

Regional Program Standards

Focus: WorkSource Centers Youth Program Services
 Other: All Federal Discretionary Grants

Topic: Grievance – WIOA Regulation and Program Related Complaints

Date: July 1, 2018

New Revised

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These Regional Program Standards implement the WorkSource Portland Metro local area Nondiscrimination and Grievance Policy as it relates to complaints concerning partner organizations located within a WorkSource Center, subrecipient employee complaints related to terms and conditions of employment with the subrecipient, and non-criminal customer complaints that relate to program services, violation of Workforce Innovation and Opportunity Act (WIOA) regulations, and discretionary grant or other agreements under the Act. The procedures and related forms will be used by all WorkSource Portland Metro Centers and subrecipients when processing complaints.

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Overview

Worksystems, its subrecipients and WorkSource partners place a high value on customer service and customer satisfaction. The best and most expedient means to resolve complaints is in an amicable manner as close to the point of service delivery as possible.

These Regional Program Standards:

1. Provide guidelines for the resolution of grievances or complaints related to non-criminal violations of WIOA related to the provision of WIOA or discretionary grant-funded services.
2. Designates the Regional and subrecipient Equal Opportunity Coordinators (EOC) as the contact for complaint resolution.
3. Establishes requirements for each Worksystems subrecipient for assuring:
 - The subrecipient EOC provides notification to the Regional EOC immediately upon the receipt of any complaint related to the provision of WIOA services or services provided through a WorkSource Center.
 - Each WorkSource Center has established a written grievance process that assures grievances related to WIOA or non-WIOA services delivered through the Center are referred to the appropriate program for resolution, outlines the informal resolution process at the site, and is in line with these Regional Program Standards.

General Information

For purposes of Portland Metro grievance resolution, all references to days within this document are defined as calendar days. The 30-day clock to a formal hearing and the 60-day clock to a final determination begin the day a written complaint is received by either the subrecipient EOC or the Regional EOC. Time lines may be extended if good cause is shown, or if both parties agree in writing to waive the timelines.

A complaint may be withdrawn by the complainant at any time. Such a withdrawal must be in writing.

Notices

WorkSource Centers

All Center customers complete Customer Registration in the WorkSource Oregon Management Information System. The Customer Registration collects data to determine eligibility for WIOA Adult and Dislocated Worker enrollment. The Customer Registration system also provides the customer with the required notices of rights and responsibilities and includes the customer acknowledgement. This system is managed by the State of Oregon and is outside the purview of Worksystems or its WorkSource Portland Metro center services subrecipients.

WIOA Youth and Federal Discretionary Grant Programs

Written complaint procedures are to be provided to every applicant of WIOA Youth and discretionary grant services, and reasonable efforts should be made to assure that complaint procedures are understood by the

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applicant. The written complaint procedure will include notice that the complaint must be filed within one year (365 days) of the date of the incident. Utilizing the Grievance Form WIOA 1a-2018 will assure compliance with all notice requirements.

Training Provider Approval Process

The response to a grievance or complaint from a training provider whose application to the ETPL was not approved will follow the process described within these Regional Program Standards, with the Regional EOC responsible for the review (these complaints would not be referred out to a subrecipient).

Inquiries

Inquiries should be addressed to the Regional EOC:

Compliance Manager
Worksystems, Inc.
1618 SW First Avenue, Suite 450
Portland, OR 97201
503-478-7300

Processing Complaints

A customer may file a complaint with either the subrecipient EOC or the Regional EOC. When the complaint is filed with the subrecipient EOC, a copy is to be submitted to the Regional EOC within one day of receipt.

Complaints should be submitted on the Workforce Innovation & Opportunity Act Complaint Form (Worksystems Grievance 1a-2018) provided for this purpose.

When a complaint is received by a subrecipient EOC, the following process should be followed. Complaints received directly by the Regional EOC will be reviewed and referred to the appropriate subrecipient EOC for initial review and action, as outlined below. The entire review and resolution process must be completed within 60 days from the date of the complaint, unless the timelines have been waived by both the Complainant and Respondent.

The subrecipient EOC will review the complaint to identify if it relates to 1) a partner program or organization offering services through the WorkSource Center or system; 2) terms and conditions of employment with the subrecipient; or 3) a WIOA violation (or violation of a grant or other agreement related to WIOA or delivered through the WorkSource system). Based on this review, the subrecipient EOC will determine the appropriate next steps.

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Complaints Concerning WorkSource Partners

When the complaint relates to a program or service delivered by a separate agency or organization within the WorkSource Center, the complaint should be formally referred to the designated contact for that agency, with a written cover memo or email requesting appropriate follow-up. Written notice that the complaint was referred to another agency or organization for resolution must be sent to the complainant within five days of receipt of the original complaint. Include in the customer communication:

Initial Determination

Indicate how and why it was determined that the complaint should be referred to another organization for resolution.

Referral

Provide the contact name, agency address and contact telephone number of the agency or organization to whom the referral was made (enclose a copy of the referral memo/email sent to the agency).

This notice must be mailed to the Complainant at the address provided on the Complaint form, and a copy emailed to the Regional EOC.

