



TO: All Humboldt County Workforce Innovation and Opportunity Act (WIOA) Staff, Subrecipients and Service Providers

FROM: Humboldt County Workforce Development Board

EFFECTIVE: December 20, 2018

SUBJECT: Grievance and Complaint Procedures

REFERENCES: Title 20 Code of Federal Regulations (CFR) Sections 683.600 and 683.610
Title 22 California Code of Regulations (CCR) Division 1, Subdivision 2, Chapter 2, Sections 5050 – 5070
Title 29 CFR Section 38.9
WIOA (Public Law 113-128) Section 181(c)
Workforce Services Directive (WSD)18-05

PURPOSE

This policy provides the guidance and establishes the procedures for participants and other interested parties to file noncriminal grievances or complaints alleging violations of WIOA Title I requirements. This policy contains guidance regarding the receipt, hearing, resolution, and appeals process of WIOA Title I grievance and complaints.

These procedures apply only to programmatic complaints alleging violations of WIOA Title I requirements in the operation/administration of WIOA programs and activities provided by WIOA One Stop Partners within the American’s Job Centers of California (AJCC) in Humboldt County.

DEFINITIONS:

Calendar Days – Consecutive calendar days, including weekends and holidays.

Complainant – Any participant or other interest or personally affected party alleging a noncriminal violation of the WIOA Title I requirements.

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

Compliance Review Office – the organization within the EDD that oversees the administrative resolution of WIOA programmatic complaints.

Grievance or Complaint – A written expression by a party alleging a violation of WIOA Title I or regulations promulgated under WIOA.

Hearing Officer – An impartial person or group of persons that shall preside at a hearing on a

Humboldt County Workforce Development Board

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grievance or complaint.

The County of Humboldt – The regional workforce development area, encompassing all of Humboldt County.

Participant – An individual who has been determined to be eligible to participate in and who is receiving services under a program authorized under WIOA.

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

Respondent – The entity (e.g., Service Provider or AJCC) the complainant is filing the grievance or complaint against.

Recipient – an entity to which a WIOA grant is awarded directly from the U.S. Department of Labor (DOL) to carry out a program under WIOA Title I.

Service Provider/AJCC – A public agency, private nonprofit organization or private-for-profit entity that delivers educational, training, employment or supportive services to WIOA participants.

State Review Panel – An entity within the Employment Development Department (EDD) composed of representatives from EDD's Compliance Review Office, Legal Office, and Director's Office. **Subrecipient** – an entity to which a recipient awards funds and is accountable to the recipient

(or higher tier subrecipient) for the use of the funds provided.

The panel shall review and approve or disapprove decisions and recommendations regarding grievances or complaints.

WIOA – Workforce Innovation and Opportunity Act, PL 113-128

POLICY AND PROCEDURE

These procedures must be made available to all relevant parties within the County of Humboldt, including America's Job Center of California (AJCC) partners, service providers, and program participants.

- All grievances or complaints must be filed within one year of the alleged violation.
- All grievances, complaints, amendments, and withdrawals must be writing, and all persons filing grievances or complaints shall be free from restraint, coercion, reprisal, and discrimination.
- All participants enrolled in the WIOA program delivered through the HC-WDB service providers shall receive a summary of the Grievance and Complaint Resolution Procedure during eligibility determination.
- Receipt of this summary by the participant shall be documented via the participant's signature on the WIOA application form, and a copy of this summary shall be included in the participant file.
- A copy of this summary shall also be posted at the AJCC where it is available to any interested parties or members of the public.
- Technical assistance will be provided by service providers and/or the County of Humboldt staff to any individual wishing to file a grievance or complaint. Technical assistance includes, but is not limited to, providing instructions on how to file a complaint and providing copies of relevant documents such as the WIOA, federal regulations, state laws and regulations, and local procedures. This requirement does not require service providers and/or the County of Humboldt to violate any rule of confidentiality or provide legal advice.

Furthermore, all recipients and subrecipients of WIOA Title I funds will make reasonable efforts to ensure their policies and corresponding information will be understood by affected participants and individuals, including youth and individuals with limited English proficiency.

These efforts must comply with the language requirements of Title 29 CFR Section 38.9.

WIOA Title I Governor's Discretionary and Rapid Response subrecipients (except for the County of Humboldt) are not required to develop procedures for responding to grievances and complaints from participants and interested parties. Rather, these subrecipients must adopt the Employment Development Department's (EDD) state level grievance and complaint procedures and must designate an individual who will be responsible for publishing the procedures.

