

# OPERATING ENGINEERS TRUST FUNDS

I.U.O.E. LOCAL 12 HEALTH & WELFARE / PENSION / VACATION / DCP

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## OPERATING ENGINEERS HEALTH AND WELFARE FUND NONDISCRIMINATION GRIEVANCE PROCEDURES

It is the policy of the Operating Engineers Health and Welfare Fund (“Fund”) not to discriminate on the basis of race, color, national origin, sex, age or disability. The Fund has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 1557 of the Affordable Care Act (42 U.S.C. 18116) and its implementing regulations at 45 CFR part 92, issued by the U.S. Department of Health and Human Services.

Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age or disability in certain health programs and activities. Section 1557 and its implementing regulations may be examined in the office of the Fund’s Compliance Officer, Patricia Knapik, 100 Corson Street, Pasadena, CA 91103, who has been designated to coordinate the efforts of the Fund to comply with Section 1557.

Any person who believes someone has been subjected to discrimination on the basis of race, color, national origin, sex, age or disability may file a grievance under this procedure. It is against the law for the Fund to retaliate against anyone who opposes discrimination, files a grievance, or participants in the investigation of a grievance.

### Procedure:

1. Grievances must be submitted to the Fund’s Compliance Officer named above within 60 days of the date the person filing the grievance becomes aware of the alleged discriminatory action.
2. A complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory, the date or dates when it occurred and the remedy or relief sought.
3. The Compliance Officer, or the person designated by the Compliance Officer, shall conduct an investigation of the complaint. This investigation may be informal, but it will be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Compliance Officer will maintain the files and records of the Fund relating to such grievances. To the extent possible, and in accordance with applicable law, the Compliance Officer will take appropriate steps to preserve the confidentiality of files and records relating to grievances and will share them only with those who have a need to know.
4. The Compliance Officer will issue a written decision on the grievance, based on a preponderance of the evidence, no later than 30 days after its filing, including a notice to the complainant of his or her right to pursue further administrative or legal remedies.

5. The person filing the grievance may appeal the decision of the Compliance Officer to the Board of Trustees of the Fund for review. The appeal for review shall be in writing and must state in clear and concise terms the reason or reasons for disputing the denial by the Compliance Officer. The appeal must be filed with or received by the Board of Trustees at 100 Corson St., Pasadena, CA, 91103, within 30 days after the complainant receives the Compliance Officer's decision. The Board of Trustees shall consider the appeal at its next regularly scheduled meeting unless the appeal is filed fewer than 15 days before the date of such meeting. In that event, Board of Trustees shall consider the appeal at its second regularly scheduled meeting after the filing of the appeal. The Board of Trustees shall issue a written decision in response to the appeal no later than 15 days after the meeting at which the appeal is considered.

The availability and use of this grievance procedure does not prevent a person from pursuing other legal or administrative remedies, including filing a complaint of discrimination on the basis of race, color, national origin, sex, age or disability in court or with the U.S. Department of Health and Human Services, Office for Civil Rights. A person may file a complaint of discrimination electronically through the Office for civil rights Complaint Portal, which is available at: <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>, or by mail or phone at: U.S. Department of Health and Human Services, 200 Independence Avenue SW., Room 509F, HHH Building, Washington, DC 20201. Complaint forms are available at: <http://www.hhs.gov/ocr/office/file/index.html>. Such complaints must be filed within 180 days of the date of the alleged discrimination.

The Fund will make appropriate arrangements to ensure that individuals with disabilities and individuals with limited English proficiency are provided auxiliary aids and services or language assistance services, respectively, if needed to participate in this grievance process. Such arrangements may include, but are not limited to, providing qualified interpreters, providing taped cassettes of material for individuals with low vision, or assuring a barrier-free location for the proceedings. The Compliance Officer will be responsible for such arrangements.

*As of 08/22/2016*