



LOS ANGELES COUNTY

WIA Adult, Dislocated Worker and Youth Programs

DIRECTIVE

Number: LACOD-WIAD08-43

Subject: Grievance and Complaint
Procedures

Date: 12/22/08

Effective Date: Immediately for All Active Client Files

Page 1 of 2

THIS DIRECTIVE SUPERSEDES DIRECTIVE NUMBER LACOD-WIAD08-4

TO: WIA CONTRACTORS

Purpose

The attached State Employment Development Department (EDD) Directive WSD08-4 updates the State's policy on grievance and complaint procedures for the Workforce Investment Act (WIA) title I financially assisted activities. It contains minor revisions to the data verification requirements for the WIA Adult and Dislocated Worker programs, enabling the LWIAs to document the verification of customer data in an electronic environment rather than maintain had copy files.

Los Angeles County Workforce Investment Area Complaint and Resolution Policies and Procedures

The attached copy of the Los Angeles County Workforce Investment Area (LACWIA) Complaint and Resolution Policies and Procedures were established in accordance with Section 181 of the Workforce Investment Act (WIA), which requires that each administrative entity, contractor and grantee under WIA develop and maintain procedures for resolving programmatic grievances.

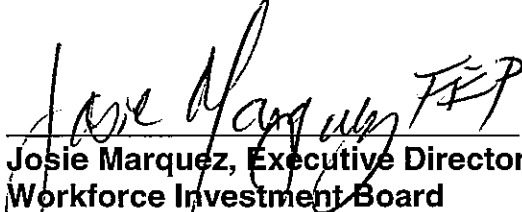
WIA Contractors' Responsibilities

*Each agency receiving such funding **must** establish written grievance/complaint procedures incorporating all of the requirements of WSD08-4.*

WIA contractors **must** provide participant with a signed copy of attached WIA Complaint/Grievance Procedures Acceptance Form along with a copy of the Los Angeles County Workforce Investment Area Complaint and Resolution Policies and Procedures. The original signed WIA Complaint/Grievance Procedures Acceptance Form **must** be retained in the participant's file. *Where an electronic case file is maintained, staff **must** make a note indicating that this notification did occur, the date of the notification, and the name of the staff person who provided it.* In addition, the participant file **must** contain one copy of Los Angeles County Workforce Investment Area Complaint and Resolution Policies and Procedures.

Additionally, each agency **must** post their grievance and complaint procedures in a public location and be made available to any interested parties and members of the public.

If you have any questions about this directive, please contact Maggie Mireles, Program Manager, at (213) 738-2198 or Robert Brieff at (213) 351-8924 or rbrieff@css.lacounty.gov



Josie Marquez, Executive Director
Workforce Investment Board

Attachments

1. State Employment Development Department (EDD) Directive WSD08-4
2. County of Los Angeles Workforce Investment Area Complaint and Resolution Policies and Procedures
3. WIA Complaint/Grievance Procedures Acceptance Form

DIRECTIVE WORKFORCE SERVICES

Number: WSD08-4

Date: September 3, 2008
69:62:cs:12182

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: GRIEVANCE AND COMPLAINT PROCEDURES

EXECUTIVE SUMMARY:

Purpose:

This directive provides guidance to Local Workforce Investment Areas (LWIA) and subrecipients of the Workforce Investment Act (WIA) Title I grant funds in the development, maintenance, and implementation of local-level grievance and complaint procedures. These procedures cover complaints alleging noncriminal violations of the requirements of WIA in the operation of local WIA programs and activities. In addition, this directive transmits policy governing WIA Title I related grievance and complaint procedures at the State level. It also contains minor revisions to the data verification requirements for the WIA Adult and Dislocated Worker programs, enabling the LWIAs to document the verification of customer data in an electronic environment rather than maintain hard copy files.

Scope:

This directive requires that LWIAs and subrecipients of the WIA Title I grant funds comply with the grievance and complaint provisions of WIA. This directive applies to programmatic grievances and complaints pursuant to WIA Section 181(c) and does not address the procedures for processing complaints alleging discrimination under WIA Section 188 and/or Title 29 Code of Federal Regulations (CFR) Part 37. Information and complaints involving allegations of fraud, abuse or other criminal activity must be reported directly to Department of Labor's (DOL) Office of Inspector General and Employment Development Department's (EDD) Compliance Review Division (CRD) through the procedures for reporting incidents described in WIA Directive WIAD02-3.

Effective Date:

This directive is effective on the date of its issuance.

EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Special requests for services, aids, and/or special formats need to be made by calling (916) 654-8055 (Voice). TTY users, please call the California Relay Service at 711.

REFERENCES:

- WIA Section 181(c)
- Title 20 CFR Part 667.600
- Title 29 CFR Part 37.35
- Workforce Services Directive WSD07-11, Subject: Data Verification Requirements – WIA Customer Data Collection (June 16, 2008)
- WIA Directive WIAD05-17, Subject: Audit Resolution (May 25, 2006)

STATE-IMPOSED REQUIREMENTS:

This directive contains some State-imposed requirements. These requirements are indicated by ***bold, italic*** type.

FILING INSTRUCTIONS:

This directive supersedes WIA Directive WIAD03-12, dated April 14, 2004, and finalizes Workforce Services Draft Directive WSDD-14 issued for comment on July 25, 2008. The Workforce Services Division received one comment during the draft comment period; the comment received did not result in any substantive changes to this directive. A summary of the comment is provided as Attachment 1. Retain this directive until further notice.

BACKGROUND:

Title 20 CFR Section 667.600 requires each LWIA, State, and direct recipient of funds under Title I of WIA, excluding Job Corps, to establish and maintain a procedure for grievances and complaints from participants and other interested parties affected by the local workforce investment system, including One-Stop partners, services providers, and the statewide workforce investment programs. (Job Corps complaint/grievance requirements can be found at Title 20 CFR Section 670.990.)

