



DISCRIMINATION COMPLAINT PROCEDURES

Workforce Solutions Golden Crescent is an Equal Opportunity Employer/Program.
Auxiliary Aids and Services are available upon request to individuals with disabilities

INTRODUCTION

The purpose of this document is to provide information regarding the standard procedures used to receive and resolve complaints of discrimination.

Any person who believes that Workforce Solutions Golden Crescent (WS) or a recipient who receives federal financial assistance from or through TWC has subjected him or her or any specific class of individuals to unlawful discrimination may file a complaint of discrimination. Complaints are processed as outlined in these procedures.

Nondiscrimination under the Workforce Innovative and Opportunity Act of 1998

[Reference: *Workforce Innovative and Opportunity Act (WIOA), Section 188 and Code of Federal Regulations (C.F.R.), 29 C.F.R. 38*]

The forms of discrimination that are prohibited under WIOA include race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in any WIOA Title I program or activity. Retaliation for opposing unlawful discrimination is also prohibited. Specific, prohibited actions related to these forms of discrimination are listed in *29 C.F.R. §38.35*.

All recipients of WIOA Title I funds and one-stop partners must effectively communicate that they do not discriminate on any of these prohibited grounds. This notice must be given to all subrecipients, applicants for and participants in programs and services, applicants for employment, employees and members of the public. The notice must contain instructions as to specific discriminatory actions that are prohibited as well as instructions on complaint procedures. Specific wording required in the notice can be found at *29 C.F.R. §38.35*.

Who May File

A complaint of discrimination may be filed by any person or through their representative who believes that either he or she, or any specific class of individuals has been or is being subjected to discrimination prohibited by WIOA by a policy, program, activity, or employee of the WC or a recipient that receives federal funding through TWC. This includes applicants and/or participants for aid, benefits, services, or training; employees, applicants for employment, and service providers.

Where to File

Persons who wish to file a complaint of discrimination have several choices when filing the complaint, depending on whether the person is an employee or a customer, and also depending on the specific funding source for the program or activity. The choice of where to file a complaint of discrimination is left completely to the complainant. The local EO Officer or other staff trained in EO procedures should be prepared to explain the differences and answer any questions a potential complainant has regarding various options. Different authorities have jurisdiction to process specific discrimination complaints and the types of discrimination that are prohibited by each agency. TWC and the state and federal agencies that will accept complaints under the laws applicable to TWC and its programs.

In general, under WIOA §188 nondiscrimination and equal opportunity provisions, complaints may be filed at the federal, state, or local level. A complainant may file a complaint at the local or state level by completing and submitting a Discrimination Complaint Form (EO-13 or EO-13S) available from a local level EO Officer. The complainant may file a complaint at the federal level with the CRC by submitting a completed Complaint

Information Form available at <http://www.dol.gov/oasam/programs/crc/EO.htm>. Complaints may also be filed with other federal agency one-stop partners according to each agency's discrimination complaint process.

It should be noted that nothing in this directive precludes a complainant from pursuing a remedy authorized under another federal, state, or local law.

When to File

In most cases, a complaint of discrimination must be filed within 180 calendar days of the alleged act of discrimination. Filing means a written complaint must be *received* before the expiration of the 180-day period. Complaints received more than 180 days following the act of alleged discrimination cannot be processed and will be returned to the complainant with a notice of options for filing with either a federal or state enforcement agency.

Required Elements of a Complaint

In order to be processed, a complaint must be in writing and contain the following information:

- The complainant's name and address (or other means of contacting the complainant);
- The identity of the respondent;
- A description of the complainant's allegations. The description must include enough detail to allow the EO Officer to decide:
 - Where jurisdiction lies;
 - Whether the complaint was filed in time; and
 - Whether the complaint states a case of discrimination, i.e., the allegations, if true, would violate a federal or state nondiscrimination law;
- The signature of the complainant or the complainant's representative.

A complainant may also submit a written and signed complaint narrative containing the above information.

Incomplete Complaints

Within five working days of receiving the complaint, the EO Officer should notify the complainant in writing of any further information that is needed in order to determine jurisdiction or to process the complaint. If reasonable efforts to reach the complainant are unsuccessful or if the complainant does not respond within the time specified in the request, WS may close the complainant's file without prejudice. The complainant may resubmit the complaint as long as it is filed within the original 180-day deadline.

