

# **WorkSource Complaint Handbook – Attachment A**

**Eastern Washington partnership Workforce Development Council**

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## **Introduction:**

The WorkSource Complaint Handbook provides procedural guidance to local partners for processing Workforce Investment Act (WIA) Title–I B, Wagner-Peyser, Trade Adjustment Act (TAA) and Discrimination complaints in compliance with federal regulations. Policy 1012 Revision 1, which introduces this handbook, was established to accomplish three primary objectives:

- To clarify the oversight role of Workforce Development Councils (WDCs).
- To outline minimum expectations for coordination among partners.
- To encourage prompt resolution of all customer concerns.

The handbook builds on this framework by establishing the following:

- Clarifying roles and responsibilities of partners and programs regarding complaint processing.
- Providing approved procedures containing minimum federal requirements for processing complaints.
- Providing optional tools (e.g., complaint log and complaint form) to assist with the implementation of procedures that comply with minimum requirements.

The complaint procedures and tools in this handbook are to be considered as templates for WDCs to adopt or modify. These templates represent the minimum federal requirements and should not be modified to remove minimum federal requirements.

## **References:**

- WIA Section 188
- 20 CFR 651, 653, and 658
- 29 CFR, Part 37
- Title IX of Education Amendments of 1972
- President's Executive Order 11246
- Revised Code of Washington (RCW) 49.60
- Equal Opportunity and Nondiscrimination: WIA Policy Number 3445, Revision 1
- Discrimination Complaint Processing: Employment Security Department (ESD) Policy and Procedure Number 0013
- Equal Opportunity/Affirmative Action: ESD Policy and Procedure Number 0021
- Washington State Methods of Administration
- Title VI & VII of the Civil Rights Act of 1964, as amended
- Section 504 of Rehabilitation Act of 1973, as amended
- The Age Discrimination Act of 1975, as amended
- Titles II, of the Americans with Disabilities Act of 1990, as amended
- Equal Pay Act of 1963

## Concerns

These are written or verbal expressions of dissatisfaction rather than alleged violations of program or discrimination regulations noted in this handbook. Concerns do not require the same formal process as a complaint (i.e., logging, tracking, etc.), but local processes may include additional requirements. Concerns should be resolved at the lowest level possible before escalating to the level of a complaint.

## Who May File a Complaint?

Complaints may be filed by individuals, organizations, employers, associations or other entities potentially affected by an alleged program violation or by individuals alleging discrimination connected to programs or services at a WorkSource center or affiliate site. Concerns may be filed by customers, service providers, staff of grant recipients, applicants, labor unions, community-based organizations, local elected officials or other interested parties.

## Types of Complaints:

This handbook describes two types of complaints – programmatic and discrimination – each of which follows its own procedures in alignment with federal regulations.

- Programmatic complaints are complaints which allege a violation of a law, regulations or policy connected to Wagner-Peyser, WIA, or TAA programs but do not allege discrimination. All programmatic complaints must be filed within one year of the alleged date of incident.
- Discrimination complaints are complaints alleging a violation of law(s) that prohibit discrimination in federally assisted programs on the basis of race, color, religion, sex, age, national origin, disability, political affiliation or belief and (for beneficiaries only) citizenship/status as a lawfully admitted immigrant authorized to work in the United States. Washington State law also prohibits discrimination in public accommodation based on marital status, sexual orientation or gender identity, honorably discharged veteran or military status, and the use of a trained guide dog or service animal by a person with a disability. Discrimination complaints must be filed within 180 days of the date of the alleged discrimination.

While this handbook introduces separate processes to correspond to the different types of complaints described above, all partners are expected to collaborate and be responsive to the needs of all WorkSource customers. Collaboration is essential when a complaint presents allegations that cross jurisdictional boundaries, including allegations that involve more than one program or allegations against a program that also alleges discrimination.

# 1. Wagner-Peyser Complaint Procedures

## 1.1 Purpose

To establish minimum requirements for accepting, fact finding, resolving and referring customer complaints and apparent violations connected to Wagner-Peyser funded services or partners.