POLICY AND PROCEDURES:

Definition(s):

Complainant means any participant or other personally interested or personally affected party alleging a noncriminal violation of the requirements of WIA.

Complaint file is a file that is maintained in a central location within each office which includes a hard copy of each complaint filed along with pertinent documentation.

Days mean consecutive calendar days, including weekends and holidays.

Grievance or complaint means a written expression by a party alleging a violation of WIA, regulations promulgated under WIA, recipient grants, sub agreements, or other specific agreements under WIA. All complaints, amendments, and withdrawals shall be

in writing. These procedures are intended to resolve matters, which concern actions arising in connection with the WIA Title I grant program.

Hearing Officer means an impartial party who shall preside at a hearing on a grievance or complaint.

Local Workforce Investment Area includes the LWIA administrative entity and its subrecipients to which the administrative entity has delegated the complaint and grievance resolution process.

Participant means an individual who has been determined to be eligible to participate in, and who is receiving services under a program authorized by WIA as defined in WIA Section 101(34).

Participant case file means either a hard copy or an electronic file.

Recipient means an entity to which a WIA grant is awarded directly from DOL to carry out a program under Title I of WIA. The State is the recipient of funds awarded under WIA Sections 127(b), (1) (C) 132(b) (1) (B), and 132(b) (2) (B).

State Review Panel is an entity within EDD composed of a representative of the EDD's Compliance Review Division, the Legal Office, and the Director's Office. This Panel shall review and approve or disapprove decisions and recommendations regarding grievances or complaints.

Subrecipient means an entity to which a subgrant is awarded and which is accountable to the recipient (or higher tier subrecipient) for the use of the funds provided.

Policy:

It is the policy of the State of California that:

- ***The principles and procedures set forth in this directive shall be used by all California LWIAs in the development of local-level grievance and hearing procedures; and***
- ***The principles and procedures set forth in this directive shall govern the treatment and handling of all grievances or complaints in connection with all WIA Title I grant programs and activities conducted by the State, or pursuant (directly or indirectly) to subgrants from the State.***

The WIA Title I Governor's 15 and 25 Percent subgrantees (except LWIAs) are not required to develop a process for dealing with grievances and complaints from participants and interested parties, but must designate an individual who will be responsible for adopting and publishing the EDD grievance and complaint procedures. Therefore in lieu of local complaint procedures, WIA Title I Governor's 15 and 25 Percent subgrantees must adopt the EDD's State-Level Grievance and Complaint Procedures.

Procedures:

I. GENERAL PRINCIPLES AND REQUIREMENTS

These procedures will guide the receipt, hearing, and resolution of noncriminal grievances and complaints relating to WIA Title I grant programs and activities that are funded with WIA Title I grant monies provided to the State by DOL. These procedures will be available for use by all individuals and entities; including WIA Title I grant participants, LWIA staff, subrecipients of LWIAs, and other interested parties. Local procedures must include "a process which allows an individual alleging a labor standards violation to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties so provides." (Title 20 CFR Section 667.600(c)(3)). Additionally, all California LWIAs and subrecipients of WIA Title I grant funds must make reasonable efforts to assure that information about the content of the grievance and complaint procedures will be understood by affected participants and individuals, including youth and those who are limited English-speaking individuals. Such efforts must comply with the language requirements of Title 29 CFR Section 37.35.

At all levels of the grievance or complaint process, complainants have the right to be represented, at their own expense, by a person(s) of their choosing. Grievances or complaints must be filed within **one year** of the alleged violation. All grievances or complaints, amendments, and withdrawals must be in writing. All persons filing grievances or complaints shall be free from restraint, coercion, reprisal, or discrimination.

II. LWIA GRIEVANCE AND COMPLAINT PROCEDURES

Pursuant to Title 20 CFR Sections 667.600 through 667.610, the State requires LWIAs to establish procedures for resolving grievances and complaints alleging a violation of WIA Title I, regulations, grants, or other agreements under WIA. The following outlines the procedures for resolving issues arising in connection with WIA Title I grant programs operated by each administrative entity for the LWIAs or its subrecipients. Any participant or other interested party adversely affected by a decision or action by the local workforce system, including decisions by One-Stop partners and service providers, has the right to file a grievance or complaint with the LWIA.

A. Notice to Affected Parties

Initial and continuing notice of the local grievance and complaint procedures and instructions on how to file a complaint must be:

- Posted in a public location and be made available to any interested parties and members of the public.

- Made available to each participant. A copy of a written description of the local grievance and complaint procedure shall include (1) Notification that the participant has the right to file a grievance or complaint at any time within **one year** of the alleged violation; (2) Instructions and timeline for filing a grievance or complaint; and (3) Notification that the participant has the right to receive technical assistance. Such information shall be modified, as needed, whenever the procedures are changed.

Finally, where a hard copy case file is maintained, a copy of an acknowledgement of receipt of the local grievance and complaint procedures shall be signed by the participant and included in each participant's case file. Where an electronic case file is maintained, staff must make a note indicating that this notification did occur, the date of the notification, and the name of the staff person who provided it.

The LWIAs have the responsibility to provide technical assistance to the complainants, including those grievances or complaints against the LWIAs. Such technical assistance includes providing instructions on how to file a grievance or complaint, providing relevant copies of documents such as the WIA, regulations, local rules, contracts, etc., and providing clarifications and interpretations of relevant provisions. This requirement shall not be interpreted as requiring LWIAs to violate rules of confidentiality.

B. Form and Filing of Grievance or Complaint

The official filing date of the grievance or complaint is the date the written grievance or complaint is received by the LWIAs, its service providers, One-Stop partners, or subrecipients. The filing of the grievance or complaint will be considered a request for a hearing, and the LWIA shall issue a written decision within 60 days of the filing of the grievance or complaint.