If the case is closed for lack of required information, the EO Officer must send a written notice of closure to the complainant's last known address. In the event the complainant submits the missing information after the file has been closed, the complaint may be reopened provided it has not been more than 180 days since the date of the alleged discriminatory action. The complaint should be logged as received on the date the file is reopened and the 90 calendar day resolution period will commence with the later date.

Retaliation is Prohibited

A complainant has a right to file a complaint of discrimination, have an inquiry conducted, have witnesses participate in the process and obtain a determination as to whether or not discrimination occurred. A respondent is prohibited by law from retaliating against an individual because he or she has either:

- Opposed an unlawful discriminatory employment practice;
- Opposed an unlawful discriminatory non-employment practice; or

- Made a complaint, testified, assisted or participated in an inquiry.

Any person who feels a respondent has violated this prohibition may file a complaint alleging retaliation. Retaliation is a separate complaint and a respondent can be found responsible for retaliation and thus subject to sanctions and penalties pursuant to *40 TAC §800, Subchapter E* (relating to Sanctions) and *WIOA §188(b)* even if there is no finding of discrimination on the underlying complaint.

Complaints under Programs other Than WIOA

A complaint of discrimination under programs other than WIOA Title 1 programs administered by one-stop partners participating in the one-stop delivery system are subject to the equal opportunity and nondiscrimination provisions of *WIOA §188*. One-stop partners can include entities that carry out programs or activities related to Child Care, Employment Services (ES), Supplemental Nutrition Assistance Program Employment & Training (SNAP E&T), Project Reintegration of Offenders (Project RIO), Temporary Assistance for Needy Families (TANF) Choices, Non-Custodial Parent (NCP) Choices, Trade Adjustment Assistance (TAA), Unemployment Insurance (UI), and Wagner Peyser 7(b). In general, complainants have the option of filing a program or employment-related complaint with the local EO Officer, with TWC, or with CRC under WIOA nondiscrimination provisions, or filing with the non-WIOA program funding agency. If the complaint is employment related, the complainant may also file with the TWC Civil Rights Division or the U.S. Equal Employment Opportunity Commission (EEOC). Refer to Table I for the types of discrimination prohibited and the corresponding authorities who have jurisdiction to process discrimination complaints and refer to Table II for applicable contact information.

More specifically, discrimination complaints in employment or program services funded in whole or in part through non-DOL programs can be filed with the local EO Officer, with TWC, or with CRC using the WIOA discrimination complaint procedures set forth in this document. In addition, discrimination complaints related to other funding sources may be filed as follows:

- **Child Care, TANF Choices and NCP Choices:** Instructions for filing with the U.S. Department of Health and Human Services can be found at <http://www.hhs.gov/ocr/index.html>.
- **SNAP E&T:** Instructions for filing with the U.S. Department of Agriculture can be found at http://www.ascr.usda.gov/complaint_filing.html.
- **Migrant and Seasonal Farmworkers:** Refer complaints to the Texas Monitor Advocate Officer

Discrimination in employment practices and/or wage-related complaints against employers not subject to the nondiscrimination and equal opportunity provision of WIOA may be referred to the appropriate authority as follows:

- **Wage Related:** Wage related complaints should be referred to the TWC, Labor Law Section using instructions and claim forms found at <http://www.twc.state.tx.us/ui/lablaw/lablaw.html>.
- **Employment Practices:** Complaints alleging discrimination in employment practices may be referred to the TWC Civil Rights Division or to the nearest EEOC district office.

Complaints Not Based on Discrimination

Each Board and Board subcontractors should have a written policy on complaint resolution for complaints not based on discrimination as set forth in *20 C.F.R. §683.600*. If a complaint is not based on discrimination, but on program or customer service issues, process the complaint in accordance with local policies and procedures. Non-discrimination complaints include discourteous treatment by Workforce Center (WC) staff or violations of the terms and conditions of a job posting in WorkInTexas.com. Once received, attempt to resolve the complaint at the WC level. If this is not possible, refer the complaint to the Board level for resolution. In the event the complaint cannot be resolved at the Board level, the complaint should be referred to the TWC ombudsman.