Complaints Concerning Subrecipient Employment

When the complaint relates to labor standards violations by the subrecipient, the subrecipient EOC should include the appropriate Human Resources contact in the resolution discussions, follow subrecipient personnel policies, procedures and any applicable collective bargaining agreements. If resolution cannot be found through the subrecipient process, employees must have the opportunity to submit the grievance to binding arbitration (if a collective bargaining agreement covering the parties to the grievance so provides, as applicable). Written notice must be provided to the Regional EOC when the grievance has been resolved or closed and provide the date of closure.

Complaints of Violations of the WIOA

When the complaint relates to violations of the WIOA or related grants or agreements, there are two types of processes that may be followed:

Informal Resolution Process

Parties to the complaint are afforded the opportunity to informally resolve the matter. Whenever possible, this is the first choice for complaint resolution. Both parties may agree, in writing, to waive the 30-day time line for formal hearing and 60-day time line for a decision in order to attempt to resolve the matter informally. Provide a copy of the written waiver agreement to the Regional EOC. The subrecipient EOC will then begin informal resolution efforts and investigations. All efforts will be documented and reported in writing.

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The subrecipient EOC will set a date for an informal resolution and issues clarification meeting within 10 days of the receipt of the complaint. Within 10 days of the completion of informal resolution, the subrecipient EOC will provide a written summary and decision of the meeting.

Initial Determination

Summarize the complaint and the process used to informally resolve the problem.

Resolution

Describe in detail the resolution that all parties agreed to.

This notice should be mailed to the Regional EOC, the complainant (to the address provided on the Complaint form), and the respondent (the individual or organization against which the complaint was made).

Formal Hearing Resolution Process

If dissatisfied with the results of the informal resolution meeting, the complainant may request a formal hearing. Such requests must be made in writing and, if no informal resolution was attempted, within 25 days of the date of filing of the complaint. The request for hearing should be directed to the Regional EOC. The complaint may be amended, in writing, at any time within 10 days before the formal hearing.

The Regional EOC will schedule the formal hearing within 30 days from the receipt of the complaint, notify the complainant in writing of the hearing date, time and place, unless the parties have agreed in writing to waive this time line.

Upon receipt of a request for a formal hearing, the Regional EOC will designate a Hearing Officer. The complainant or respondent may request a different Hearing Officer be appointed. The request for a change in Hearing Officer must be filed within five days after parties received notification of the hearing schedule and the designation of the Hearing Officer. No party will be permitted to make more than one claim of partiality in any one complaint, and only one request for designation of an alternate Hearing Officer may be made by either party for each complaint. In such a case all timelines shall automatically be extended 10 days.

The Hearing Officer coordinates the formal hearing. Both parties are provided an opportunity to present evidence, cross-examine witnesses, and be represented by legal counsel. The hearing is taped, and a record, including all exhibits, will be maintained. The complainant may withdraw the complaint in writing at any time. The Hearing Officer will provide to all parties a written recommendation, defining issues, facts, and suggested resolution. If the complainant or representative does not appear for the hearing, the complaint may be dismissed, or the Hearing Officer may rule on the evidence presented.

Worksystems Decision

Worksystems' Executive Director will consider the complaint, informal resolution efforts (if applicable), and the Hearing Officer's recommendation. The Executive Director will then issue a written decision defining issues, facts and resolution and forward a copy of the decision to each party. The decision will include notice that the complainant has the right to request that the State review of the decision. The decision will be made no later than 60 days after the filing of a complaint, unless extended upon a showing of good cause or agreement by both parties, in writing, to waive the time lines.

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State Recourse

If the complainant receives an unsatisfactory decision or if Worksystems fails to issue a decision within the prescribed timelines, unless the timelines have been waived, the complainant or respondent may request a review by the State.

The request for State review of the decision must be submitted in writing via physical letter through US mail to:

Workforce Programs Director
Office of Workforce Investments
3rd Floor, Room 310
875 Union Street, NE
Salem, OR 97311

The request for State review must be filed within 10 days of Worksystems' decision, or in the absence of a decision within 15 days from the date the complainant should have received a decision. The State may request all necessary information, including, but not limited to the following:

- Copy of the written complaint/grievance
- Written summary and decision from the informal resolution efforts
- Tapes of and exhibits from the Hearing
- Hearing Officer's recommendation
- Worksystems Executive Director's decision

Federal Recourse

Under Title 20 CFR 683.600, 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. (Note: For discretionary grant programs, the appeal process is available where allowed by the grant funding source and implementing regulations.) The appeal must be filed with 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 DC, 20210

A copy of the appeal must be simultaneously provided to the opposing party and:

ETA Regional Administration – Region 6
U.S. Department of Labor
Office of Regional Administrator
P.O. Box 193767
San Francisco, CA 94119-3767

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Corrective Actions

If the complaint investigation finds that the subrecipient or respondent violated the WIOA or related grants or agreements, corrective action as described in Worksystems policy will be taken immediately, regardless of how the complaint is resolved.

Record Maintenance

The Subrecipient EOC will maintain records regarding complaints and actions taken in accordance with the Subgrant Terms and Conditions. The records will be maintained in a secure area and made available only to those with authorization.

Reference

WIOA Regulations 20 CFR 683.600

State WIOA Title I Guidance Letter – Non-Criminal Grievance/Complaint Procedure

Grievance Report Form WIOA 1a-2018