

CRC's Complaint Processing Procedures



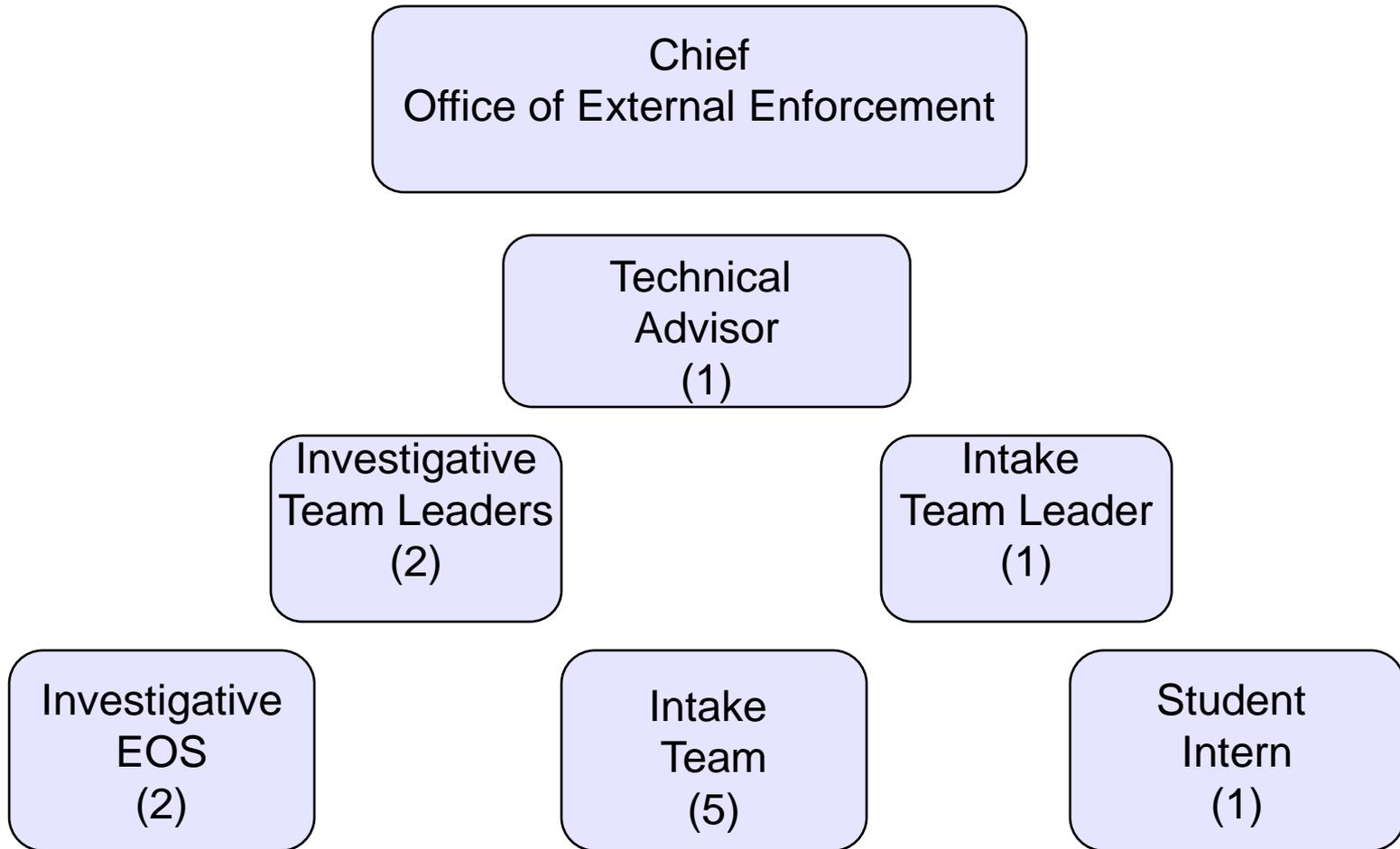
Today's webinar will include:

- Introduction
- Description of Laws Enforced
- Description of Intake Procedures
- Description of Investigative Procedures
- Q & As