Workforce Innovative and Opportunity Act DISCRIMINATION COMPLAINT PROCESSING PROCEDURES

Process Overview

The required elements of a discrimination complaint process are outlined in 29 C.F.R. §38.72 through §38.76. For purposes of illustrating the process, the following example of a discrimination complaint received at a WC is provided.

- Complainant expresses a desire to file a discrimination complaint.
- The WC representative provides the complaint form.
- A written and signed complaint is received.
- A copy of the completed and signed complaint form is provided to the complainant.
- The WC representative logs the complaint on the Discrimination Complaint Log.
- The complaint form is immediately forwarded to the Board EO Officer.
- The Board EO Officer:
 - Determines jurisdiction by considering the basis of the complaint, the timeliness of the complaint, and whether the respondent is a recipient of WIOA funds or participates in the one-stop delivery system.
 - If it is determined that the Board lacks jurisdiction, the complainant is provided with an initial written notice within five days of receipt of the complaint stating the reasons for the determination and providing notice that the complainant has the right to file a complaint with CRC within 30 days from the date the complainant receives the notice.
 - If the Board has jurisdiction, the recipient provides the complainant with an initial written notice within five days of receiving the complaint. The initial written notice acknowledges receipt of the complaint, gives notice of the right to representation (at their own expense), provides a list of issues identified by the complainant and indicates whether the Board will accept or reject each issue with reasons for rejection. The notice also offers the complainant Alternative Dispute Resolution (ADR) services in lieu of the complaint processing procedure and advises that if ADR is elected, the request must be filed within seven calendar days of Board's statement of issues.
 - If ADR is elected, the Board EO Officer will then coordinate the scheduling of mediation with a certified mediator at a location convenient to the complainant and respondent. The ADR process should be completed within 40 days from the date of the initial written notice.
 - If ADR is not elected, or is unsuccessful, the fact-finding process is initiated. The fact-finding process is completed within 45 days from the date of the initial written notice or 30 days from the date of the failed ADR.
 - A Notice of Final Action is provided to the complainant within 90 days from the date on which the complaint was filed.
- Records regarding complaints and corresponding actions must be maintained for not less than three years from the date of resolution.

Steps in the Process

Step 1 – Complete Written Complaint

Complainants may file a written complaint of discrimination themselves or through a representative. In the event a complaint is received by phone, notify the complainant that the complaint must be submitted in writing and signed. If a written complaint does not contain all the information required in 29 C.F.R. §38.70, offer to mail (or e-mail) the form or ask the complainant to pick up the form.

In the event complainants present themselves in person, WC staff or Vocational Rehabilitation (VR) liaison escorts the complainant to the representative designated to receive complaints.

The WC or VR staff provides the complainant with the Discrimination Complaint Form (EO-13 or EO-13S). A supply of forms should be maintained locally. When meeting with the complainant, the WC or VR staff should:

- Explain the form to the complainant and provide instructions for returning the form by mail or in person.
- Not provide legal advice or advocate a position.
- Not complete the form for the complainant, unless providing reasonable accommodation to individuals with disabilities.
- Explain the discrimination complaint process to the complainant.
- Explain to the complainant that a written acknowledgment will be sent within five working days.

The WC or VR representative may attempt to resolve the situation. However, if the complainant desires to submit a written complaint, it must be completed and processed.

Step 2 – Log Complaint and Forward to Equal Opportunity Officer

When the written complaint is received, the WC staff or VR representative immediately forwards the complaint. If the discrimination complaint originated within the VR program, the complaint is forwarded by e-mail to TWC EO staff at EO.Reports@twc.state.tx.us. All other discrimination complaints are forwarded to the Board EO Officer. The Board EO Officer or TWC EO staff may attempt to resolve the situation at any time during the process. The Board EO Officer or TWC EO staff logs the complaint on the discrimination complaint log.