## 1.2 Wagner-Peyser Specific Definitions

**Apparent Violation** – a violation of Wagner-Peyser regulations or employment-related laws by an employer, where an employee or ESD representative observes, has reason to believe, or is in receipt of information regarding a suspected violation.

**Complainant** – an individual, organization, employer, association, or other entity filing a complaint.

**Complaint (Wagner-Peyser)** – the submission of a written and signed allegation that Wagner-Peyser (Job Service) funded programs/partners violated Wagner-Peyser regulations, and/or an allegation that an employer violated federal, state or local employment related laws. At a minimum, complaints must contain the following information:

- Complainant's name;
- Mailing address, or other means by which the complainant may be contacted;
- Identification of individual(s) or organizations(s) responsible for the alleged issue;
- A description of the complainant's allegations, which must include enough details to determine the jurisdiction of the complaint and the date(s) the alleged incident(s) took place; and
- The complainant's signature and signature date. The signature of his/her authorized representative is also acceptable.

**Complaint Contact** – local staff assigned to process complaints according to procedural requirements contained in this section.

**Employment Service (ES) Related Complaint** – an ES complaint may be an agency related complaint or an employer related complaint.

- An *agency related complaint*, is where a complainant alleges that ESD or a WorkSource partner, through actions or omissions, violated Wagner-Peyser regulations.
- An *employer related complaint*, is where a complainant, referred by the WorkSource office on a WA job order in the past 12 months, either:
  - Alleges the employer violated the terms and conditions of the job order; or
  - Alleges the employer violated an employment related law such as wages, working conditions, child labor laws, sanitation, or housing standards, etc.).

**Non-Employment Service (Non-ES) Related Complaint** – a complaint filed by an individual that was not referred on a WA job order within the last 12 months that alleges an employer or an agency violated federal or state employment related laws.

**Enforcement Agency** – a body sanctioned by local, state, or national government to enforce laws. Examples may include the Washington State Department of Labor & Industries (L&I), DOL's Wage & Hour Division (WHD), the Washington State Human Rights Commission, etc.

**H-2A Program** – the federal program that allows agricultural employers who anticipate a labor shortage to apply for permission to hire foreign workers temporarily.

**H-2B Program** – the federal program that allows non-agricultural employers who anticipate a labor shortage to apply for permission to hire foreign workers temporarily.

**Migrant Seasonal Farmworker (MSFW)** – a migrant farmworker, a seasonal farmworker or a migrant food processing worker.

**Resolution** – A complaint is considered resolved when:

- The complainant indicates satisfaction with resolution.
- The complainant chooses not to elevate a complaint to the next level.
- The complainant fails to respond to a written request for information within time frames.
- The complainant exhausts the final level of review.
- The agency with jurisdiction makes a final determination on a referred complaint.

**Respondent** – the individual or entity that is alleged to have committed the violation described in the complaint.

### **1.3 Availability of Complaint Contact(s)**

A locally designated complaint contact shall be available to receive ES and Non-ES complaints, in person, at all WorkSource centers and affiliates where Wagner-Peyser funded staff are located.

### **1.4 Complaints Received in Person**

If an individual elects to file a complaint, the following minimum steps shall be followed:

- Offer to assist the complainant in completing a complaint form. It is recommended, but not required, that complainants use the [WorkSource Complaint Form](#) or the federally approved Wagner-Peyser complaint form known as the [ETA 8429](#). If the complainant represents several other complainants, all complainants must be named. Only one signature is required from a complainant listed on the form. An additional sheet may be attached to the form if more space is needed. The additional sheet must be signed and dated by the complainant.
- Obtain all necessary information to resolve or refer the complaint.
- If a complaint is filed by a migrant farm worker, ask the complainant to contact WorkSource before leaving the area in order to obtain change of address information. The complainant shall also be advised to communicate with the complaint contact during the fact-finding.
- Provide the complainant and any other complainants named on the form with a copy of the completed complaint form.
- Process as an [ES related complaint](#) or [Non ES related complaint](#), depending on jurisdiction (see definitions).

### **1.5 Complaints Received in Writing**

- When a complaint in any form (e.g., a letter) is received that is signed by the complainant and includes sufficient information to initiate processing, the document must be treated as if it were a properly

completed Complaint Form filed in person by the complainant and processed as an employment service related or as a non-employment services related complaint.

