

COUNTY OF HUMBOLDT  
COMMUNITY DEVELOPMENT SERVICES DEPARTMENT  
ECONOMIC DEVELOPMENT DIVISION

Subject: <b>NON-DISCRIMINATION and EQUAL OPPORTUNITY NOTICE and GRIEVANCE and COMPLAINT Procedure</b>
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## I. PURPOSE

To provide policy and guidance regarding notice of Non-discrimination and Equal Opportunity rights, to establish the procedure for receiving and responding to grievances and complaints, and to detail the timelines that must be followed for the filing and resolution of such grievances and complaints.

## II. SCOPE

Scope of policy applicability includes all recipients that directly provide, or subcontract with the County of Humboldt to provide WIA-funded programs and services.

## III. DEFINITIONS

- A. **Recipient:** means any entity to which financial assistance under WIA Title I is extended, either directly from DOL or through the Governor or another recipient, including the County Of Humboldt. In addition, Humboldt County One-Stop Partners are treated as recipients and are subject to the requirements of Title 29 CFR Part 37.
- B. **Complaint:** means an allegation of a violation of the nondiscrimination and equal opportunity provisions.
- C. **Grievance:** means a written expression by a party alleging a violation of the Act, regulations promulgated under the Act, recipient grants, subcontracts, or other specific subagreements under the Act, including terms and conditions of participant employment.
- D. **Complainant/Grievant:** Party who makes the complaint/grievance.
- E. **Disability:** A physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.
  - 1. Does not refer to any individual currently engaging in the illegal use of drugs, when the employer acts on the basis of such use.
- F. **Discrimination:** Treating an individual differently based on his/her race, color, religion, sex, national origin, age, disability, political affiliation, or belief.
- G. **Equal Opportunity (EO) Officer:** The individual responsible for hearing, answering, and advising individuals on complaints of discrimination, and attempting to obtain an informal resolution, before a formal complaint or grievance is filed.
- H. **Physical or Mental Impairment:**
  - 1. Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological,

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musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or

2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

I. **Sexual Harassment:** Unsolicited, unwelcome sexual advances of a severe and/or pervasive nature, be they written, verbal, physical, and/or visual that usually occurs when:

1. Submission to that conduct is made either explicitly or implicitly a term or condition of any aspect of employment or participation;

2. Submission or rejection of that conduct or communication by an employee or participant is used as a basis for any decision;

3. The conduct or communication has the potential to affect an employee's or participant's work or training performance negatively and/or create an intimidating, hostile, or otherwise offensive working environment.

#### IV. REFERENCES

A. Section 188 of the Workforce Investment Act of 1998

B. • Americans with Disabilities Act of 1990, Title II, Subpart A

C. • Age Discrimination Act of 1975, as amended

D. • Section 504 of the Rehabilitation Act of 1973

E. • Title IX of the Education Amendments of 1972

F. • Titles VI and VII of the Civil Rights Act of 1964, as amended

G. • Title 20 Code of Federal Regulations (CFR) Section 667.275

H. • Title 29 CFR Parts 31, 32, and 37

I. • Title 41 CFR Subpart 101-19.6

J. • Dymally-Alatorre Bilingual Services Act, Government Code Section 7290-7299.8

K. • WIA Directive WIAD04-20, Subject: Limited English Proficiency (May 12, 2005)

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V. POLICY

- A. It is against the law, as recipients of federal financial assistance, for the Humboldt County-Workforce Investment Board (HC-WIB) and/or any of its subcontractors (recipients) to discriminate on the following basis:
  - 1. Against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief.
  - 2. 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 or her participation in an WIA Title I financially assisted program or activity.
- B. HC-WIB and all subcontractors funded wholly or in part by WIA must not discriminate in any of the following areas:
  - 1. Deciding who will be admitted, or have access to any WIA Title I financially assisted program or activity.
  - 2. 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.
- C. HC-WIB and all subcontractors funded wholly or in part by WIA must provide information to all individuals accessing adult, dislocated worker or youth programs regarding:
  - 1. Notice of Non-Discrimination and Equal Opportunity, and
  - 2. Procedure and timelines for filing of Grievance and Complaints

All individuals receiving non-discrimination/EO and grievance & complaint information will sign and date acknowledging such receipt of information. A copy of non-discrimination/EO and grievance & complaint information will be provided all individuals, and a copy of this information will be placed in the individual's WIA client file.