Notice to Affected Parties

All recipients and subrecipients must provide a copy of the local grievance and complaint procedures to each participant. These procedures must include the following:

- Notification that the participant has the right to file a grievance or complaint at any time within one year of the alleged violation.
- Instructions and timelines for filing a grievance or complaint.
- Notification that the participant has the right to receive technical assistance from the County of Humboldt staff in filing the grievance or complaint.
- Notification that the participant may file an appeal or request a separate review by EDD if they experience an incident of restraint, coercion, or reprisal as a result of filing a complaint.

The local grievance and complaint procedures will be posted in a public location and made available to any interested parties or members of the public.

Where a hard copy case file is maintained, staff must include a signed copy of an acknowledgement of receipt of the local grievance and complaint procedures in each participant's case file. Where an electronic case file is maintained, staff must either: (1) enter a case note indicating that this notification did occur, the date of the notification, and the name of the staff person who provided it, or (2) scan a signed copy of an acknowledgement of receipt of the local grievance and complaint procedures and attach it to the participant's case file.

County of Humboldt staff will provide technical assistance to complainants, including those filing grievances or complaints against the County. Technical assistance includes, but is not limited to, providing instructions on how to file a complaint, and providing copies of relevant documents such as the WIOA, federal regulations, state laws and regulations, local procedures, and/or contracts. In following this policy, the County will not violate any rule of confidentiality or provide legal advice.

Filing of the Grievance/Complaint

A grievance or complaint must be filed within one year of the alleged violation. The official filing date of a grievance or complaint is the date it is received by the Service Provider or County staff. The filing of such a grievance or complaint shall be considered a request for a hearing and the County of Humboldt shall issue a written decision within 60 days of the official filing date.

If the Complainant indicates he/she wishes to file a grievance or complaint through the Service Provider or AJCC, staff shall notify the County of Humboldt of the grievance or complaint (regardless of whether it has been put in writing) within 72 hours. The notification may be in person, by telephone or by e-mail to The County of Humboldt.

The grievance or complaint must be in writing, signed, and dated by the Complainant. If the Complainant filed the grievance or complaint directly with the County of Humboldt and the Respondent does not have a copy of the grievance or complaint, the County of Humboldt shall send Respondent a copy.

The following information shall be included in the grievance or complaint, but the absence of any of the requested information shall not be used as a basis for dismissing the grievance or complaint:

1. The full name, telephone number, and mailing address of the Complainant and the Respondent.
2. A clear and concise statement of the facts and dates describing the alleged violation.
3. The provision(s) of WIOA, federal regulations, grant, or other agreements under WIOA believed to have been violated.
4. Grievances or complaints against individuals, including staff or participants, shall indicate how those individuals did not comply with WIOA law or regulation.
5. The remedy sought by the Complainant.

A grievance or complaint may be amended to correct technical deficiencies at any time up to the start of the hearing. Grievances or complaints may not, however, be amended to add new issues unless the Complainant withdraws and resubmits the grievance or complaint.

The one-year time period in which a grievance or complaint may be filed is not extended for grievances or complaints refiled with amendments.

Grievances or complaints may be withdrawn at any time prior to the issuance of the Hearing Officer's decision.

Informal Resolution

Upon receipt of a grievance or complaint, County of Humboldt staff shall notify the Complainant and the Respondent of the opportunity for an informal resolution.

Respondents must make a good faith effort to resolve all grievances or complaints prior to a scheduled hearing. Failure on the part of either the Complainant or Respondent to exert a good faith effort shall not constitute a basis for dismissing a grievance or complaint, nor shall this be considered a part of the facts to be judged during the resolution process.

The County of Humboldt shall ensure that all grievances or complaints not resolved informally or not withdrawn are given a hearing, regardless of the grievance or complaint's apparent merit or lack of merit.

1. **Resolution Achieved** – If a Complainant and Respondent are able to reach an informal resolution, a notice of resolution shall be sent to the Complainant and entered into the County of Humboldt maintained complaint file. The County of Humboldt will request the Complainant provide a written withdrawal of the complaint within 10 days of the receipt of the notice of resolution.
2. **Impasse Reached** – If the informal resolution leads to an impasse between the Complainant and the Respondent, a hearing will be scheduled. If, however, the Complainant chooses not to proceed to a hearing, a notice of impasse shall be sent to the Complainant and entered into the complaint file. The County of Humboldt will request the Complainant provide a written withdrawal of the complaint within 10 days of the

receipt of the notice of impasse.