- If the complainant has not provided sufficient information, additional information shall be requested following procedures noted in section [1.12](#).

## **1.6 Procedures for Handling ES Complaints**

### **1.6.1 Agency Related Complaints**

The complaint contact shall, at a minimum:

- Conduct fact-finding.
- Attempt to resolve the agency related complaint within 15 working days of receiving the complaint.
- Document all actions taken.
- If unable to resolve the complaint within 15 working days, the complaint contact shall elevate the complaint to the state using information noted in section [1.16](#). The referral shall be made in writing and contain a summary of the local determination made. The complaint contact shall inform the complainant and the respondent, in writing, of the referral action made to the state.
- The state may attempt to resolve the complaint or, if necessary, conduct additional fact finding. If a resolution has not been achieved within 30 working days from the date of referral, the state shall issue a written determination via certified mail.
- The complainant may request a hearing if he/she remains unsatisfied after a determination has been issued by the state. Hearings will be scheduled in accordance with 20 CFR 658.416(e).

### **1.6.2 Employer Related Complaints**

The following sections describe minimum procedures to be followed for employer related complaints where the complainant was referred by a WorkSource office on a WA job order in the past 12 months. Different steps shall be followed depending on whether or not the complaint is employment law related. Those minimum requirements are described in the following sections.

#### Alleged Violation of Employment Law

- The complaint contact shall make a written referral to the appropriate agency along with a copy of the complaint form and all other related documentation.
- The complaint contact shall notify the complainant in writing of the referral.
- Complaint contacts shall conduct quarterly follow-ups with the agency to which the complaint was referred to and keep the complainant informed. If the agency makes a final determination that the employer violated an employment related law, the final determination of the agency shall be referred to the state using the contact information noted in section [1.16](#).
- If the employer is found to have violated terms and conditions of a job order or is found to have violated employment law, ESD shall initiate discontinuation of services procedures consistent with 20 CFR 658 Subpart F.

#### Not Employment Law Related

- Conduct fact-finding.
- Attempt to resolve the complaint within 15 working days of receiving the complaint.
- Document all actions taken.
- If unable to resolve the complaint within 15 working days, the complaint contact shall elevate the complaint to the state using the contact information noted in section [1.16](#). The complaint contact shall



inform the complainant and the respondent, in writing, of the local determination made and of referral action made to the state.

- The complainant may request a hearing if he/she remains unsatisfied after a determination has been issued by the state. Hearings will be scheduled in accordance with 20 CFR 658.416(e).

### **1.7 Procedures for Handling Non-ES Complaints**

- For all Non-ES complaints alleging an employment law violation made against an employer, the complaint contact shall assist the individual by referring the complaint to the appropriate enforcement agency in writing.
- All non-ES complaints referred to an enforcement agency shall be logged.
- No follow-up is required on referrals made to an enforcement agency on non-ES related complaints.

### **1.8 Procedures for Transferring Out of Area ES Complaints**

- ES complaints presenting allegations that occurred in another part of the state shall be referred to the local ESD administrator where the alleged violation occurred.
- If a WorkSource center or affiliate receives a complaint against more than one site, with an alleged agency-wide violation, the complaint may be initially processed at the state level. Such complaints shall be forwarded to the state for further consideration using the information noted in section [1.16](#).
- If a WorkSource center or affiliate receives an ES complaint presenting allegations that occurred in another state, the complaint must be taken in writing and submitted to the state using the information noted in section [1.16](#) for appropriate referral and processing.

### **1.9 Apparent Violations**

- All potential apparent violations must be reported to a local complaint contact.
- If there is sufficient information to suggest that a violation of Wagner-Peyser regulations or employment law occurred, the relevant complaint procedures (i.e., ES or Non-ES) shall be followed.
- If there is sufficient information to suggest that a violation of Wagner-Peyser regulations or employment law occurred, the apparent violation shall also be logged.