- D. HC-WIB and all subcontractors funded wholly or in part by WIA may not discharge, intimidate, retaliate, threaten, coerce, or discriminate against any individual because the individual has filed a complaint; opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of the WIA; furnished information to, or assisted or participated in any manner in an investigation, review, hearing, or any other activity related to administration of, exercise of authority under, or exercise of privilege secured by the nondiscrimination and equal opportunity of WIA or Title 29 CFR Part 37. The sanctions and penalties contained in these procedures may be imposed against

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any recipient who engages in any such retaliation or intimidation, or fails to take necessary steps to prevent such activity.

## VI. PROCEDURES

### A. Procedure for Non-Discrimination and Equal Opportunity—

Individuals who think they have been subjected to discrimination under a WIA Title I financially assisted program or activity may file a complaint within 180 days from the date of the alleged violation with either the:

Humboldt County Workforce Investment Board  
Equal Opportunity Officer  
520 E Street  
Eureka, CA 95501

Or,

The Civil Rights Center (CRC)  
U.S. Department of Labor  
200 Constitution Avenue NW  
Room N-4123  
Washington D.C. 20210

#### 1. Timeline for Discrimination and Equal Opportunity Complaints

- a. DAY 1: Complaint is filed. The complainant may file a complaint with the CDE-WIB Equal Opportunity Officer, or may file a complaint directly with the Director, The Civil Rights Center, US Department of Labor, 200 Constitution Ave., NW, Room N-4123, Washington, DC 20210.

If the complainant files with the CDE-WIB, s/he must wait until the CDE-WIB issues a decision or until 60 days have passed, whichever is sooner, before s/he can file his/her complaint with the CRC. If the CDE-WIB does not provide complainant with a written decision within 60 days of the filing of complaint, s/he does not need to wait for a decision to be issued, but may file a complaint with the CRC within 30 days of the expiration of the 60-day period. If s/he is dissatisfied with the CDE-WIB's resolution of his/her complaint, s/he can file a complaint with the CRC within 30 days of receiving the CDE-WIB's decision.

- i. Complaint is date-stamped.
- ii. Complaint is numbered, for reference.

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- iii. At the time of filing, a copy of any complaint filed with the CDE-WIB must be forwarded to the:

Chief  
Equal Employment Opportunity Office  
Employment Development Department  
800 Capitol Mall, MIC 49  
P.O. Box 826880  
Sacramento, CA 94280-0001

and to the

Policy Unit Manager  
Equal Employment Opportunity Office  
Employment Development Department  
800 Capitol Mall, MIC 49  
P.O. Box 826880  
Sacramento, CA 94280-0001

- iv. Upon resolution of the complaint, a copy of the resolution must be forwarded to the:

Director  
The Civil Rights Center  
US Department of Labor  
200 Constitution Ave., NW, Room N-4123  
Washington, DC 20210.