The grievance or complaint must be in writing, signed, and dated. For resolution purposes, the State recommends that the LWIAs obtain the following information for all complaints:

- Full name, telephone number, and mailing address of the complainant;
- Full name, telephone number, and mailing address of the respondent;
- A clear and concise statement of the facts and dates describing the alleged violation;
- The provisions of the WIA, the WIA regulations, grant, or other agreements under the WIA, believed to have been violated;
- Grievances or complaints against individuals, including staff or participants, shall indicate how those individuals did not comply with the WIA law, regulation, or contract; and
- The remedy sought by the complainant.

The absence of any of the requested information shall not be a basis for dismissing the grievance or complaint.

A grievance or complaint may be amended to correct technical deficiencies at any time up to the time of the hearing. Grievances or complaints may not be amended to add new issues. The one-year time period in which a grievance or complaint may be filed is not extended for grievances or complaints that are refiled with amendments. Grievances or complaints may be withdrawn at any time prior to the issuance of the hearing officer's decision. The LWIA shall send a copy of the grievance or complaint to the respondent.

C. Informal Resolution

The LWIA shall notify the complainant and the respondent of the opportunity for an informal resolution. Respondents must make good faith efforts to resolve all grievances or complaints prior to the scheduled hearing. Failure on the part of either party in the grievance or complaint to exert good faith efforts shall not constitute a basis for dismissing a grievance or complaint, nor shall this be considered to be a part of the facts to be judged in the resolution process. Where a complaint alleges a violation of WIA Title I, grant or any agreements under WIA, the LWIA must assure that every grievance or complaint not resolved informally or not withdrawn is given a hearing, regardless of the grievance or complaint's apparent merit or lack of merit.

When the complaint has been resolved through the informal resolution process, the LWIA shall attempt to contact the complainant and have him or her provide a written withdrawal of the complaint within 10 days of the receipt of the notice of resolution or impasse where a complainant decides not to proceed to an administrative hearing. The LWIA shall maintain copies of correspondence in their local office complaint file.

D. Notice of Hearing

Hearings on any grievance or complaint shall be conducted within 30 days of filing of a grievance or complaint. The complainant and the respondent must be notified in writing of the hearing 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 notice shall be in writing and contain the following information:

- The date of the notice, name of the complainant, and the name of the party against whom the grievance or complaint is filed.
- The date, time, and place of the hearing before an impartial hearing officer.
- A statement of the alleged violations. These statements must accurately reflect the content of the grievance or complaint as submitted by the complainant. However, clarifying notes may be added to assure that the grievance or complaint is addressed accurately.

- The name, address, and telephone number of the contact person issuing the notice.

E. Conduct of Hearings

An impartial hearing officer shall conduct the hearing. The State suggests that LWIAs seek impartial hearing officers from among the staff of legal offices or personnel departments of municipalities or counties that will not be directly affected by, or will not implement the final resolution of, a specific grievance or complaint.

The hearing will be conducted in an informal manner with strict rules of evidence not being applicable and according to the procedures established by the LWIAs. Both parties will have the right to present written and/or oral testimony and arguments; the right to call and question witnesses in support of their position; the right to examine records and documents relevant to the issues; and the right to be represented. The hearing will be recorded electronically or by a court reporter.

F. Decision

Not later than 60 days after the filing of the grievance or complaint, the hearing officer shall mail a written decision to both parties by first class mail. The hearing officer's decision shall contain the following information:

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

G. Appeal

If a complainant does not receive a decision at the LWIA level within 60 days of the filing of the grievance or complaint, or receives an adverse decision, the complainant then has the right to file an appeal with the State.

The complainant 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

III. STATE-LEVEL GRIEVANCE AND COMPLAINT PROCEDURES

Title 20 CFR Section 667.600(d) requires the State to provide a process for dealing with grievances and complaints from participants or interested parties affected by the statewide workforce investment programs, resolving appeals of decisions issued at the LWIA level, remanding grievances and complaints related to the local WIA Title I programs to the LWIA grievance process, and affording an opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint.

In cases where the State has imposed either administrative or financial/monetary sanction(s) resulting from monitoring, investigations, or audits, the complainant may file an appeal with the State through the procedures as described in WIA Directive WIAD05-17, Audit Resolution.

A. State-Level Informal Resolution and Hearing Procedures

All complaints of noncriminal violations of the requirements of WIA by the State, or complaints by individuals or interested parties affected by the statewide workforce investment program shall be filed in writing with the Chief of CRD. All requests for State hearings shall include the same basic elements necessary for local-level hearings. These are:

- Full name, telephone number, and mailing address of the complainant;
- Full name, telephone number, and mailing address of the respondent;
- A clear and concise statement of the facts and dates describing the alleged violation;
- The provisions of the WIA, the WIA regulations, grant, or other agreements under the WIA, believed to have been violated;
- Grievances or complaints against individuals, including staff or participants, shall indicate how those individuals did not comply with the WIA law, regulation, or contract; and
- The remedy sought by the complainant.

Upon receipt of the request for a State hearing, the Chief of CRD or his/her designee shall review the grievance or complaint and shall provide an opportunity for an informal resolution. The CRD shall notify the complainant and the respondent within 10 days of receipt of the grievance or complaint and proceed with the informal resolution process. If the State cannot resolve the grievance or complaint informally, then a hearing will be held.