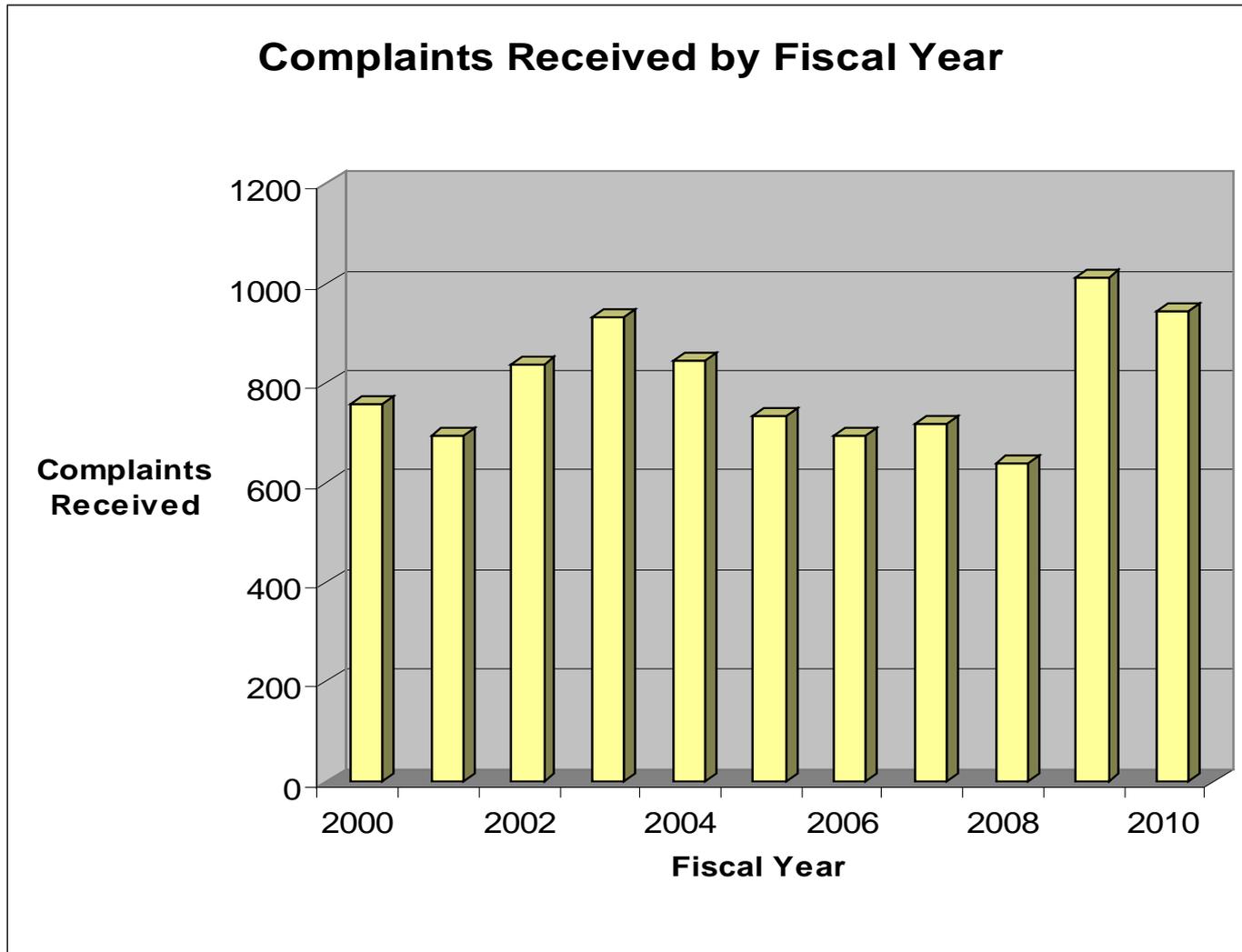
Discrimination Complaints Processed by CRC's Office of External



Office of External Enforcement Organizational Chart

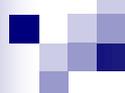


Complaints Processed by CRC Each Year



Complaints Processed by CRC Each Year

Fiscal Year	Complaints Received	EOS Investigators
2000	759	12
2001	695	13
2002	839	13
2003	934	12
2004	847	11
2005	735	9
2006	695	8
2007	719	7
2008	641	8
2009	1013	7
2010	943	7



Number of Cases Referred to CRC from Department of Justice by Fiscal Year

FY 08 - 64

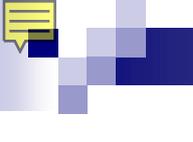
FY 09 - 102

FY 10 - 95



Accessibility

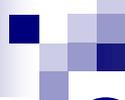
CRC's Complaint Processing Procedures must be accessible to all customers...