- v. Grievance/Complaint Officer is assigned or informal hearing officer is appointed.
- vi. Investigation into allegations begins.
- b. DAY 2 - DAY 14: Informal investigation into complaint occurs. The informal hearing officer will interview the complainant as to the specific nature of the complaint and the results requested by the complainant. The informal hearing officer will review the complaint and all pertinent documentation. A copy of the complaint will be sent to the respondent, with a request for response to the complainant's allegations. Upon conclusion of the informal investigation, the informal hearing officer will write a report. This report will include:
- i. The name of the complainant;

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- ii. The name of the party against whom the complaint is filed (respondent);
  - iii. A statement of the issue; and
  - iv. If the complaint is resolved, a detailing of the resolution reached; or
  - v. If the complaint is not resolved, the reasons why the issue(s) could not be resolved.
- c. DAY 15: A copy of the informal hearing officer's report is sent to all parties involved, including the complainant and the respondent. The report will contain information on the formal hearing process.
- If the complaint is not resolved to the complainant's satisfaction at the informal hearing, the complainant has the right to request a formal hearing. In this case, a formal hearing officer is appointed.
- d. DAY 20: If the complainant does not wish to continue with the complaint process, all parties are notified and the complaint file is closed. A copy of the informal hearing officer's report, with notice that the complaint file is being closed, is sent to the following three offices:

Director

The Civil Rights Center  
US Department of Labor  
200 Constitution Ave., NW, Room N-4123  
Washington, DC 20210

Chief

Equal Employment Opportunity Office  
Employment Development Department  
800 Capitol Mall, MIC 49  
P.O. Box 826880  
Sacramento, CA 94280-0001

Policy Unit Manager

Equal Employment Opportunity Office  
Employment Development Department  
800 Capitol Mall, MIC 69  
P.O. Box 826880  
Sacramento, CA 94280-0001

If the complainant does wish to continue the complaint process, the notice of formal hearing must be sent to all parties, via certified mail, return receipt requested. The notice of formal hearing must be in writing and must contain:

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- i. The date of the notice;
- ii. The complaint number;
- iii. The name of the complainant;
- iv. The name of the respondent;
- v. The name, address, and telephone number of the individual who issued the notice;
- vi. The date, time, and place of the formal hearing; and
- vii. A statement of the issue(s) to be resolved, including pertinent statutory and regulatory citations.

The complainant may withdraw his/her request for formal hearing by filing a request in writing any time prior to the date of the formal hearing.

- e. **DAY 28:** Any of the parties concerned may request that the formal hearing be rescheduled, for good cause, by filing a written request for rescheduling the date and by having the request postmarked or received by the Employment Training Division at least two (2) days prior to the date of the formal hearing.
- f. **DAY 30:** Formal hearing is held. The formal hearing officer will open the hearing by:
  - i. Informing the parties of the issues involved;
  - ii. Informing the parties of the manner in which the hearing will take place;
  - iii. Informing the parties that all testimony will take place under oath;
  - iv. Informing the parties that the burden of proof is upon the complainant;
  - v. Informing the parties that, because the burden of proof is upon the complainant, the complainant is to present his/her case first;
  - vi. Informing the parties that, upon completion of the complainant's case, the respondent will present its case.

The role of the formal hearing officer will depend upon the ability or inability of the parties involved to present their case and to protect their rights to due process. The quantity of evidence necessary to sustain a favorable decision for the complainant will be substantial, or such relevant evidence as a reasonable mind might accept as adequate to support such a conclusion. Strict rules of

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evidence are not applicable in a formal hearing. Both parties have the following rights:

- i. To present either written and/or oral testimony;
- ii. To call and question witnesses in support of positions taken;
- iii. To cross-examine witnesses;
- iv. To present oral and/or written arguments;
- v. To examine records and documents relevant to the issue(s);
- vi. To be represented by another individual.

The hearing will be recorded by a court reporter or by a machine.

If the complainant fails to appear at the formal hearing, or is more than one-half hour late, the formal hearing officer will notify all parties that the determination made through the informal investigation stands and will advise all parties involved of the next step in the complaint process.

If the respondent fails to appear at the formal hearing, the formal hearing officer will allow the complainant to present his/her case and will make a determination, based upon the complainant's presentation and information contained within the complaint file.

The formal hearing officer must inform all parties involved that a decision will be rendered within 60 days of the date that the complaint was first filed.

- g. DAY 60: Decision must be made and sent to all parties.