Step 3 – Determine Jurisdiction

The Board EO Officer initiates the fact-finding process to determine whether the Board has jurisdiction to process the complaint. There are three criteria that determine jurisdiction:

- **BASIS** – The Board may accept and process only those complaints that allege discrimination on the basis of race, color, religion, national origin, sex, political affiliation or belief, age or disability, or (for beneficiaries only) citizenship or participation in WIOA;
- **TIMELINESS** – The Board may accept and process a complaint only if it is filed within 180 days of the alleged violation; and
- **PROGRAM TYPE** – The Board may accept and process only those complaints in which the program or activity against which the complaint is filed is financially assisted by WIOA funds. This includes all WIOA Title 1 programs as well as all one-stop partner programs. One-stop partners are also subject to the nondiscrimination and equal opportunity provisions of the WIOA to the extent that they participate in the One-stop delivery system.

Step 4 – Provide Initial Written Notice to Complainant

Provide an initial written notice to the complainant within five working days of the receipt of the complaint.

a. If it is determined that the Board has jurisdiction, then:

- The notice should acknowledge receipt of the written complaint and advise complainants of their right to representation (without cost to the Board).
- The notice should also list each issue identified by the complainant and whether the Board will accept the issue for investigation or reject the issue, with the reason listed for each rejection.
- The notice should advise complainants that they may choose to use the Board's ADR procedure rather than the complaint processing procedure. (ADR is outlined above in Process Overview).

b. If it is determined that the Board lacks jurisdiction, then:

- The notice should acknowledge receipt of the complaint and advise the complainant that the Board lacks jurisdiction. The notice should also state the reason for the determination and provide notice that the complainant may file a complaint with the CRC Director within 30 days of the receipt of the notification.

- Where possible, the Board EO Officer should then refer the complaint to the state or federal agency that has jurisdiction in the matter and provide the complainant with the agency name and address or a copy of the referral letter.

Step 5 – Complete Alternative Dispute Resolution Process, if Elected

If the complainant elects to resolve the complaint through ADR, proceed with the Board’s written ADR procedures. If ADR is not elected proceed to Step 6. The following are guidelines for the ADR process:

- If the complainant elects to use the Board’s written ADR procedure, the complainant must submit a notice of this election within seven calendar days of the complainant’s receipt of the Board’s initial written notice.
- The ADR process should be completed within 40 days from the date of the initial written notice.
- The EO Officer coordinates the scheduling of the mediation with a qualified mediator at a location convenient to the complainant and the respondent.
- If the parties are able to resolve the dispute at mediation, a written settlement agreement must be prepared and signed by all parties. A copy of the agreement is given to all parties.
- If the parties reach an agreement, the EO Officer provides the complainant with a Notice of Final Action.
- In the event a mediation agreement is subsequently breached, the non-breaching party should notify the EO Officer. The non-breaching party may file a complaint directly with the CRC Director within 30 calendar days from the date the party learns of the alleged breach. If the CRC Director determines the agreement has been breached the complainant may file a complaint with CRC based on the original allegations. The CRC Director will waive the 180 day deadline and process the complaint as an initial complaint.

Step 6 – Complete Fact-Finding Process if Alternative Dispute Resolution is not Elected or is Unsuccessful

If ADR is not elected or is not successful and the complainant elects to proceed with the complaint at the recipient level, initiate the fact-finding process.

- Complete the fact finding process within 45 days from the date of the original written notice or 30 days from the date of the failed ADR.
- The EO Officer should attempt to resolve the complaint. At any point in the process, the EO Officer may request that the parties attempt conciliation. The EO Officer should act to facilitate such conciliation efforts.

Step 7 – Determine if Act of Discrimination Has Occurred and Notify Parties

At the completion of the fact-finding process, the EO Officer must determine whether there is reasonable cause to believe that the respondent has violated the nondiscrimination and EO provisions of the WIOA and notify the complainant and respondent, in writing, of that determination.

