 What notice must the Director issue if he or she finds reasonable cause to believe that a violation has taken place?**

If the Director finds reasonable cause to believe that the respondent has violated the nondiscrimination and equal opportunity provisions of WIA or this part, he or she must issue an Initial Determination. The Initial Determination must include:

- (a) The specific findings of the investigation;
- (b) The corrective or remedial action that the Department proposes to the respondent, under § 37.94;
- (c) The time by which the respondent must complete the corrective or remedial action;
- (d) Whether it will be necessary for the respondent to enter into a written agreement under § 37.95 and 37.96; and
- (e) The opportunity to engage in voluntary compliance negotiations.

**§ 37.92 What notice must the Director issue if he or she finds no reasonable cause to believe that a violation has taken place?**

If the Director determines that there is no reasonable cause to believe that a violation has taken place, he or she must issue a Final Determination under § 37.100. The Final Determination