If, after hearing the evidence of the complainant, the formal hearing officer decides that the evidence is inadequate to carry the complainant's burden of proof, the formal hearing officer will issue a decision against the complainant.

The decision will be issued in writing, within 60 days of the filing of the complaint. The decision will be mailed to all parties and will include the following information:

- i. The names of the parties involved;
- ii. A statement of the alleged violation and issues related to the alleged violation;
- iii. A statement of the facts;
- iv. The decision and reasons for the decision;
- v. A statement of the corrective action, if any, to be taken; and

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- vi. A notice advising the complainant of the right to request a review of the decision from the Director of Civil Rights, US Department of Labor, 200 Constitution Avenue N.W., Room N-4123, Washington, DC 20210.

A copy of the resolution/decision must be forwarded to the Director, Director of Civil Rights, US Department of Labor, at the time of filing. In addition, a copy of the resolution/decision must be forwarded to the Chief, Equal Employment Opportunity Office, Employment Development Department, 800 Capitol Mall, MIC 49, P.O. Box 826880, Sacramento, CA 94280-0001. A copy must also be mailed to the Chief, Workforce Investment Division, P.O. Box 826880, MIC 69, Sacramento, CA 94280-0001.

- h. DAY 90: Complainant may file his/her complaint with the:

Director  
The Civil Rights Center  
US Department of Labor  
200 Constitution Ave., NW, Room N-4123  
Washington, DC 20210.

The Director will review the complaint to determine whether or not the CRC will accept the complaint.

- The Director accepts the complaint.
  - i. The Director shall advise CDE-WIB and the complainant of the acceptance and of the issues over which the Director has accepted jurisdiction.
  - ii. If necessary, the Director will seek information from the complainant. If the complainant is unavailable after reasonable means have been used to locate him/her, or the information is not furnished within 15 days of the receipt of such request for information, the complaint file may be closed without prejudice upon notice sent to the complainant's last known address.
- The Director determines that the CRC has no jurisdiction over the complaint.
  - i. The Director shall explain to the complainant why the complaint is not covered by the nondiscrimination and equal opportunity provisions of WIA or 29 CFR Section 34.43.
  - ii. When possible, the Director will refer the complainant to the appropriate authority.

Upon conclusion of the investigation, the Director shall issue a determination. The Director of The Civil Rights Center shall not exceed two (2) years after filing to render a decision.

**B. Procedure for Grievances and Complaints**

1. Individuals wishing to file a complaint regarding an action, policy or treatment that impacts their participation in a HC-WIB program are encouraged to contact either their WIA program operator, case worker or vocational counselor to attempt to resolve the complaint informally through the recipient's own grievance process. HC-WIB shall be given immediate notice of any such complaint filed with the recipient that is being addressed through informal means.

However, if the informal process does not resolve the complaint, individuals will have the right to file a formal complaint and be heard by the HC-WIB EO Officer.

2. The following principles and rules apply to all complainants:

- a. Hearings on any grievance shall be conducted within 30 days of filing of a grievance and decisions shall be made not later than 60 days after filing.
- b. All complaints must be made in writing within one year of the alleged occurrence.
- c. Any person filing a complaint shall not be subject to restraint, coercion, reprisal, or discrimination by any HC-WIB or recipient staff. Complainants have the right to withdraw their complaints (in writing) at any time prior to the hearing. A complaint can be amended to correct technical deficiencies, but not to add issues.
- d. If requested, a complainant may request assistance from WIA staff in preparing the written complaint.
- e. Complainants must exhaust HC-WIB-level hearing procedures before appealing to the State, except where the State determines that HC-WIB procedure does not comply with State procedures or federal guidelines.
- f. WIA participants who do not receive a written decision within 60 days of filing their complaint or who receive an unsatisfactory decision may file a complaint with:

Employment Development Department  
ATTENTION:  
Compliance Review Division, MIC 22  
P.O. Box 826880  
Sacramento, CA 94280-0001

g. Each complaint or grievance shall:

