



CITY OF OAKLAND



OFFICE OF ECONOMIC AND WORKFORCE DEVELOPMENT

OAKLAND WORKFORCE DEVELOPMENT BOARD

DIRECTIVE No: 23-004
TO: WIOA Service Providers
EFFECTIVE: July 1, 2023
SUBJECT: Grievance & Complaint Resolution Policy

PURPOSE

This policy provides the guidance and establishes the procedures regarding grievances and complaints alleging noncriminal violations of Workforce Innovation and Opportunity Act (WIOA) Title I requirements. This policy applies to all WIOA Title I recipients and subrecipients, and is effective immediately.

BACKGROUND

Under WIOA Section 181(c), each state, Local Workforce Development Area (Local Area), and direct recipient of Title I funding is required to establish and maintain procedures for participants and other interested parties to file grievances and complaints alleging violations of WIOA Title I requirements. These procedures must be made available to all relevant parties within the Local Area, including America's Job Center of CaliforniaSM (AJCC) partners, service providers, and program participants.

This Policy contains guidance regarding the receipt, hearing, resolution, and appeals process of WIOA Title I grievances and complaints at the local, state, and federal level in accordance with Title 20 CFR Sections 683.600 and 683.610 and the Employment Development Department (EDD) Workforce Services Directive WIOA Grievance and Complaint Resolution Procedures (WSD 18-05). These procedures apply only to programmatic complaints alleging violations of WIOA Title I requirements in the operation/administration of WIOA programs and activities. For information on complaints alleging discrimination under WIOA Section 188 and/or Title 29 CFR Part 38, see EDD Workforce Services Directive Nondiscrimination and Equal Opportunity Procedures (WSD17-01). For information on complaints alleging criminal fraud, waste, abuse, or other criminal activity, see EDD Workforce Services Directive Incident Reporting (WSD 20-12). Lastly, for appeals of administrative or financial sanction(s) on a Local Area resulting from monitoring, investigations, or audits, see EDD Workforce Investment Act Directive Audit Resolution (WIAD05-17).

POLICY

If you are a participant or other interested party affected by the Oakland Workforce Development System, including a one-stop partner or service provider, and you believe that a violation of the requirements of the Workforce Innovation Opportunity Act (WIOA) or WIOA regulations has occurred, you may file a grievance or complaint with the City of Oakland, Department of Economic and Workforce Development. Such grievance or complaint must be filed with the City of Oakland, Department of Economic and Workforce Development, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612, within one (1) year of the alleged violation, however, in the case of a grievance or complaint challenging a competitive funding process, complainants should be aware that the remedy of setting aside or restarting the process will only be available if the grievance or complaint is filed with the City prior to 10 days from approval of the funding by the Oakland Workforce Development Board and the Oakland City Council.

Participants have the right to receive technical assistance. Such technical assistance includes providing instructions on how to file a grievance or complaint, providing relevant copies of documents such as the WIOA, regulations, local policies, contracts, etc., and providing clarifications and interpretations of relevant provisions.

The grievance or complaint must be in writing, signed and dated by the grievant/complainant and shall contain the following information:

1. The full name, telephone number (if any) and mailing address of the grievant/complainant.
2. The full name, telephone number (if any) and mailing address of the respondent (the person or entity against whom the grievance/complaint is made).
3. A statement of the basis for the complaint, including the requirement of the Workforce Innovation Opportunity Act that the grievant/complainant alleges has been violated.
4. A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.
5. The remedy being sought, which must be consistent with the requirement allegedly violated and the facts presented, and may only be one or more of the following remedies:
 - a) A suspension or termination of payments under the WIOA;
 - b) A prohibition of placement of a participant with an employer that has violated any requirement of WIOA;
 - c) Reinstatement of an employee, payment of lost wages and benefits, and re-establishment of other relevant terms, conditions, and privileges of employment; and
 - d) Other appropriate forms of equitable relief

**City of Oakland
Department of Economic and Workforce Development
Oakland Workforce Development Board
250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612
www.oaklandca.gov/wdb**

Upon receipt of any such complaint or grievance, the Department of Economic and Workforce Development (DEWD) will process the matter consistent with the City of Oakland EWD's Complaint Resolution Procedure and EDD directive WSD 18-05 and will provide an opportunity for an informal resolution. Respondents must make good faith efforts to resolve the grievance or complaint through the informal resolution process. Any grievance or complaint that alleges a labor standards violation may be submitted to binding arbitration between the parties, if a collective bargaining agreement covering the parties to the grievance or complaint so provides.