Hearings on any grievance or complaint shall be conducted within 30 days of the filing of a grievance or complaint. The complainant and the respondent shall be notified in writing of the hearing 10 days prior to the date of hearing. The hearing notice shall advise the following:

- The date, time, and place of the hearing before an impartial hearing officer.
- The pertinent sections of the WIA or any other federal regulations involved.
- A statement of the alleged violations. These statements must accurately reflect the content of the grievance or complaint as submitted by the complainant. However, clarifying notes may be added to assure that the grievance or complaint is addressed accurately.
- The name, address, and telephone number of the contact person issuing the notice.

B. Appeals of LWIA Decisions or Requests for EDD Review

1. A complainant may file a request for review with EDD if no decision has been issued at the LWIA level within the 60-day time limit or if there has been an incident of restraint, coercion or reprisal as the result of filing a grievance or complaint. A complainant may file an appeal if the LWIA has issued an adverse decision. The request for an EDD review or appeal shall be filed or postmarked (if mailed) within 10 days from the date on which the complainant received an adverse decision from LWIA or 15 days from:
 - The date on which a complainant should have received a decision regarding a locally filed complaint, which is defined as five days from the date the decision was due, or
 - The date on which an instance of restraint, coercion or reprisal was alleged to have occurred as a result of filing the complaint.
2. All requests for review or appeals shall include the following:
 - The full name, telephone number, and mailing address of the complainant;
 - The full name, telephone number, and mailing address of the LWIA;
 - A statement of the basis of the request or appeal; and
 - Copies of relevant documents, such as the complaint filed at the LWIA and the local decision, if any.
3. If an evidentiary hearing was held at the LWIA level, the EDD shall request the record of the hearing from the LWIA and shall review the record without scheduling an additional hearing. If an evidentiary hearing was not held at the LWIA level, the EDD shall instruct the LWIA to hold a hearing within 30 days of receipt of the appeal or request for an EDD review. If the LWIA refuses to hold a hearing within the required timeframe, the EDD shall, within 30 days of receipt of the appeal or request for hearing, schedule an evidentiary hearing before a hearing officer. The Chief of CRD shall notify the concerned parties and the LWIA by first class mail, certified with a return receipt, of the following information at least 10 days before a scheduled hearing:

- The date of the notice, name of the complainant, and the name of the party against whom the complaint is filed.
- The date, time, and place of the hearing before a hearing officer.
- A statement of the alleged violations. This statement shall accurately reflect the content of the complaint as submitted by the complainant.
- The name, address, and telephone number of the contact person issuing the notice.

C. Hearing

1. The EDD hearing shall be conducted in an informal manner with strict rules of evidence not being applicable. Both parties shall have the right to present written and/or oral testimony under oath and arguments; the right to call and question witnesses; the right to request and examine records and documents relevant to the issues, and the right to be represented. The hearing shall be recorded electronically or by a court reporter.
2. The EDD hearing officer shall follow the procedures set forth in Title 22, California Code of Regulations Section 5050(a) and (b), 5053, 5054, 5055, 5056(a), (c), and (d), 5057, 5058, 5059, 5061, 5062, 5063, 5064, and 5070, except that references to the "administrative law judge" or "ALJ" shall mean "hearing officer."

D. EDD State Review Panel

1. Following completion of the EDD hearing, the EDD hearing officer shall make a written recommendation to the State Review Panel. The hearing officer's recommendation shall contain the following information:
 - The names of the parties involved;
 - A statement of the alleged violation(s) and issues related to the alleged violation;
 - A statement of the facts;
 - The EDD hearing officer's decision and the reasons for the decision; and
 - A statement of the corrective action, if any, to be taken.
2. The State Review Panel shall not conduct a new evidentiary hearing, but shall review the record established by either the LWIA hearing or the EDD hearing. The State Review Panel shall issue a decision on the basis of the information contained in the record. The State Review Panel may accept, reject, or modify the EDD hearing officer's recommendation or the decision of the LWIA, and shall issue a written decision to the concerned parties within 60 days of receipt by the EDD of the request for hearing or review.

3. The State Review Panel shall mail a written decision to both the complainant and the respondent by certified mail. The decision shall contain the following information:

- The names of the parties involved;
- A statement of the alleged violation(s) and issues related to the alleged violation;
- A statement of the facts;
- The State Review Panel's decision and the reasons for the decision;
- A statement of the corrective action, if any, to be taken; and
- A notice of the right of either party to file an appeal to the Secretary of Labor.

E. Referral of Local Grievances or Complaints

Grievances or complaints filed directly with the State related to the local WIA programs will be remanded to the local area grievance process in accordance with LWIA Grievance and Complaint Procedures.

F. Remedies

1. Remedies that may be imposed for a violation of any requirement under WIA Title I shall be limited to:

- Suspension or termination of payments under WIA Title I;
- Prohibition of placement of a participant with an employer that has violated any requirement under WIA Title I;
- Reinstatement, where applicable, of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and
- Where appropriate, to other equitable relief.

2. Nothing in paragraph 1 shall be construed to prohibit a complainant from pursuing a remedy authorized under another federal, State, or local law for a violation of WIA Title I.

G. Federal-Level Appeal Process

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 the ETA Regional Administrator-Region 6 and the opposing party.

U.S. Department of Labor
Office of Regional Administrator
P.O. Box 193767
San Francisco, CA 94119-3767

ACTION:

All LWIAs shall review grievance and complaint procedures specified in this directive and ensure that the policies and procedures are in accordance with these requirements.

INQUIRIES:

If you have any questions, please contact your Regional Advisor at (916) 654-7799.

/S/ BILL BURKE
Assistant Deputy Director
Workforce Services Branch

/S/ BOB HERMSMEIER
Chief
Workforce Services Division

Attachment

Summary of Comments and Resolution of Comments Regarding “Grievance and Complaint Procedures” Directive

There was one comment to the draft version of this directive.

Commenter #1:

The commenter expressed concern that this directive does not include a process to follow for establishing and maintaining a “Complaint File” in a central location within each local office. The commenter suggested we incorporate a process similar to that described in the General Provisions section of the Nondiscrimination and Equal Opportunity Procedures Directive.