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- h. Be signed by the complainant/grievant or his/her authorized representative;
  - i. Contain the complainant/grievant name and address;
  - j. Identify the respondent; and
  - k. Describe the complainant/grievant allegations in sufficient detail to allow the CDE-WIB to determine whether:
    - i. The CDE-WIB has jurisdiction over the complaint;
    - ii. The complaint/grievance was timely filed; and
    - iii. The complaint/grievance has merit, i.e., whether the allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIA or this part.
3. At each step of the complaint process, the complainant must be notified in writing of the next procedural step.
4. Timeline for Grievances and Complaints
- a. Alleged incident occurs
  - b. DAY 1—Grievance is filed
    - i. Grievance is date-stamped.
    - ii. Grievance is numbered, for reference.
    - iii. Copy of grievance is forwarded to:

Policy Unit Manager  
Equal Employment Opportunity Office  
Employment Development Department  
800 Capitol Mall, MIC 69  
P.O. Box 826880  
Sacramento, CA 94280-0001.
    - iv. Informal hearing officer is appointed.
    - v. Investigation into allegations begins.
  - c. DAY 2 to DAY 14—Informal investigation into grievance occurs.
    - i. The informal hearing officer will interview the grievant as to the specific nature of the grievance and the results requested by the grievant. The informal hearing officer will review the grievance and all pertinent documentation.

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- ii. A copy of the grievance will be sent to the respondent, with a request for response to the grievant's allegations.
- iii. Upon conclusion of the informal investigation, the informal hearing officer will write a report. This report will include:
  - 1. The name of the grievant;
  - 2. The name of the party against whom the grievance is filed (respondent);
  - 3. A statement of the issue; and
  - 4. If the grievance is resolved, a detailing of the resolution reached; or If the grievance is not resolved, the reasons why the issue(s) could not be resolved.
- d. DAY 15: A copy of the informal hearing officer's report is sent to all parties involved, including the grievant and the respondent. The report will contain information on the formal hearing process.
- e. DAY 20: If the grievant does not wish to continue with the grievance process, all parties are notified and the grievance file is closed. A copy of the informal hearing officer's report, with notice that the grievance file is being closed, is sent to the Sacramento addresses noted above. If the grievant does wish to continue the complaint process, the notice of formal hearing must be sent to all parties, via certified mail, return receipt requested.

The report is sent to the grievant via certified mail, return receipt requested. If the grievance is not resolved to the grievant's satisfaction at the informal hearing, the grievant has the right to request a formal hearing. In this case, a formal hearing officer is appointed, and Notice of Formal Hearing is generated.

The notice of formal hearing must be in writing and must contain:

- i. The date of the notice;
- ii. The grievance number;
- iii. The name of the grievant;
- iv. The name of the respondent;
- v. The name, address, and telephone number of the individual who issued the notice;
- vi. The date, time, and place of the formal hearing; and

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vii. A statement of the issue(s) to be resolved, including pertinent statutory and regulatory citations.

The grievant may withdraw his/her request for formal hearing by filing a request in writing any time prior to the date of the formal hearing. The required ten-day notice for formal hearing may be shortened, If both parties agree, in writing.

- f. DAY 28: Any of the parties concerned may request that the formal hearing be rescheduled, for good cause, by filing a written request for rescheduling the date and by having the request postmarked or received by HC-WIB at least two (2) days prior to the date of the formal hearing.
- g. DAY 30: Formal hearing is held. The formal hearing officer will open the hearing by:
  - i. Informing the parties of the issues involved;
  - ii. Informing the parties of the manner in which the hearing will take place;
  - iii. Informing the parties that all testimony will take place under oath;
  - iv. Informing the parties that the burden of proof is upon the grievant;
  - v. Informing the parties that, because the burden of proof is upon the grievant, the grievant is to present his/her case first;
  - vi. Informing the parties that, upon completion of the grievant's case, the respondent will present its case.