If the grievance or complaint is not resolved informally, the City shall hold a hearing on the grievance or complaint before an impartial hearing officer chosen by the City in accordance with procedures established by the hearing officer. Hearings on any grievance or complaint shall be conducted within 30 days of filing the grievance or complaint. The complainant and the respondent will be notified in writing of the hearing at least 10 days prior to the date of the hearing. The 10-day notice may be shortened with the written consent of both parties.

The hearing will be conducted in an informal manner with strict rules of evidence not being applicable. All parties will have the right to present written and/or oral testimony; the right to call and question witnesses in support of their position; the right to examine relevant records and documents; and the right to be represented. The hearing will be recorded electronically.

Not later than 60 days after the filing of the grievance or complaint, the hearing officer shall mail a written decision to all parties.

The decision shall contain the following information:

- The names of the parties involved.
- A statement of the alleged violation(s) and related issues.
- A statement of the facts.
- The hearing officer's decision and reasoning.
- A statement of the corrective action or remedies for violations, if any, to be implemented.
- A notice of the right of either party to request an appeal of the decision by the State Review Panel within 10 days of receipt of the decision

Any grievance or complaint may be appealed to the State of California, Employment Development Department (or other designated state department) if:

- (a) no decision is reached within 60 days; or
- (b) either party is dissatisfied with the hearing officer's determination.

The appealing party may request a State hearing by submitting a written notice of appeal to:

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

Participants may also request a separate review by the Employment Development Department if they experience an incident of restraint, coercion, or reprisal as a result of filing a complaint.

Under Title 20 CFR Section 667.610(a)(1), if the State has not issued a decision within the required 60-day time limit, the complainant can file an appeal to the Secretary of Labor. The appeal must be filed with the Secretary of Labor no later than 120 days of the filing of the grievance or complaint with the State, or the filing of the appeal of a local grievance or complaint with the State. In cases where a decision has been reached and the State issued an adverse decision, the complainant can file an appeal to the Secretary of Labor within 60 days of the receipt of the decision being appealed.

The request for appeal must be submitted by certified mail, return receipt to:

**Attention: ASET Secretary
U. S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210**

A copy of the appeal must be simultaneously provided to:

**Region 6 Administrator and the opposing party.
U.S. Department of Labor
Office of Regional Administrator
P.O. Box 193767
San Francisco, CA 94119-3767**

All grievances/complaints must be protected to safeguard the complainant, or any individual, who furnishes information relating to, or assisting in, an investigation confidential to the extent possible. Please refer to the OWDB 16-001 Personally Identifiable Information Policy. All personal information must be kept confidential and stored as such.

Grievances/Complaint records shall be kept for a period of three years. This is applicable to all WIOA Service Providers and OWDB.

Any discrepancies arising between OWDB policy and or procedures with federal and state provisions due to current or future revisions will default to the current minimum federal and state regulations and guidance available. OWDB policy and or procedures may set forth stricter requirements than provided by federal and state guidance, but in no case will OWDB policy and or procedures not meet minimum federal and state policy.

REFERENCES

- ***Title 20 Code of Federal Regulations (CFR) Sections 683.600 and 683.610***
- ***Title 29 CFR Section 38.9***
- ***WIOA (Public Law 113-128) Section 181(c)***

- ***Title 22 California Code of Regulations (CCR) Division 1, Subdivision 2, Chapter 2, Sections 5050 – 5070***
- ***WSD 18-05 WIOA Grievance and Complaint Resolution Procedures***
- ***WSD 17-01 Nondiscrimination and Equal Opportunity Procedures***
- ***WSD 20-12 Incident Reporting***

ACTION REQUIRED

This information should be disseminated to all agency & provider staff. A signed copy by the participant and a WIOA Service Provider Representative of the OWDB WIOA Grievance and Complaint Procedures form (Attachment 1) must be provided to the WIOA participant and a copy must be included in their case file.

ATTACHMENTS

Attachment 1: OWDB WIOA Grievance and Complaint Procedures form

INQUIRIES

Questions regarding this policy should be directed to the Oakland Workforce Development Board:
City of Oakland Economic & Workforce Development
c/o Executive Director – Workforce Development Board
250 Frank Ogawa Plaza, Suite 3315
Oakland, CA 94612
OWDB@oaklandca.gov