Resolution:

The Employment Development Department agrees that local areas should have procedures in place for collecting and maintaining grievance and complaints relating to WIA Title I funded programs and activities. However, while this directive provides guidance on this subject, individual local areas are in the best position to develop a process that meets the needs of their respective areas.

**COUNTY OF LOS ANGELES
COMMUNITY AND SENIOR SERVICES**

WORKFORCE INVESTMENT ACT (WIA)

**WIA COMPLAINT AND RESOLUTION
POLICIES AND PROCEDURES**

Table of Contents

Page

§ 100. Definitions 1

§101. Complainant..... 1

§102. Repsondent..... 1

§ 103. “Other Interested Party 1

§ 104. “Recipient 1

§ 105. “Grievance or Complaint 1

§ 106. “Equal Opportunity Officer” 1

§ 107 “Complaint File” 1

§ 108. “Days” 2

§ 109. “Participant Case File” 2

§ 200. GENERAL PROVISIONS 2

§ 201. Complainant(s) 2

§ 202. Type of Complaints 2

§ 203. Statute of Limitation 3

§ 204. Procedure for Filing Complaint 3

§ 205. Person and Place of Contact 3

§ 206. Modification/Amendment 3

§ 207. Time of Filing 4

§ 208. Withdrawal of Complaint 4

§ 209. Confidentiality 4

§ 300. COMPLAINT RESOLUTION PROCEDURES 4

§ 301. Informal Resolution 4

§ 302. Administrative Hearing 4

§ 400. HEARING PROCEDURE 4

§ 401. Prior Hearing Notice 5

§ 402. Other Interested Parties 5

§ 403. Withdrawal 5

§ 404. Rescheduling 5

§ 405. Legal Representation	5
§ 406. Witnesses and Evidence.....	5
§ 407. Notice of Hearing Officer’s Findings	6
§ 408. Request for State Panel Review	7
§ 500. ALLEGATIONS OF FRAUD, WASTE, ABUSE OR OTHER CRIMINAL ACTIVITY	7
§ 600. DISCRIMINATION BASED ON EQUAL EMPLOYMENT OPPORTUNITIES ACT	7
§ 601. General Provisions.....	7
§ 602. Background	7
§ 603. Policies.....	8
§ 604. Procedures for Filing Discrimination Complaints	8
§ 605. Person and Place of Contact.....	8
§ 606. Alternative Dispute Resolution (ADR)	9
§ 607. Administrative Hearing	9
§ 608. Notice of Lack of Jurisdiction	10
§ 609. Procedure for Filing Discrimination Complaints with the..... Center of Civil Rights (CRC).....	10 11
§ 610. Actions by the Civil Rights Center.....	11
§ 611. Allegations of Discrimination by One-Stops.....	11
§ 612. Initial and Final Determination by Civil Rights Center	12
§ 613. Prohibition Against Using Federal Funds for Monetary Compensation..	12
§ 700. DISCRIMINATION BASED ON SECTION 504 OF THE REHABILITATION ACT	12
§ 701. Statute of Limitations.....	12

**COUNTY OF LOS ANGELES
COMMUNITY AND SENIOR SERVICES
WORKFORCE INVESTMENT ACT**

WIA COMPLAINT AND RESOLUTION POLICIES AND PROCEDURES

§ 100. DEFINITIONS.

For purposes of this document, the following definitions govern its interpretation. In the event of any omission or conflict in the definition or interpretation of any term defined within, it is agreed that such term or interpretation shall be made in a manner consistent with said terms as defined or explained in the Workforce Investment Act (WIA).

§ 101. “Complainant” shall mean the person or a party who is filing the grievance.

§102. “Respondent” shall mean the person or parties against whom the complaint is made.

§ 103. “Other Interested Party” shall mean a person or organization potentially affected by the outcome.

§ 104. “Recipient” is defined under Title 29 CFR Part 37 as any entity to which financial assistance under WIA Title I is extended, either directly from DOL or through the governor or another recipient. In addition, One-Stop partners are treated as “recipients” and are subject to the discrimination and equal opportunity requirements of Title 29 CFR Part 37, to the extent that they participate in the One-Stop delivery system.

§ 105. “Grievance or Complaint” shall mean an allegation of violation of one or more of the established WIA regulations, discrimination under the Equal Employment Opportunities Acts, the Civil Rights Acts, and Section 504 of the Rehabilitation Act of 1973.

§ 106. “Equal Opportunity Officer” shall mean the designated official assigned by the LWIA to be responsible for coordinating the obligations under these regulations.

§ 107. “Complaint File” Shall mean a file that is maintained in a central location within each office which includes a hard copy of each complaint filed along with pertinent documentation.

§ 108. “Days” Shall mean consecutive calendar days, including weekends and holidays.

§ 109. “Participant Case File” Shall mean either a hard copy or and electronic file.

§200. GENERAL PROVISIONS.

The County of Los Angeles has established the following policies and procedures pursuant to WIA Subpart F, Section 667.600-667.650. Also included are the procedures for filing complaints alleging discrimination under the Equal Employment Opportunities Acts, the Civil Rights Acts, and Section 504 of the Rehabilitation Act of 1973.

§ 201. Complainant(s). Complaints may be brought by any individual or organization including, but not limited to, WIA participant, staff of the County or service providers, applicants for participation, or any other interested persons affected by the local Workforce Investment System, including One-Stop partners and service providers.

§ 202. Type of Complaints. (a) Only a complaint which alleges a violation of the WIA Act, regulations, grant or other agreements under the Act, may be filed under the procedures developed by the County in accordance with Section 667.600 of the Act.