The role of the formal hearing officer will depend upon the ability or inability of the parties involved to present their case and to protect their rights to due process. The quantity of evidence necessary to sustain a favorable decision for the grievant will be substantial, or such relevant evidence as a reasonable mind might accept as adequate to support such a conclusion. Strict rules of evidence are not applicable in a formal hearing. Both parties have the following rights:

- i. To present either written and/or oral testimony;
- ii. To call and question witnesses in support of positions taken;
- iii. To cross-examine witnesses;
- iv. To present oral and/or written arguments;
- v. To examine records and documents relevant to the issue(s);
- vi. To be represented by another individual.

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The hearing will be recorded by a court reporter or by a machine. The formal hearing officer must inform all parties involved that a decision will be rendered within 60 days of the date that the grievance was first filed.

If the grievant fails to appear at the formal hearing, or is more than one-half hour late, the formal hearing officer will notify all parties that the determination made through the informal investigation stands and will advise all parties involved of the next step in the grievance process.

If the respondent fails to appear at the formal hearing, the formal hearing officer will allow the grievant to present his/her case and will make a determination, based upon the grievant's presentation and information contained within the grievance file.

- h. DAY 60: Decision must be made and sent to all parties. If, after hearing the evidence of the grievant, the formal hearing officer decides that the evidence is inadequate to carry the grievant's burden of proof, the formal hearing officer will issue a decision against the grievant.

The decision will be issued in writing, within 60 days of the filing of the grievance. The decision will be mailed to all parties and will include the following information:

- i. The names of the parties involved;
- ii. A statement of the alleged violation and issues related to the alleged violation;
- iii. A statement of the facts;
- iv. The decision and reasons for the decision;
- v. A statement of the corrective action, if any, to be taken; and
- vi. A notice advising the grievant of the right to request a review of the decision within 10 days of receipt of an unsatisfactory decision.

A copy of the resolution/decision is forwarded to Chief, Workforce Investment Division, P.O. Box 826880, MIC 69, Sacramento, CA 94280-0001.

- i. DAY 70: Within 10 days of the receipt of the CDE-WIB's decision, any party to the action may file a request for review with the State Review Panel. Such requests must be filed in writing with the Chief of the Workforce Investment Division, P.O. Box 826880, MIC 69, Sacramento, CA 94280-0001. The request for review shall include:
  - i. The name, address, and telephone number of the party requesting the review.

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- ii. The name, address, and telephone number of the other party.
- iii. A copy of the decision.
- iv. A brief statement of the reasons for the review or the section of the CDE-WIB decision to be reviewed, including regulatory and statutory citations.
- v. A statement of the relief sought. If the request is filed by the grievant, s/he must also include a written statement setting forth the facts presented at the local-level hearing which support the requested relief.

The Chief of the Workforce Investment Division will mail copies of the request for review to the other party and to the CDE-WIB. Upon receipt, the CDE-WIB will submit the complete record, including a typed record of the hearing, to the Chief of the Workforce Investment Division within ten days.

- j. DAY 100: A final decision must be rendered by the State Review Panel no later than thirty (30) days after receipt of the request for State review.
- C. The CDE-WIB Notice of Non-Discrimination and Equal Opportunity forms and the CDE-WIB Grievance and Complaint Procedure forms will be provided to all individuals accessing Title I funded adult, dislocated worker, and youth programs and/or services. Both forms will be made available to all individuals at the time of WIA eligibility services.

Acknowledgment that forms were provided to individuals will be established by the individual's signature and corresponding date the forms were received. A copy of this acknowledgement will be kept in the individual's WIA client file.

Complaint Log—CDE-WIB will maintain a log of complaints filed with it that allege discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship or participation in WIA programs. The log shall include:

- i. The name and address of the complainant;
- ii. The date the complaint was filed;
- iii. The disposition and date of disposition of the complaint; and
- iv. Other pertinent information.