Complaint Processing Requirements

Accessible to those:

- With disabilities
 - Includes provision of an accommodation
- Who are limited English proficient (LEP)
 - Includes provision of translation of vital forms and correspondence



Complaints Received in Languages Other than English

FY 2008

- 24 incoming complaints in Spanish, all translated by CRC staff

FY 2009

- 29 incoming complaints in Spanish, all translated by CRC staff
- 1 complaint received in Chinese, translated by contractors

FY 2010

- 24 incoming complaints in Spanish, all translated by CRC
- 3 complaints received in Chinese translated by contractors

CRC's Jurisdiction



Primary EO Laws and Regulations

Section 188 of the WIA

Section 188 of the WIA prohibits discrimination on the grounds of **race, color, religion, sex, national origin, age, disability, political affiliation or belief**, and for *beneficiaries only*, **citizenship or participation** in a WIA Title I-financially assisted program or activity.

29 C.F.R. Part 37

Who is Covered by Section 188 of the WIA and its implementing regulations?

Recipient

All entities that receive *federal financial assistance* from the Department of Labor, either directly or indirectly, through a grant, contract or subcontract are considered recipients.

A List of Recipients

- State-level agencies that administer, or are financed, in whole or in part with, WIA Title I funds
- State Employment Security Agencies
- State Unemployment Insurance Agencies
- State and local Workforce Investment Boards
- Local Workforce Investment Areas grant recipients
- One-Stop operators
- Service providers, including eligible training providers
- On-the-Job Training (OJT) employers
- Job Corps contractors and center operators
- Outreach and admissions agencies, including Job Corps contractors that perform these functions

Title VI of the Civil Rights Act of 1964

Prohibits discrimination based on:

- Race
- Color
- National Origin

29 C.F.R. Part 31

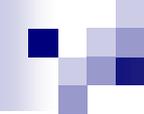


Section 504 of the Rehabilitation Act of 1973

Prohibits discrimination based on:

- Disability
 - Failure to provide reasonable accommodations

29 C.F.R. Part 32 and 33



Title II of the Americans with Disabilities Act

Prohibits discrimination based on:

- Disability
 - Failure to accommodate
- ✓ State & local government entities

(Recently Amended (ADAAA))

28 C.F.R. Part 35



Title IX of the Education Amendments Act of 1972

Prohibits discrimination based on:

- Sex

20 U.S.C. Sections 1681-1688

Age Discrimination Act of 1975

Prohibits discrimination based on:

- Age
 - ✓ Any Age

29 C.F.R. Part 35



All of the Laws Prohibit

Retaliation for having participated in
the complaint process

Complaint Processing Requirements





Complaint Processing Requirements

- The procedures must provide the complainant with the option to file with the Recipient or directly with CRC

29 C.F.R. Part 37.71

Filing A Complaint

- Types of Complaints
- Who May File a Complaint
- Information Required for Complaint
- Acceptable Formats
- Time Frames for Filing

Types of Complaints

- Individual – Complaint filed by one person
- Class Action – Complaint filed by two or more similarly situated individuals on behalf of himself/herself or others
- Third Party – Complaint filed by an individual, advocacy group or a group on the behalf of others



Who May File A Complaint

Any person, their authorized representative or any specific class of individuals, who alleges that they have been or are being subjected to discrimination prohibited under WIA

29 C.F.R. Part 37.70

Who May File - Examples

- Applicant/registrant for aid, benefits, services, or training
- Participants
- Employees
- Applicants for employment
- Eligible service providers

Information Required

- In writing, the complainant's name, address, or another means of contacting the complainant
- Identity of respondent (individual or entity alleged to have discriminated)