- If the EO Officer determines that no act of discrimination has occurred, the complainant must be provided with a written Notice of Final Action within 90 days from the date the complaint was received. The notice must include:
 1. The decision for each issue raised and reasons for the decision; and
 2. Notice that the complainant has the right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is issued if the complainant is dissatisfied with the final action on the complaint.
- If there is reasonable cause to believe a violation has occurred, the EO Officer:
 1. Notifies the TWC Subrecipient and EO Monitoring Department of this finding. The department will assist in reviewing the file and the conclusions. (If reasonable cause is determined the department immediately notifies the state EO Officer.)
 2. Must provide the complainant with a Notice of Final Action within 90 days that includes:
 - a. The decision for each issue raised and reasons for the decision or a description of how the issues were resolved;
 - b. Any remaining remedial or corrective actions required of the respondent; and

- c. Notice that the complainant has the right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is issued if the complainant is dissatisfied with the final action on the complaint.
3. If violations are unresolved, the EO Officer must issue an Initial Determination Notice to the respondent. The Initial Determination Notice must include:
 - a. The specific findings;
 - b. Corrective or remedial action required by the respondent;
 - c. The time by which the respondent must complete the corrective action;
 - d. A statement as to whether the respondent must enter into a written agreement; and
 - e. The opportunity for the respondent to engage in voluntary compliance negotiations.
- Note that if a Notice of Final Action is not issued within 90 days of the receipt of the complaint, the complainant may file a complaint with CRC within 30 days of the expiration of the 90-day period.

Step 8 – Complete Resolution Process

The respondent must file a notice within ten calendar days of receipt of the Initial Determination Notice that states whether the recommended complaint resolution is accepted and whether the respondent will complete the required corrective actions. When the resolution process is complete, or the respondent has not agreed to or performed the corrective or remedial actions to resolve the violation, the EO Officer must issue a Final Determination Notice. The Final Determination Notice must include the following:

- Description of efforts to resolve the violation(s);
- Recap of the remaining unresolved violation(s);
- Description of corrective or remedial actions required to come into compliance; and
- Notice that if the respondent fails to come into compliance within ten days of receiving the Final Determination Notice, sanctions may be imposed pursuant to 40 TAC §800, Subchapter E (relating to sanctions), WIOA §188(b), or other remedies prescribed by law.

Table I

Prohibited Discrimination Under Regulations of Selected Programs Applicable to TWC, Local Workforce Investment Boards, One-stop Operators and Service Providers

Prohibited Discrimination	In Employment				In Programs and Activities		
	Under WIA Title 1 (including One-Stop Partners) (x) ¹	Under U.S. Dept. of Health & Human Services regulations (x) ²	Under U.S. Dept of Agriculture regulations (x) ³	Statutes Enforced by EEOC & TWCCRD (x) ⁴	Under WIA Title 1 (including One-Stop Partners) (x) ¹	Under U.S. Dept. of Health & Human Services regulations (x) ²	Under U.S. Dept of Agriculture regulations (x) ³
age	x			x	x	x	x
citizenship / immigrant status (lawfully admitted authorized to work in the U.S.)					x		
color	x	x	x	x	x	x	x
disability	x	x	x	x	x	x	x
equal pay				x			
familial status							x
income from public assistance program							x
national origin ⁵	x	x	x	x	x	x	x
marital status							x
participation in WIA Title 1 financially assisted program or activity					x		
political affiliation or belief	x				x		
race	x	x	x	x	x	x	x
religion	x			x	x	x ⁶	x
reprisal/retaliation	x	x	x	x	x	x	x
sex	x	x ⁷	x ⁷	x	x	x	x
sexual orientation							x

NOTES:

1. Includes programs and employment practices of One-Stop Partners as defined in WIA 121(b) including, but not limited to, WIA Title I, ES, Wagner Peyser 7(b), TAA, UI, Child Care, Project RIO, TANF Choices, & FSE&T programs

2. Includes TANF Choices & child care-funded employment-related and program activities. Also includes transportation contracts associated with TANF Choices program participants (45 C.F.R. Part 80, Part 84, Part 86, and Part 90)

3. Includes Food Stamp Employment and Training-funded employment-related and program activities. Also includes transportation contracts associated with FSE&T program participants (7 C.F.R. 15)

4. EEOC enforces Title VII of Civil Rights Act of 1964 (as amended), Equal Pay Act, Age Discrimination in Employment Act, and Title I & V of the Americans with Disabilities Act. TWC's CRD enforces Texas Labor Code Chapter 21.