### **1.10 H-2A & H-2B related Complaints**

- All H-2A and H-2B related complaints, whether received from workers referred through WorkSource or otherwise, are considered ES related complaints.
- If a complainant alleges that the ESD or its personnel, through actions or omissions, violated H-2A and H-2B Regulations, the complaint shall be processed as an [ES related complaint against the agency](#).
- If a complainant files a complaint against an H-2A or H-2B employer, alleging the employer did not comply with recruitment requirements or contractual terms, the complaint shall be processed as an [ES related complaint against the employer](#).

### **1.11 MSFW Complaints**

All MSFW complaints and apparent violations shall be handled according to the type of allegation and situation set forth in previous sections except for the following **exceptions** noted:

- MSFW complaints and apparent violations made against ESD, as described in section [1.6.1](#) and section [1.6.2](#) (not employment law related only), shall be resolved within five (5) working days.

- Monthly follow-up, rather than quarterly follow-up, must be conducted on all MSFW ES related complaints referred to an enforcement agency, as described in section [1.6.2](#) (alleged violation of employment law only).
- MSFWs shall be given up to 40 working days from the date of receipt to respond to written requests for additional information, as described in section [1.12](#).

### **1.12 Requests for Additional Information**

If a complaint contact is unable to speak to a complainant for the purposes of obtaining additional information needed to resolve a complaint, a written request for additional information shall be sent via certified mail or through some other form of communication where receipt can be verified. All non-MSFW complainants are allowed 20 working days from the date of receipt to respond to a written request for additional information. If a complainant does not respond, the complaint shall be considered closed.

### **1.13 Confidentiality**

The identity of a complainant(s) or any person who furnishes information related to, or who has assisted in an investigation of a complaint shall be kept confidential to the maximum extent possible consistent with applicable law and a fair determination of the complaint. The identity of a complainant may only be released upon written consent of the individual(s) furnishing information regarding a complaint or apparent violation.

### **1.14 Record Keeping**

All records and correspondence related to complaints shall be maintained separately from any other records by the complaint contact. All records regarding ES and non-ES complaints and actions taken must be maintained for a period of not less than three (3) years from the final date of resolution of the complaint in alignment with 29 CFR 97.42.

- At a minimum, complaint files shall include:
  - An original of completed complaint form(s);
  - Originals of all correspondence received/transmitted;
  - Copies of e-mail correspondence if any;
  - Copies of written or typed notes;
  - Miscellaneous items relevant to the allegations such as copies of check stubs, work agreements, etc.
  - Complaints and apparent violations shall be kept in an inactive file for at least three years after the resolution date.

### **1.15 Complaint Logs**

All WorkSource centers and affiliates shall maintain a system for logging complaints. An optional complaint log is attached and meets the requirements for all program and EO complaints. At minimum, the log must contain:

- The name of the complainant;
- The name of the respondent (employer or state agency);
- The date the complaint is filed;
- Whether the complaint is by or on behalf of an MSFW;
- Whether the complaint is ES-related;

- If the complaint is ES-related, whether it is employer-related or agency-related;
- If the complaint (ES-related or non-ES-related) alleges an employment law violation against an employer, the enforcement agency to which the referral was made; and
- The action taken and whether the complaint has been resolved.

### **1.16 Elevating Complaints to the State**

Complaints may be elevated to the state if:

- No decision or resolution has been reached within 15 working days of the filing of an ES complaint against the agency;
- No decision or resolution has been reached within 15 working days of the filing of an ES complaint against an employer that is not employment law related;
- An ES complaint is made against more than one WorkSource center or affiliate, with an alleged agency-wide violation as noted in section [1.8](#); or
- A complaint is made against a respondent from another state as noted in section [1.8](#).

To elevate a complaint to the state, the complaint contact must submit a written notice to the Director of the Workforce & Career Development Division (WCDD) of ESD via e-mail at [WCDDPolicy@esd.wa.gov](mailto:WCDDPolicy@esd.wa.gov) or by mail at:

Workforce Career Development Division  
Employment Security Department  
PO Box 9046  
Olympia, WA 98507-9046

### **1.17 Discontinuation of Service to Employers**

- ESD shall initiate discontinuation of services procedures, consistent with 20 CFR 658 Subpart F, when it has been determined, in response to an ES complaint, that an employer has violated an employment-related law enforced by a federal or state agency and notice of a final determination against the employer has been provided to the ESD by that agency.
- ESD shall notify the local WDC and all local partners providing non-ESD business services whenever services are discontinued.