29 C.F.R. Part 37.73

Information Required

- Allegations described in sufficient detail to determine whether:
 - Complaint falls under CRC's or the Recipient's jurisdiction
 - Filed within 180 days of the most recent occurrence
 - Complaint has *apparent merit*
- Signature of the complainant or their authorized representative

Acceptable Formats

- Any document that includes the required information (i.e. written letter)

- CRC's Complaint Information Form (CIF) mailed to emailed to:

CRCExternalComplaints@dol.gov

<http://www.dol.gov/oasam/programs/crc/external-enforc-complaints.htm>

29 C.F.R. Part 37.74

Timeframes



Timeframe Requirements

- State's 90-day Processing timeframe
- Complainant's 30-day timeframe for filing with CRC
- Extension of complainant's 30-day timeframe to file with CRC

Complainant's 30-Day Timeframe to File with CRC

- State issues a written notice of lack of jurisdiction
- State fails to issue either a written notice of lack of jurisdiction, a written notice of final action, or to refer to another federal grant-making agency within the 90-day timeframe
- An ADR process fails to produce an agreement
- An agreement is breached

Time Frame for Filing

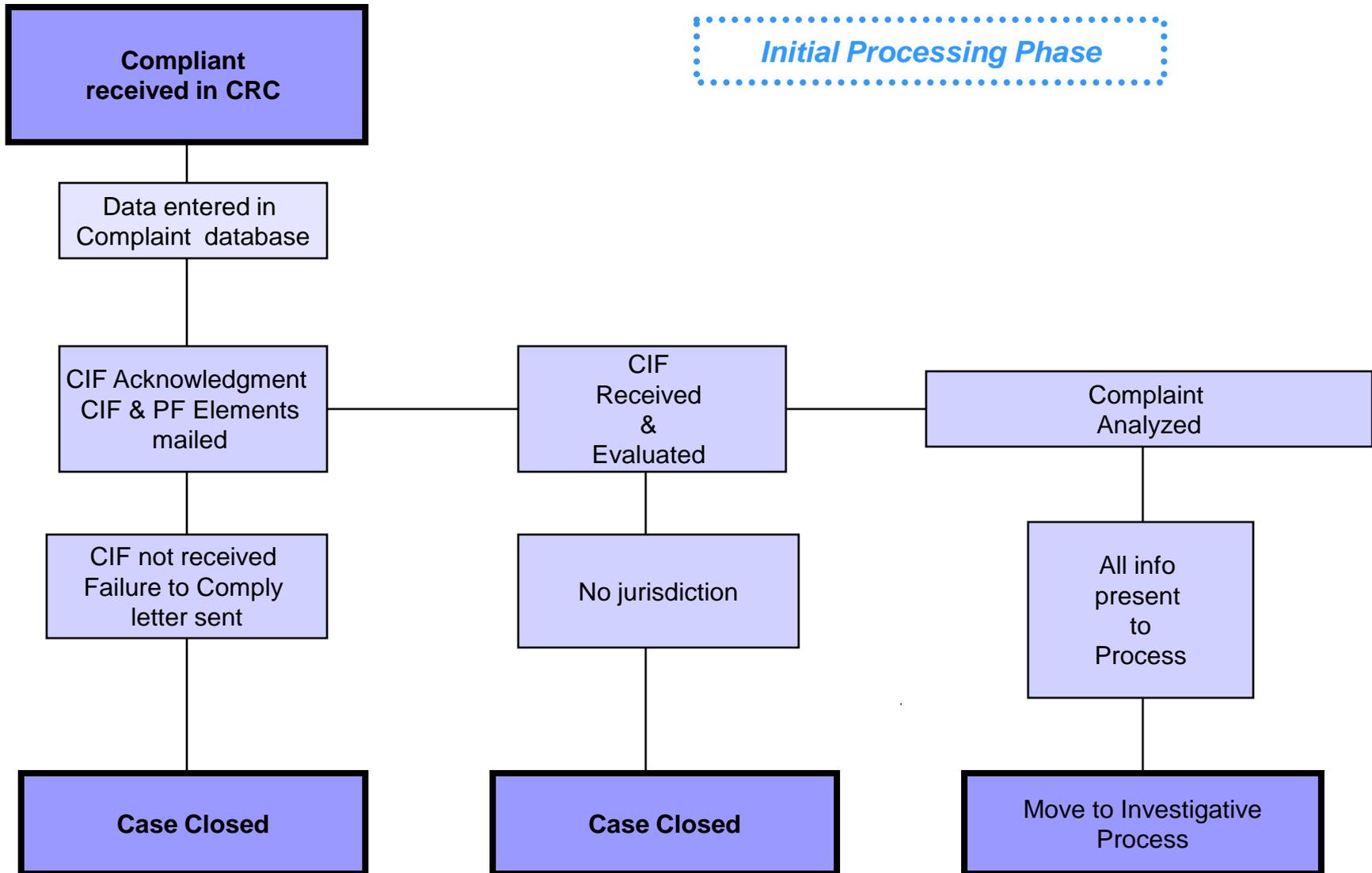
- Must be filed within 180 days of the alleged discrimination
- Only the Director of CRC can grant an extension of the 180-day filing period *for good cause shown* by the complainant

