

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

**§ 37.93**

represents the Department's final agency action on the complaint.

**§ 37.93 What happens if the Director finds that a violation has taken place, and the recipient fails or refuses to take the corrective action listed in the Initial Determination?**

Under such circumstances, the Department must take the actions described in § 37.99 of this part.

**§ 37.94 What corrective or remedial actions may be imposed where, after a compliance review or complaint investigation, the Director finds a violation of the nondiscrimination and equal opportunity provisions of WIA or this part?**

(a) A Letter of Findings, Notice to Show Cause, or Initial Determination, issued under §§ 37.62 or 37.63, 37.66 and 37.67, or 37.91 respectively, must include the specific steps the grant applicant or recipient, as applicable, must take within a stated period of time in order to achieve voluntary compliance.

(b) Such steps must include:

(1) Actions to end and/or redress the violation of the nondiscrimination and equal opportunity provisions of WIA or this part;

(2) Make whole relief where discrimination has been identified, including, as appropriate, back pay (which must not accrue from a date more than 2 years before the filing of the complaint or the initiation of a compliance review) or other monetary relief; hire or reinstatement; retroactive seniority; promotion; benefits or other services discriminatorily denied; and

(3) Such other remedial or affirmative relief as the Director deems necessary, including but not limited to outreach, recruitment and training designed to ensure equal opportunity.

(c) Monetary relief may not be paid from Federal funds.

**§ 37.95 What procedures apply if the Director finds that a recipient has violated the nondiscrimination and equal opportunity provisions of WIA or this part?**

(a) *Violations at State level.* Where the Director has determined that a violation of the nondiscrimination and equal opportunity provisions of WIA or this part has occurred at the State

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

level, he or she must notify the Governor through the issuance of a Letter of Findings, Notice to Show Cause or Initial Determination, as appropriate, under § 37.62 or 37.63, 37.66 and 37.67, or 37.91, respectively. The Director may secure compliance with the non-discrimination and equal opportunity provisions of WIA and this part through, among other means, the execution of a written assurance and/or Conciliation Agreement, under paragraph (d) of this section.

(b) *Violations below State level.* Where the Director has determined that a violation of the nondiscrimination and equal opportunity provisions of WIA or this part has occurred below the State level, the Director must so notify the Governor and the violating recipient(s) through the issuance of a Letter of Findings, Notice to Show Cause or Initial Determination, as appropriate, under §§ 37.62 or 37.63, 37.66 and 37.67, or 37.91, respectively.

(1) Such issuance must:

(i) Direct the Governor to initiate negotiations immediately with the violating recipient(s) to secure compliance by voluntary means;

(ii) Direct the Governor to complete such negotiations within 30 days of the Governor's receipt of the Notice to Show Cause or within 45 days of the Governor's receipt of the Letter of Findings or Initial Determination, as applicable. The Director reserves the right to enter into negotiations with the recipient at any time during the period. For good cause shown, the Director may approve an extension of time to secure voluntary compliance. The total time allotted to secure voluntary compliance must not exceed 60 days.

(iii) Include a determination as to whether compliance must be achieved by:

(A) Immediate correction of the violation(s) and written assurance that such violations have been corrected, under § 37.96;

(B) Entering into a written Conciliation Agreement under § 37.97; or

(C) Both.

(2) If the Governor determines, at any time during the period described in paragraph (b)(1)(ii) of this section, that a recipient's compliance cannot be