### **1.18 Complaint Posters**

All WorkSource centers and affiliates that offer Wagner-Peyser funded services shall display an ETA-approved WorkSource complaint poster.

### **1.19 References**

- 20 CFR 658 Subpart E – Job Service Complaint System
- 20 CFR 658 Subpart F – Discontinuation of Services to Employers by the Job Service System
- 20 CFR 653.113 – Apparent Violations
- 20 CFR 653.503 – Field Checks
- 29 CFR 97.42 – Retention and Access Requirements for Records

## 2. Trade Adjustment Act (TAA) Complaint & Eligibility Appeal Procedures

### 2.1 Purpose

To establish minimum requirements for processing denial of service appeals and customer service complaints related to all TAA service providers and potentially eligible participants requesting services available under the Trade Adjustment Assistance Program.

### 2.2 TAA Specific Complaint Definitions

**Complaint (TAA)** – the submission of a written and signed allegation that TAA funded programs/partners violated TAA regulations. At a minimum, TAA complaints must contain the following information:

- Complainant's name;
- Mailing address, or other means by which the complainant may be contacted;
- Identification of individual(s) or organizations(s) responsible for the alleged issue;
- A description of the complainant's allegations, which must include enough details to determine the jurisdiction of the complaint and the date(s) the alleged incident(s) took place; and
- The complainant's signature and signature date. The signature of his/her authorized representative is also acceptable.

**Complaint Contact** – local staff assigned to process complaints according to procedural requirements contained in this section.

### 2.3 Complaints Received in Person

If an individual elects to file a complaint, the following minimum steps shall be followed:

- Offer to assist the complainant in filing a complaint. It is recommended, but not required, that complainants use the [WorkSource Complaint Form](#).
- Provide the complainant with a completed copy of the complaint form and to any other complainants named on the form.
- Follow procedures for handling TAA complaints.

### 2.4 Complaints Received in Writing

- When a complaint in any form (e.g., a letter) is received that is signed by the complainant and includes sufficient information to initiate processing, the document must be treated as if it were a properly completed Complaint Form filed in person by the complainant and processed as a denial of service or as a customer service related complaint, depending on jurisdiction, as outlined in this procedure.
- If the complainant has not provided sufficient information, additional information shall be requested in alignment with procedures noted in section [2.9](#).

### 2.5 Denial of Service

A TAA service provider may issue a written determination denying a service or benefit available under the Trade Adjustment Assistance Program. These services may include, but are not limited to:

- Job Search Allowances;
- Relocation Allowances;

- Training (occupational skills, remedial, perquisite, on the job, part-time, distance learning, apprenticeship, entrepreneur or customized training);
- Transportation and subsistence expenses;
- Trade Adjustment Assistance (TRA);
- Alternate Trade Adjustment Assistance (ATAA); and/or
- Reemployment Trade Adjustment Assistance (RTAA)

## **2.6 Denial of Service Procedures**

The following procedures must be adhered to when denying a TAA service or benefit:

- Prior to making the determination to deny services, TAA service providers must make every effort to work with the participant by explaining the law or policy, modifying their request, or developing an alternative initial training plan.
- When the TAA service provider exhausts all attempts to resolve the matter with the participant, they will issue a formal denial along with the basis for their determination to the participant and the State TAA Coordinator. At this time, the participant will be provided information on their appeal rights. Local TAA service providers must have complaints resolved within 15 calendar days or appeals forwarded to the State TAA Coordinator.
- If the State TAA Coordinator disagrees with the decision to deny service or benefits, they may request the TAA service provider provide additional documentation and, or information about the reason(s) for the denial. The State TAA Coordinator may overturn the decision of the local TAA program administrator when there has been an interpretive error with the law or policy.