Local Hearing

If a local hearing is to be held, it shall be conducted within 30 days of the filing date of the grievance or complaint and the following procedure shall be followed:

1. Notice of Hearing

The County of Humboldt must notify the Complainant and Respondent in writing of the hearing, at least ten 10 days prior to the date of the hearing. The notice shall be in writing and contain the following information:

- a. The date of the notice, name of Complainant, and the name of the party against whom the grievance or complaint is filed.
- b. The date, time, and location of the hearing.
- c. A statement of the alleged violation(s). The statement must accurately reflect the content of the grievance or complaint as submitted by the Complainant. (Clarifying notes may be added to ensure the grievance or complaint is addressed accurately.)
- d. The name, address, and telephone number of the contact person issuing the notice.

Note: The 10-day notice period may be shortened with written consent from both parties.

2. Conduct of Hearing

An impartial Hearing Officer shall conduct the hearing. The hearing shall be conducted in an informal manner and not be bound by strict rules of evidence. Both parties have the right to be represented at their own cost, present written and oral testimony, call and question witnesses, and request and examine records and documents relevant to the issues. The hearing must be recorded electronically or by a court reporter.

Note: The County of Humboldt Staff, County of Humboldt Service Provider/AJCC Staff, The County of Humboldt Workforce Development Board members, and the County of Humboldt Governing Board members may not function as "Hearing Officer." Per Directive WSD18-05, issued by the State of California, they are not considered "impartial."

3. Decision of Hearing

The Hearing Officer shall provide a written decision to The County of Humboldt. The County of Humboldt shall mail the written decision to both parties by first class mail no later than 60 days after the filing date of the grievance or complaint.

The written decision shall contain the following information:

- a. The names of the parties involved.
- b. A statement of the alleged violation(s) and related issues.
- c. A statement of the facts.
- d. The Hearing Officer's decision and reasoning.
- e. A statement of the corrective action or remedies for violations, if any, to be implemented.
- f. 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.

Appeal of Local Decision or Local Decision Not Timely

1. Appeal of Local Decision

If an adverse decision is received, the Complainant has the right to file an appeal with the Employment Development Department (EDD). This appeal must be in writing and filed or postmarked within 10 days from the date on which the Complainant received an adverse decision from The County of Humboldt.

Appeals must be submitted to the following address:

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

The County of Humboldt will assist the Complainant with filing the appeal and the process will follow EDD's resolution procedure as outlined in Directive WSD18-05, pages 7-10.

The official filing date of the grievance or complaint with EDD is the date it is received by the Compliance Review Office of EDD has 60 days from the official filing date to issue a written decision.

2. Request for EDD Review

If the Complainant does not receive a decision within 60 days of the filing date of the grievance or complaint or if there have been any incident(s) of restraint, coercion, or reprisal at the local level as a result of filing a grievance or complaint, the Complainant has the right to file a request for EDD review. This request for review must be in writing and filed or postmarked within 15 days from either of the following:

- a. 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
- b. The date on which an instance of restraint, coercion, or reprisal was alleged to have occurred as a result of filing the grievance or complaint.

A Request for EDD Review must be submitted to the following address:

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

If an evidentiary hearing was held at the local level, the Compliance Review Office shall request the record of the hearing from the County of Humboldt and the State Review Panel shall review the record without scheduling an additional hearing. The County will provide written transcripts of any audio or visual recordings of the hearings via overnight mail. Within 10 days of receipt of the grievance or complaint, the Compliance Review Office shall notify the complainant and respondent of the opportunity for an informal resolution and proceed with the informal resolution process.

If an evidentiary hearing was not held at the local level, the Compliance Review Office shall instruct the County of Humboldt to hold a hearing within 30 days of receipt of the appeal or request for EDD review. If the County does not hold a hearing within the required timeframe, the EDD shall schedule an evidentiary hearing before an impartial hearing officer within the 30-day timeframe.

Remanded Local Grievances and Complaints

Grievances or complaints filed directly with EDD related to County of Humboldt programs will be remanded to the County of Humboldt. Reviews that reveal a trial issue, such as the Hearing Officer being an interested party, will be remanded to the County of Humboldt for a retrial of the grievance or complaint.

State Level Grievances and Complaints

All grievances or complaints alleging noncriminal, state violations of WIOA Title I requirements, or grievances or complaints by individuals or interested parties affected by statewide workforce programs shall be filed in writing with the Chief of the Compliance Review Office. The official filing date of the grievance or complaint is the date it is received by the Compliance Review Office. The filing shall be considered a request for a hearing and the State Review Panel shall issue a written decision within 60 days of the official filing date. The Compliance Review Office shall send a copy of the grievance or complaint to the respondent.

The grievance or complaint must be in writing, dated, and signed by the complainant. The state will attempt to obtain the following information for all complaints. However, the absence of any of the requested information will not be used as a basis for dismissing the grievance or complaint.