- (b) Information and complaints involving criminal fraud, waste, abuse or other criminal activity shall be processed under the procedures outlined under **Section 500**.
- (c) Complaints alleging discrimination on the basis of race, color, national origin, age, sex, including sexual harassment, citizenship, retaliation, or political affiliation or belief shall be processed in accordance with the procedures outlined under **Section 600**.
- (d) Complaints alleging discrimination on the basis of disability shall be processed under the procedures outlined in **Section 700**.
- (e) In any case where the alleged violation of the Act is also an alleged violation of another law, regulation, or agreement, nothing shall preclude an individual or an organization from filing a complaint under WIA in accordance with the procedures described herein.

§ 203. Status of Limitation. With the exception of complaints alleging fraud or criminal activity, the filing of a non-criminal complaint must be made within **one year** of the alleged occurrence.

§ 204. Procedure for Filing Complaint. Every complaint filed under Section 667.600 must be in writing before the official complaint resolution process will commence. The complaint must be signed, dated, and contain the following information:

- (a) The full name, mailing address and telephone number (if any) of the complainant.
- (b) The name, address, and telephone number of the employing agency, if complainant is a participant.
- (c) The full name, address and telephone number of the respondent.
- (d) A clear and concise statement of the facts, including pertinent dates, constituting the alleged violations.
- (e) Where known, the provisions under the WIA Act, the regulations or subgrant agreement believed to have been violated.
- (f) A statement regarding what has been done to resolve the complaint at the employing agency or local level.
- (g) The remedy complainant is seeking.

§ 205. Person and Place of Contact. The complaint must be filed with:

County of Los Angeles
Dept. of Community and Senior Services
3175 West Sixth Street
Los Angeles, CA 90020
Attn: Stacey Winters, Affirmative Action Coordinator

§ 206. Modification/Amendment.

- (a) All time frames referred to in these procedures may be modified upon mutual written consent of the parties involved or by changes in applicable State or Federal rules and regulations.

- (b) Prior to the hearing, the complainant may amend his or her complaint to correct technical deficiencies but is not to add issues. The amendment must be submitted in writing to the Affirmative Action Coordinator.

§ 207. Time of Filing. A complaint will be considered to have been filed when the WIA Affirmative Action Coordinator receives a written statement which provides all of the information required in Section 204. Assistance will be available to complainants to ensure that complaints are properly filed, and to ensure the availability, coordination, and promptness of all the steps in the procedure. Complainant will be notified in writing throughout the process as to the next procedural step.

§ 208. Withdrawal of Complaint. A complaint once filed may be withdrawn only by written notice to the WIA Affirmative Action Coordinator and to re-file the same complaint at a later date will require the consent of the CSS Director or his designee. If the complainant fails to cooperate or is unavailable, the complaint may be dismissed upon reasonable notice to the last known address of the complainant.

§ 209. Confidentiality. The identity of any person who has furnished information relating to, or who is otherwise assisting in an investigation of a possible violation of the WIA Act shall be kept confidential to the extent possible, consistent with a fair determination of the issues.

§ 300. COMPLAINT RESOLUTION PROCEDURES.

A complaint shall be accepted only if the complainant alleges a violation of the Regulations, grant or other agreements under the WIA Act.

§ 301. Informal Resolution. After the complaint is accepted, the Hearing Officer will contact the complainant and respondent in an attempt to resolve the complaint informally. Attempts at informal resolution will commence within ten (10) working days of the date the complaint is filed.

§ 302. Administrative Hearing. If an informal resolution cannot be reached, an administrative hearing will be scheduled before a Hearing Officer. Such a hearing will be scheduled within 30 days of filing the complaint.

§ 400. HEARING PROCEDURE.

The hearing will be conducted by a Hearing Officer appointed by the Department of Community and Senior Services. The hearing will be conducted in an informal manner and will be recorded.

§ 401. Prior Hearing Notice.

- (a) A written notice will be mailed by certified mail-return receipt requested, to the complainant and the respondent, to be received by both parties not later than ten (10) days prior to the hearing.
- (b) The notice will contain the date of issuance, names of the parties involved, date, time, and place of the hearing, the manner in which it will be conducted, the issues to be decided, the rights of the parties involved, the name, address, and telephone number of the contact person issuing the notice.

§ 402. Other Interested Parties. Other interested parties may be given notice. The notice will outline the other interested parties participation in the hearing.

§ 403. Withdrawal. Any requests made to withdraw a complaint must be made in writing and received prior to the scheduled hearing.

§ 404. Rescheduling. A request to reschedule a hearing must be made in writing and must be for good cause.

- (a) The Director of the Workforce Investment Area or her designee will make the final decision on such requests subject to acceptance by all parties of an extension of the 30 day requirement on scheduling a hearing and the 60 day requirement to make a final decision.

§ 405. Legal Representation. Any party may be represented by an attorney or other representative at their own expense. The County cannot appoint an attorney to represent either party nor can the County provide legal advice to either party.

§ 406. Witnesses and Evidence. Any party may bring witnesses and documentary evidence.

- (a) Either party may have records or documents relevant to the issues produced by their custodian when such records or documents are kept by either party in the ordinary course of business.
- (b) The complainant may request that employees and /or participants of the respondent who have knowledge of the pertinent facts be available to testify at the hearing.
- (c) Requests for records, documents and/or persons serving as witnesses must be in writing and submitted to the Hearing Officer at least 10 working days prior to the date of the hearing.

- (d) The request must specify which records, documents, and individuals are being sought and a concise statement of why such information and individuals are presumed to be relevant to the issue(s).
- (e) The Hearing Officer will have the discretion to determine issues of relevancy at the time of the hearing.
- (f) Failure on the part of either party to supply information and/or make persons available that have been requested may result in sanctions being imposed by the Hearing Officer and/or County.
- (g) Any party may question any witness or parties, in accordance with due process and the Hearing Officer's discretion.