5. Also includes discrimination based on limited English proficiency

6. Applies to the selection of a service provider based on religious character or affiliation [45 C.F.R. 87.2(b)]

7. Pertains to employment practices of certain training providers (7 C.F.R. 15a & 45 C.F.R. 86)

8. Sex discrimination also Includes pregnancy, childbirth and related medical conditions [Title VII of Civil Rights Act, as amended Sec. 2000e(k)].

Table II
Contact Information for Discrimination Complaints

STATE AGENCIES

**Texas Workforce Commission
Civil Rights Division**

P.O. Box 13006
Austin, Texas 78711-3006
(512) 463-2642 or (888) 452-4778
(800) 735-2988 (Voice) (800) 735-2989 (TDD)

**Texas Workforce Commission
Attn: Ombudsman**

101 E. 15th Street, Room 651
Austin, Texas 78778-0001
(512) 463-2236 (Voice) (800) 735-2989 (TDD)
(800) 735-2988 (Voice)

**Texas Workforce Commission
Labor Law Section**

101 E. 15th Street, Suite 110
Austin, Texas 78778-0001
(800) 832-9243 (Voice) (800) 735-2989 (TDD)

**Texas Health and Human Services Commission
Civil Rights Office**

701 W. 51st Street, W206
Austin, Texas 78751
(512) 424-6500 (Voice) (512) 438-3087 (TDD)
Ombudsman: (877) 787-8999

Texas Monitor Advocate Officer

101 E. 15th Street, Room 116-T
Austin, Texas 78778-001
(512) 475-1179 (Voice) (800) 735-2989 (TDD)
(800) 735-2988 (Voice)

FEDERAL AGENCIES

**U. S. Department of Labor
Civil Rights Center**

200 Constitution Avenue, NW
Room N-4123
Washington, DC 20210
(866) 487-2365 (Voice) (866) 889-5627 (TTY)
(202) 693-6500 (Voice) (202) 693-6515 (TTY)

**Equal Employment Opportunity Commission
Dallas District Office**

207 South Houston, Third Floor
Dallas, Texas 75202
(800) 669-4000 (Voice) (800) 669-6820 (TDD)
(214) 253-2700 (Voice) (214) 253-2710 (TTY)

**U. S. Department of Health and Human Services
Office for Civil Rights, Region VI**

1301 Young Street, Room 1169
Dallas, Texas 75202
(800) 368-1019 (Voice) (800) 537-7697 (TDD)
(214) 767-4056 (Voice) (214) 767-8940 (TDD)

**Equal Employment Opportunity Commission
El Paso Area Office**

300 East Main Street, Suite 500
El Paso, Texas 79901
(800) 669-4000 (Voice) (800) 669-6820 (TDD)
(915) 534-6700 (Voice) (915) 534-6710 (TTY)

**U. S. Department of Agriculture
Office of Civil Rights**

1400 Independence Avenue, SW, Mail Stop 94
Washington, DC 20250-9410
(800) 795-3272 (Voice) (800) 720-6382 (TDD)
(202) 720-5964 (Voice) (202) 402-0216 (TTY)