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

The Chief of the Compliance Review Office or their designee shall review the grievance or complaint and notify the complainant and respondent of the opportunity for an informal resolution within 10 days of receipt. If the state cannot resolve the grievance or complaint informally, a hearing will be held.

EDD Hearing

Hearings on any grievance or complaint shall be conducted within 30 days of the filing of the grievance or complaint. The complainant, respondent, and the County of Humboldt (in cases of local level appeals and requests for EDD review) shall be notified in writing of the hearing at least 10 days prior to the hearing. The hearing shall be conducted by an impartial officer. The hearing notice shall contain the following information:

- The date of the notice, name of complainant, and the name of the party against whom
- the grievance is filed.

- The date, time, and location of the hearing.
- 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.

The EDD hearing shall be conducted in an informal manner without the application of strict rules of evidence. Both parties shall have the right to be represented, present written and/or oral testimony under oath and arguments, call and question witnesses, and request and examine records and documents relevant to the issues. The hearing shall be recorded either electronically or by a court reporter.

Title 22 CCR regulates the responsibilities and processes of EDD administrative law judges and hearings and as such, applies to the EDD hearings and hearing officers described in this Directive. Title 22 CCR Sections 5050 through 5070 outline all applicable state laws and must be adhered to by the EDD hearing officers. Examples of subjects addressed include special hearing accommodation, electronic hearings, ex parte communications, and consolidation of similar cases. All references to “administrative law judge” hold the same meaning as “hearing officer” in regard to these regulations.

State Review Panel

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 related issues.
- A statement of the facts.
- The EDD hearing officer’s decision and reasoning.
- A statement of the corrective action or remedies for violations, if any, to be implemented.

The State Review Panel shall not conduct a new evidentiary hearing but shall review the record established by either the local level hearing or the EDD hearing. The State Review Panel shall issue a decision on the basis of the information contained within the record. The State Review Panel may accept, reject, or modify the EDD hearing officer’s recommendation or the decision of the Local Area, and shall issue a written decision to the concerned parties within 60 days of the EDD’s receipt of the local level appeal, request for EDD review, or grievance or complaint.

The State Review Panel shall send 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 related issues.
- A statement of the facts.
- The State Review Panel’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 file an appeal with the U.S. Secretary of Labor (Secretary).

Federal Level Appeal Process

If the State Review Panel has issued an adverse decision regarding a grievance or complaint, or has not issued a decision within 60 days, as outlined in Directive WSD18-05, the Complainant may file an appeal with the Secretary of Labor. This appeal process applies to grievances and complaints that originated at the County of Humboldt or EDD/State level.

Appeals of an adverse decision must be filed within 60 days of receipt of the adverse decision from the State Review Panel.

In cases where the State Review Panel did not issue a decision, the Complainant must file an appeal within 120 days of either of the following:

1. The date on which the Complainant filed the appeal of a local level decision or request for EDD review with the state; or
2. The date on which the Complainant filed the grievance or complaint with EDD.

All appeals to the Secretary must be sent to the Department of Labor (DOL) National Office via certified mail with return receipts requested. Copies of the appeal must simultaneously be provided to the DOL Employment and Training Administration (ETA) Regional Administrator and the Respondent.

Mailing addresses for the DOL National Office and ETA Regional Administrator are:

DOL National Office	Secretary of Labor Attn: Assistant Secretary of ETA U.S. Department of Labor 200 Constitution Avenue, NW Washington, DC 20210
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ETA Regional Administrator	Office of Regional Administrator U.S. Department of Labor P.O. Box 193767 San Francisco, CA 94119-3767
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Grievances or complaints filed directly with the Secretary of Labor that were not previously filed with the County of Humboldt and/or EDD will be remanded to the County of Humboldt or EDD, as appropriate. The Secretary of Labor previously filed with the County of Humboldt and/or EDD will be remanded to the County of Humboldt or EDD, as appropriate.

The Secretary of Labor shall issue a final determination no later than 120 days after receiving the appeal.

Remedies

Remedies that may be imposed for a violation of any requirement under WIOA Title I shall be limited to the following:

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

None of the above shall be construed to prohibit a complainant from pursuing a remedy authorized under another federal, state, or local law for a violation of WIOA Title I.

FORM(S): Grievance and Complaint Procedure

Nondiscrimination and Equal Opportunity (EO) Procedure

INQUIRIES:

Any questions regarding this policy may be directed to the Workforce Development Board Director at 707-445-7745.

Humboldt County Workforce Development Board Approval Required? Yes No