29 C.F.R. 37.72

Intake Procedures



OEE Complaint Intake Process



Evaluating Complaints

Discrimination vs. Program

	Discrimination Complaint	Program Complaint
Elements	<ul style="list-style-type: none">-An issue-A prohibited basis (i.e. race, color, disability, etc.)	<ul style="list-style-type: none">-An Issue-A non-prohibited basis
Procedures	CRC regulations at 29 CFR 37	ETA regulations at 20 CFR Subpart F, Sec. 667.600 [a][b]

Evaluating Complaints & Determining Jurisdiction

- Respondent is a covered entity
 - Recipient
 - DOL conducted program
- The complaint basis is covered under applicable non-discrimination laws
 - On relevant bases

Evaluating Complaints & Determining Jurisdiction

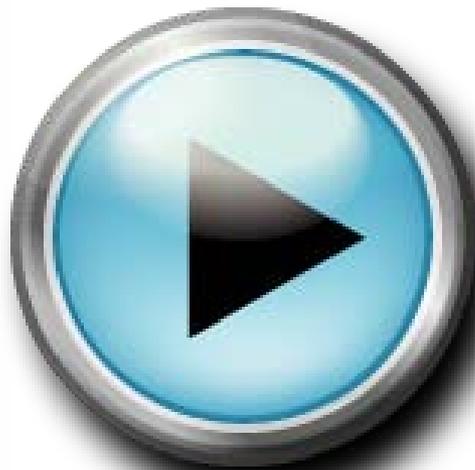
- Complaint has been filed timely, or the Director of CRC has granted the complainant an extension of time to submit complaint

Evaluating Complaints

No Jurisdiction

- CRC must send the complainant a written notice of lack of jurisdiction
- Reason(s) for the determination

Referrals Mandated by Regulation & Joint Jurisdiction



Referrals to FMCS

Processing complaints alleging discrimination on the basis of age

- The Age Discrimination Act of 1975, 42 U.S.C. § 6101 et. Seq. prohibits discrimination on the basis of age (any age) in programs or activities receiving Federal financial assistance. A provider generally may not exclude, deny, or provide different or lesser services to applicants or beneficiaries, on the basis of age.
- The Department of Health and Human Service (HHS) has oversight and coordination responsibility for the Age Discrimination Act. HHS Regulations at 45 CFR 90 require that all complaints filed under the Age Discrimination Act be forwarded to the Federal Mediation and Conciliation Services (FMCS). FMCS has 60 days to attempt mediation.

Referrals to FMCS

The Process

- The complaint alleging age based discrimination is initially reviewed by Intake. A determination to see if the complaint meets the jurisdictional/acceptance criteria.
- CRC refers to FMCS for mediation.
- FMCS notifies CRC of the mediation results at the conclusion of the mediation process, or within 60 days, whichever comes first.
- CRC evaluates the mediation results and either initiates an investigation or closes the complaint because all issues have been resolved.

Coordination Between CRC and EEOC

- When it is determined that CRC does not have jurisdiction over the employment related complaint, it is **transferred** to EEOC within 30 days of receipt.

Example: Employer is a private entity that does not receive federal funds from DOL.

The CP will be notified of the transfer, and the complaint will be closed

Joint Jurisdiction Complaints

CRC & EEOC

Some *employment-related complaints* allege discrimination on bases covered by both CRC and EEOC laws. These are Joint-Jurisdiction Complaints.