## **2.7 Denial of Service Appeal Procedures**

A participant receiving a written determination denying their benefits, who does not agree with the decision, has the right to file an appeal. The participant must file the appeal within 30 calendar days after the date of notification or mailing post mark. There are three primary types of decisions:

1. Re-determination of an Entitlement Determination to TAA/TRA
2. Determinations of Requests for:
  - Job Search Allowance;
  - Request for Relocation Allowances; or
  - Request for Training Approval and, or transportation & subsistence allowances while in Training;
3. UI Determination Notice; or a Determination Notice and Overpayment Assessment on the Trade Readjustment Assistance (TRA) portion of a claim, and
  - Determinations for Alternate Trade Adjustment Assistance (ATAA); or
  - Reemployment Trade Adjustment Assistance (RTAA).

The customer (participant) must file the appeal with the TAA service provider. The service provider will contact the State TAA Coordinator or the TRA Coordinator for guidance on processing an appeal packet. The local TAA service provider will mail the appeal packet to the Administrative Law Judge (ALJ) at the following address:

Office of Administrative Hearings  
One Union Square, Suite 1500  
600 University Street  
Seattle, Washington 98101

Upon receipt of an appeal packet, the ALJ will schedule a court date and assign the case a court docket number. The ALJ will also notify the participant and all parties required to attend the hearing by mail. The TAA Program will be represented at all ALJ hearings by the State Trade Act Coordinator or his/her designated representative.

## **2.8 Procedures for Handling Customer Service Related TAA Complaints**

Customer service related complaints not processed under denial of services procedures shall, at a minimum, be processed as follows:

- Conduct fact-finding.
- Attempt to resolve the complaint within 15 working days of receiving the complaint.
- Document all actions taken.
- If unable to resolve the complaint within 15 working days, the complaint contact shall be elevated to the complaint to the state using information noted in section [2.13](#). The referral shall be made in writing and contain a summary of the local determination made. The complaint contact shall inform the complainant and the respondent, in writing, of the referral action made to the state.
- The state may attempt to resolve the complaint or, if necessary, conduct additional fact finding. If a resolution has not been achieved within 30 working days from the date of referral, the state shall issue a written determination via certified mail.
- The complainant may request a hearing if he/she remains unsatisfied after a determination has been issued by the state. Hearings will be scheduled in accordance with 20 CFR 658.416(e).

## **2.9 Requests for Additional Information**

If a complaint contact is unable to speak to a complainant for the purposes of obtaining additional information needed to resolve a complaint, a written request for additional information shall be sent via certified mail or through some other form of communication where receipt can be verified. All TAA complainants are allowed 20 working days from the date of receipt to respond to a written request for additional information. If a complainant does not respond, the complaint shall be considered closed.

## **2.10 Confidentiality**

The identity of a complainant(s) or any person who furnishes information related to, or who has assisted in an investigation of a complaint shall be kept confidential to the maximum extent possible consistent with applicable law and a fair determination of the complaint. The identity of a complainant may only be released upon written consent of the individual(s) furnishing information regarding a complaint or apparent violation.

## **2.11 Record Keeping**

All records and correspondence related to complaints shall be maintained separately from any other records by the complaint contact. All records regarding TAA complaints and actions taken must be maintained for a period of not less than three (3) years from the final date of resolution of the complaint in alignment with 29 CFR 97.42.

At a minimum, files shall include:

- An original of completed complaint form(s);
- Originals of all correspondence received/transmitted;
- Copies of e-mail correspondence if any;
- Copies of written or typed notes;
- Miscellaneous items relevant to the allegations such as copies of check stubs, work agreements, etc.
- Complaints shall be kept in an inactive file for at least three years after the resolution date.

## **2.12 Complaint Logs**

All WorkSource centers and affiliates shall maintain a system for logging complaints. An optional complaint log is attached and meets the requirements for all program and EO complaints. At minimum, the log must contain:

- The name of the complainant;
- The name of the respondent;
- The date the complaint is filed;
- The action taken and whether the complaint has been resolved.

## **2.13 Elevating Customer Service Related Complaints to the State**

A TAA customer service related complaint may be elevated to the state if:

- No decision or resolution has been reached within 15 working days of the filing of the complaint; or
- The TAA customer service related complaint is made against more than one WorkSource center or affiliate, with an alleged agency-wide violation.