§ 407. Notice of Hearing Officer's Findings. Not later than 60 days after the filing of the grievance or complaint, all parties involved will be notified in writing of the recommendation(s) of the Hearing Officer, unless extended with the written consent of both parties.

- (a) The written notification will be mailed first class to all parties and will include:
 - (1) The names of the parties involved;
 - (2) A statement of the alleged violations and related issues;
 - (3) A statement of the facts;
 - (4) The decision on the issue and the reasons for the decision;
 - (5) A statement of the remedies to be applied and/or the corrective measure required, if any;
 - (6) A statement that the procedures delineated have been completed; and
 - (7) Notice of any party's right to request a review of the County's final determination by the State Review Panel within 10 days of the receipt of the decision.

(8) Request for review must be sent to:

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

§ 408. Request for State Panel Review. All requests for review must include the following information:

- (a) The full name, mailing address and telephone number of the party requesting the review.
- (b) The name, address and telephone number of the other party.
- (c) A copy of the written decision rendered by the County of Los Angeles.
- (d) A brief statement of why the request for review is being made and/or the section of the County's decision to be reviewed. If known, the statement should also include the provision(s) under WIA, the regulations or subgrant agreement believed to have been violated.
- (e) A statement of the relief or remedy being sought.

§ 500. ALLEGATIONS OF FRAUD, WASTE, ABUSE OR OTHER CRIMINAL ACTIVITY

Information and complaints involving criminal fraud, waste, abuse, or other criminal activity must be reported immediately to the following department:

Office of Inspector General
United States Department of Labor
200 Constitution Avenue, NW, Room S-5506
Washington, D.C. 20210

§ 600. DISCRIMINATION BASED ON EQUAL EMPLOYMENT OPPORTUNITIES ACT.

§ 601. General Provisions. This section deals with *Resolutions of complaints alleging discrimination on the basis of race, color, national origin, sex (including sexual harassment, sexual orientation), religion, disability, political affiliation or belief, retaliation and citizenship, where applicable.*

§ 602. Background. The WIA Section 188 contains the nondiscrimination and equal opportunity provisions which prohibit 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.

§ 603. Policies. The Los Angeles County Local Workforce Investment area (LWIA) has assured the U.S. Department of Labor (DOL) and the State of California Employment Development Department (EDD) that no registrant in the County's WIA Program will be discriminated against because of race, creed, color, national origin, age, sex (including sexual harassment), sexual orientation, disability, citizenship, or political affiliation or belief. This implies that:

- a) No benefits may be denied a WIA participant because of race, creed, color, national origin, sex, sexual orientation, age, disability, citizenship, or political affiliation or belief while being registered, interviewed, counseled, tested, or while working in a work activity or attending class as part of the program;
- b) Each WIA participant must be provided the same opportunities to use all facilities available in the program as all other participants;
- c) A discrimination complaint may be filed within 180 days of the alleged discrimination, either with the County of Los Angeles, LWIA grant recipient (service provider), or with the Department of Labor, Civil Rights Center (CRC).

§ 604. Procedures for Filing Discrimination Complaints. Any person who believes that he/she or any specific class of individuals has been, or is being subjected to discrimination prohibited by the nondiscrimination and equal opportunity provisions of the WIA regulations may file a written complaint or a representative may file on his or her behalf. All complaints must be in writing and must contain the following information:

- (a) Be signed by the complainant or his/her representative;
- (b) Contain the complainant's name, address or other means of contacting him/her;
- (c) Identify the Respondent; and
- (d) Describe the Complainant's allegation in sufficient detail to allow the County EEO staff to determine whether: (1) LWIA or CRC has jurisdiction over the complaint; (2) the complaint was filed timely (i.e. within 180 days of the occurrence); and (3) the complaint has apparent merit (i.e. whether the allegations, if true, would violate

any of the nondiscrimination and equal opportunity provisions of the WIA).

§ 605. Person and Place of Contact: Complaints filed with the Los Angeles County Workforce Investment Board (WIB) should be directly mailed to:

**Los Angeles County Department of
Community and Senior Services
3175 West Sixth Street
Los Angeles, CA 90020-1708
Attn: Stacey Winters, Affirmative Action Coordinator**

Complaints filed with the County of Los Angeles Workforce Investment Board (WIB) will be processed through the Department of Community and Senior Services (CSS). CSS will investigate and prepare a written report that will be sent to the complainant and the respondent to attempt to resolve the complaint informally within thirty (30) days of filing of the complaint.

CSS will also provide copies to each of the following State Offices:

- Equal Employment Opportunity Office
- Local Policy Guidance – Workforce Investment Division (WID)

§ 606. Alternative Dispute Resolution (ADR). The choice to use Alternative Dispute Resolution (ADR) procedures rests with the complainant.

(a) A party to the agreement reached under ADR may file a complaint with CRC in the event the agreement is breached. In such circumstances, the following rules apply:

- (1) The non-breaching party may file a complaint with CRC within 30 days of the date on which the non-breaching party learns of the alleged breach;
- (2) The CRC will evaluate the circumstances to determine whether the agreement has been breached. If the CRC determines that the agreement has been breached, the complainant may file a complaint with the CRC based upon his/her original allegation(s) and the CRC will waive the deadline for filing such a complaint.

(b) If the parties do not reach an agreement under ADR, the complainant may file directly with CRC pursuant to Title 29 CFR Sections 37.71 to 37.74.

§ 607. Administrative Hearing. If an informal resolution cannot be reached, the complainant may request an administrative hearing. The request for administrative hearing shall be within (5) days of the informal resolution meeting.