- Individual employment complaint alleging discrimination filed with CRC, is *referred* to EEOC for investigation
- Class action or special circumstance complaints are retained and processed using CRC processing procedures.
- Complaints that are filed with both EEOC & CRC are *deferred* for EEOC's investigation

Joint Jurisdiction Complaints CRC and EEOC

When the complaint and file disclosure is received from EEOC, CRC will:

- Review all documents to ensure that EEOC investigated the allegations that were initially sent to be investigated.
 - If CRC agrees with the findings, CRC will send the CP a Concurrence with Findings Letter
 - If EEOC has issued a “Notice of Right to Sue,” CRC will contact CP and notify of their right to pursue the matter in court or to have CRC process their complaint in accordance with its regulations. The CP has ten (10) days to respond.



Who is a One-Stop Partner?

Other federal grant making agencies that participate as partners in a one-stop delivery system

Section 188 of the Workforce Investment Act of 1998

- All Programs and Activities offered BY or THROUGH One Stop Partners
- Doesn't matter if program/activity is not labeled as "WIA" or physically located in One-Stop Center

29 C.F.R. Part 37



Examples of One-Stop Partners

- Department of Education
- Department of Health and Human Services
- Department of Housing and Urban Development
- Department of Agriculture
- Department of Transportation

Handling Complaints Filed Against One-Stop Partners

- Sole Jurisdiction Processed by CRC: The basis of the complaint is only covered by WIA (i.e. political affiliation, citizenship, status as a WIA participant)
- Joint Jurisdiction Processed by grant-making agencies: The basis of the complaint is covered by laws enforced by both CRC and the Partners

Joint Jurisdiction

- Refer the complaint to the Federal grant-making agency's National Civil Rights office to be processed in accordance with the agency's complaint investigation procedures