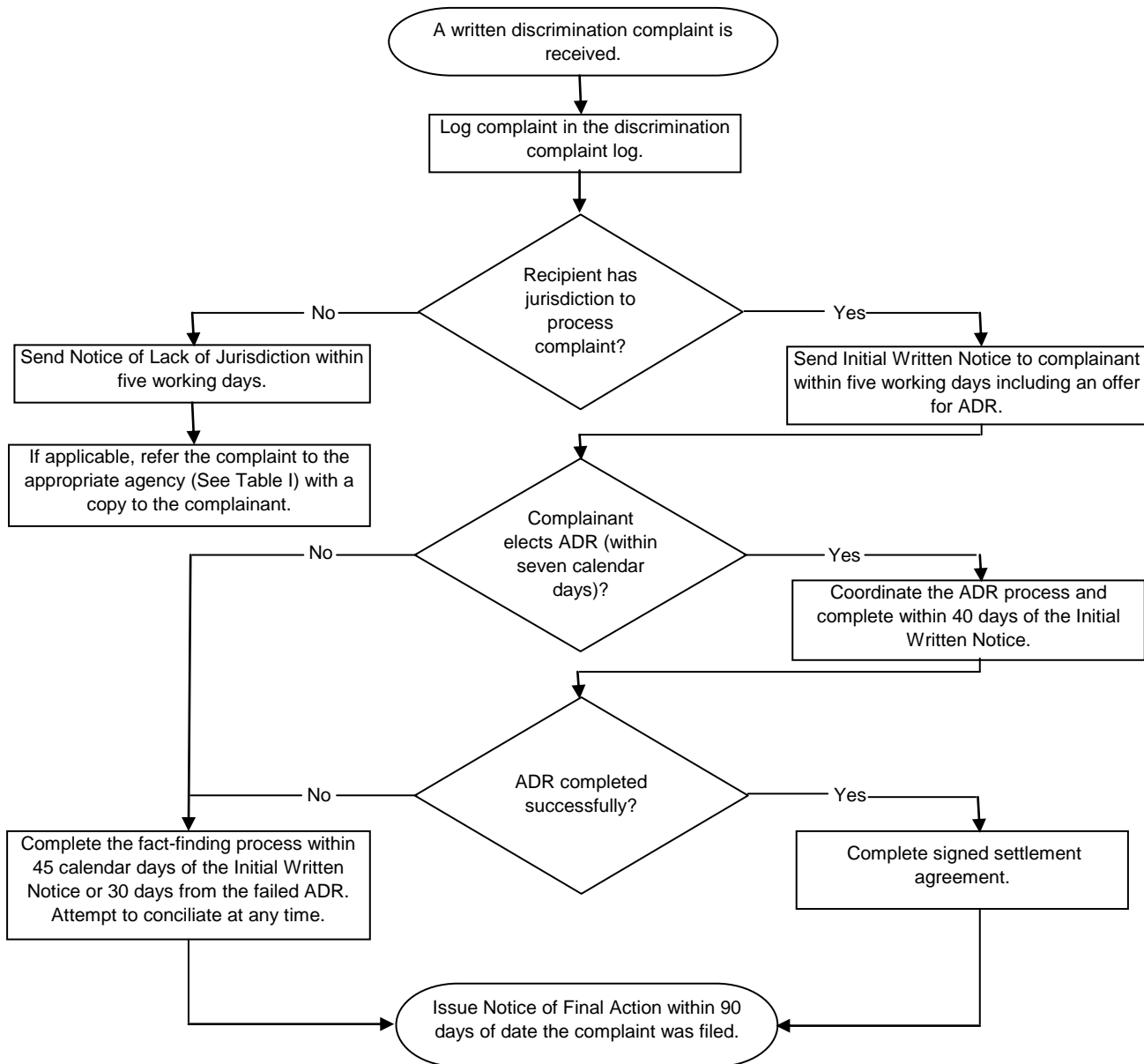
**Equal Employment Opportunity Commission
Houston District Office**

Mickey Leland Federal Building
1919 Smith, 7th Floor
Houston, Texas 77002
(800) 669-4000 (Voice) (800) 669-6820 (TDD)
(713) 209-3320 or 3329 (Voice)
(713) 209-3439 (TTY)

**Equal Employment Opportunity Commission
San Antonio District Office**

Mockingbird Plaza II
5410 Fredericksburg Road, Suite 200
San Antonio, Texas 78229
(800) 669-4000 (Voice) (800) 669-6820 (TDD)
(210) 281-7600 (Voice) (210) 281-7610 (TTY)

**Table III
DISCRIMINATION COMPLAINT PROCESS**



NOTES:

1. This flow chart provides a broad overview of the discrimination complaint process.
2. In the event an ADR agreement is breached, the non-breaching party may initiate a complaint directly with CRC within 30 days of the day the non-breaching party learns of the alleged breach.
3. If violations are unresolved when the Notice of Final Action is issued to the Complainant, the EO Officer must also issue an Initial Determination Notice to the Respondent with the corrective actions required followed by a Final Determination Notice at the end of the resolution period (See steps 7 and 8).
4. If the Complainant is dissatisfied with the final action, he/she has the right to file a complaint with CRC within 30 days of the Notice of Final Action.
5. Complaints not related to discrimination, such as program or customer service issues, must be processed according to local policies and procedures. In the event a complaint not based on discrimination cannot be resolved at the local level, contact the appropriate TWC office for assistance.