- (a) The administrative hearing shall be scheduled before the EEO Officer. The administrative hearing shall be scheduled within 30 days of filing the request for hearing. A Notice of Final Action shall be issued by the County within 90 days of filing the complaint. The Notice of Final Action shall include notification of the right to file a complaint with the Department of Labor, Civil Rights Center (CRC).
- (b) If the complainant wishes to file a complaint with CRC, he/she must wait until the County issues a decision or until 90 days have passed since the filing of the original complaint with the County.
- (c) If after the 90 days above, the complainant is still dissatisfied with the resolution of the complaint, the complainant or his/her representative may file directly with the CRC within 30 days of the date that the complainant received the Notice of Final Action from the County.

In the event that the complainant has not received the Notice of Final Action within 90 days of filing, the complainant may file the complaint with the CRC. In other words, the complaint must be filed with the CRC within 120 days of the date of which the complaint was filed with the County

§ 608. Notice of Lack of Jurisdiction. The County shall notify the complainant in writing immediately upon determining that it does not have jurisdiction over the complaint that alleges a violation of the nondiscrimination and equal opportunity provisions of WIA. The Notice of Lack of Jurisdiction shall include the basis for such determination, as well as, a statement of the complainant's right to file a written complaint with CRC within thirty (30) days of receipt of the Notice.

- (a) The County, complainant, or a legal representative may contact CRC for information regarding the complaint filed.

§ 609. Procedure for Filing Discrimination Complaints with the Civil Rights Center (CRC). A complaint filed with the CRC must be done **within 180 days** of the alleged discrimination. The CRC, for good cause shown, may extend the filing time. In order to receive an extension, the Complainant must be notified by CSS that a waiver letter is to be filed with CRC. The waiver letter should include the reason the 180-day time period elapsed. The time period for filing is for the administrative convenience of the CRC and does not create a defense for the Respondent.

- (a) Complaints filed with Civil Rights Center (CRC) should be mailed to:

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

- (b) Complaints filed should be in writing. The complaint must be signed, dated, and contain the following information:

- (1) Be signed by the complainant or his/her representative;
- (2) Contain the complainant's name, address, or other means of making contact;
- (3) Identify the respondent; and
- (4) Describe the complainant's allegation in sufficient detail to allow CRC or CSS (County), as applicable, to determine whether: (a) CRC or CSS (County) has jurisdiction over the complaint (b) the complaint was filed timely; and (c) the complaint has apparent merit, i.e. Whether the allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIA.

- (c) Each complainant and respondent has the right to be represented by an attorney or other individual of his/her choice.

§ 610. Actions by the Civil Rights Center. When a complaint filed contains insufficient information, CRC will seek the needed information from the complainant. If the complainant is unavailable after reasonable efforts have been made to reach him/her, or the information is not provided within the time specified, the complaint file may be closed without prejudice upon written notice sent to the complainant's last known address.

- (a) The CRC (WIA Section 183 (c)) may issue a subpoena to the complainant to appear and give testimony and/or produce documentary evidence, before a designated representative, relating to the complaint under investigation. This procedure can be done at any place and time in the United States.
- (b) Where the CRC lacks jurisdiction over the complaint, CRC shall notify the complainant and give the reason(s) for this determination.
- (c) If the complainant alleges more than one kind of complaint, "joint complaint" e.g. individual employment discrimination, age discrimination, equal pay discrimination, etc., CRC shall refer such joint complaint to the **Equal Employment Opportunity Commission** for investigation and conciliation pursuant to Title 29 CFR, Parts 1690 or 1691.

§ 611. Allegations of Discrimination by One-Stop. Under the One-Stop delivery system where an allegation of discrimination is made against an entity that operates a program or activity financially assisted by a federal grant-making agency other than DOL, but participates as a partner in a One-Stop delivery system, the following procedures apply:

- (a) If the complainant alleges discrimination on a basis that is prohibited both by Section 188 of WIA and by a civil rights law enforced by the grant-making agency, CRC and the grant-making agency have dual jurisdiction over the complaint. The CRC will refer the complaint to the grant-making agency for processing and the grant-making agency's regulation will govern the processing of the complaint.
- (b) If the complaint alleges discrimination on the basis that is prohibited by Section 188 of WIA, but not by any civil rights laws enforced by the federal grant-making agency, CRC has sole jurisdiction over the complaint and will retain and process the complaint per Title 29 Part 37.

§ 612. Initial and Final Determination by Civil Rights Center. After making a cause of finding, CRC shall issue an Initial Determination. This notice will inform the complainant and the County in writing of the following:

- (a) The specific findings of the investigation.
- (b) The corrective action to be applied and time for completion.
- (c) The **Final Determination** represents DOL's final agency action on the complaint.

§ 613. Prohibition Against Using Federal Funds for Monetary Compensation. Monetary corrective action may not be paid from federal funds.

§ 700. DISCRIMINATION BASED ON SECTION 504 OF THE REHABILITATION ACT.

Complaints alleging discrimination on the basis of disability are to be filed directly with the Equal Employment Opportunity Office (EEOO) of the California Employment Development Department and mailed to the following address:

**Chief, Equal Employment Opportunity Officer
California Employment Development Department
P. O. Box 942880, MIC 49
Sacramento, CA 94280-0001**

§ 701. Statute of Limitation. Complaints must be made in writing within 180 days of the alleged violation(s).

**COUNTY OF LOS ANGELES
WORKFORCE INVESTMENT ACT**

COMPLAINT/GRIEVANCE PROCEDURES ACCEPTANCE FORM

I have been given a copy of Los Angeles County's Workforce Investment Act Complaint Resolution Policies and Procedures. My signature below certifies that I have read and understand the procedures and will comply with the policies as a participant in the Workforce Investment Act funded Program.

Participant's Signature

Date

Participants Name (Print)

Staff Signature

Date

Staff Name (Print)