Investigative Procedures



Preliminary Investigative Process

Review Complaint Information

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graph TD; A[Review Complaint Information] --> B["Dismiss  
Issue Agency Decision  
No further investigation  
Closed"]; A --> C["Accepted  
for Further Investigation  
Interrogatories to  
Complainant &  
Respondent"]; C --> D[Issue Finding];
```

Dismiss

Issue Agency Decision
No further investigation
Closed

Accepted

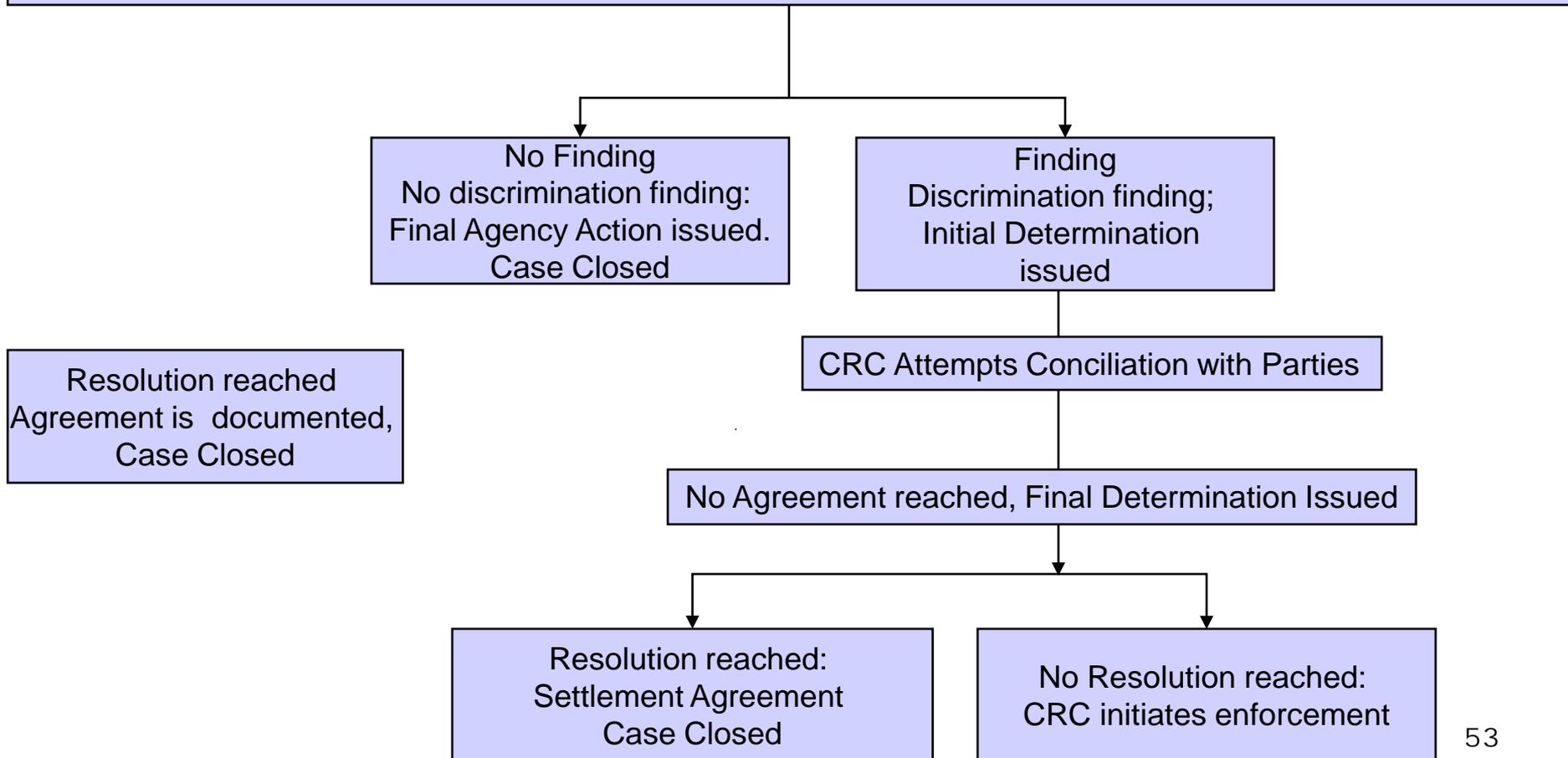
for Further Investigation
Interrogatories to
Complainant &
Respondent

Issue Finding

Formal Investigative Process

Formal Investigations

EOS conducts full investigation: evaluates allegations, develops interrogatories, interview questions, analyzes evidence, etc. CRC encourages resolution throughout investigative process.



Investigative Complaint Processing Procedures

Formal Investigations

- Investigator evaluates allegations, develops interrogatories & document requests, interview questions
- Notifies Complainant & Respondent
- Analyzes evidence
- Finalizes determination



Investigative Complaint Processing Procedures

- Final Agency Action
 - No Finding
- Case is closed

Investigative Complaint Processing Procedures

- Initial Determination issued
 - Resolution reached, agreement is documented, case is closed
 - No resolution reached, determination made
CRC initiates enforcement

Enforcement

To effect compliance with WIA, DOL may pursue the following enforcement actions:

- Sanctions – judicial enforcement
- Secretary of Labor may initiate a hearing to suspend, terminate, deny or discontinue WIA assistance in whole or in part
- Deferral of new grants to recipient until enforcement hearings are pursued



Remedies for Discrimination

Remedies sought for discrimination findings:

- Make Whole Relief (no federal funds to compensate)
- Attorney's Fees if applicable



Record Keeping Requirements



Record-Keeping Requirements

- Name and address of the complainant
- Bases in the complaint
- Description of the complaint
- Date when the complaint was filed
- Disposition of the complaint and the date the disposition was issued
- Other pertinent information



Record-Keeping Requirements

Record maintenance period

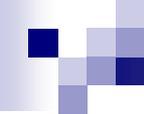
Records regarding complaints and actions taken on the complaints must be maintained for a period of not less than three (3) years from the date of resolution of the complaint

29 C.F.R. Part 37.39(b)

Webinar presented by:

- Julia Mankata-Tamakloe
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- Adoria Johnson, Team Leader, Compliance Reviews
- Margo McDaniel, Team Leader, Investigations
- Margaret Montoya, Team Leader, Complaint Intake
- Denise Delhotal, Technical Advisor





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<http://www.dol.gov/oasam/programs/crc/about-external-enforcement.htm>