To elevate a TAA customer service related complaint to the state, the complaint contact must submit a written notice to the Director of WCDD via e-mail at [WCDDPolicy@esd.wa.gov](mailto:WCDDPolicy@esd.wa.gov) or by mail at:

Workforce Career Development Division  
Employment Security Department  
PO Box 9046  
Olympia, WA 98507-9046

## **2.14 References**

- The Trade Act of 1974
- Trade Act of 2002 (Pub. L. 107-210) (“the 2002 amendments”)
- The Trade and Globalization Adjustment Assistance Act of 2009
- 20 CFR 617
- Training and Employment Guidance Letter (TEGL) No. 22-08, and TEGL 22-08 Change 1
- TEGL 10-11, 10-11 Change 1 and 10-11 Change 2
- 20 CFR 658 Subpart E – Job Service Complaint System
- 20 CFR 667.600(c)(1) – Requirement for Process Dealing with Complaints
- 29 CFR 97.42 – Retention and Access Requirements for Records



## **3. WIA Complaint Procedures**

### **3.1 Purpose**

To establish minimum requirements for resolving complaints alleging a violation of WIA Title I regulations, grants, or other agreements under WIA.

### **3.2 WIA Specific Complaint Definitions**

**Complainant** – an individual, organization, association, or other entity filing a complaint.

**Complaint (WIA)** – the submission of a written and signed allegation that WIA Title 1-B funded programs/partners violated WIA Title 1-B regulations. At a minimum, complaints must contain the following information:

- Complainant's name;
- Mailing address, or other means by which the complainant may be contacted;
- Identification of individual(s) or organizations(s) responsible for the alleged issue;
- A description of the complainant's allegations, which must include enough details to determine the jurisdiction of the complaint and the date(s) the alleged incident(s) took place; and
- The complainant's signature and signature date. The signature of his/her authorized representative is also acceptable.

**Local Hearing** – the process by which a local area, through an impartial hearing officer, reaches a determination in an attempt to resolve a WIA complaint within 60 calendar days from the date of complaint submission. For all intents and purposes, the local hearing is the formal resolution process prescribed by WIA, but complaints can be resolved prior to, and in lieu of, a local hearing.

**Local Hearing Officer** – an impartial officer responsible for conducting a hearing. Impartial officers shall not be directly connected to the allegations or potentially affected by the results of the determination(s).

### **3.3 Providing Information about WIA Complaint Procedures**

- Information about the local WIA complaint procedures, including instructions on how to file a complaint, must be made available to WIA Title 1-B participants and other interested parties in the WorkSource System upon request.
- Individuals receiving WIA Title 1-B funded services shall be provided a notice of their right to file a complaint. An acknowledgement of receipt shall be signed by the participant and included in the participant's file. For an example, refer to the [WIA Summary of Rights and Procedures Form](#).
- Reasonable efforts shall be made to ensure that information about the content of the WIA complaint procedures will be understood by all individuals, including youth and Limited English Proficient (LEP) individuals. Such efforts must comply with the language requirements of 29 CFR 37.35.
- All persons filing complaints shall be free from restraint, coercion, reprisal, or discrimination.

### **3.4 Complaint Resolution Timeline**

Complainants must be provided an opportunity to resolve complaints, without a hearing, and an opportunity for a hearing if the resolution is not agreeable to any party involved. An initial resolution should be attempted within the first 25 calendar days to allow WDCs sufficient time to prepare for and conduct a hearing, in the event that the complaint is not resolved. The hearing must be completed, and a determination provided, within 60 calendar days.



### **3.5 Local Hearings**

The submission of a complaint is considered a complainant's hearing request. A hearing before an impartial hearing officer shall be completed within 60 calendar days of the filing of a complaint unless such a complaint is resolved prior to the hearing.

The complainant and the respondent must be notified in writing of the hearing prior to the date of the hearing. The hearing notice shall be in writing and must 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;
- A statement of the alleged violations; and
- The name, address, and telephone number of the contact person issuing the notice.

The hearing will be conducted according to the procedures established by the WDC, and a hearing determination will be provided to complainant within 60 calendar days from the date of complaint submission.

### **3.6 State Level Appeal**

An appeal may be filed with the state if:

- No local decision has been reached within 60 calendar days; or
- If either party remains dissatisfied with the local hearing decision.

To request a state hearing, the complainant must submit a written and signed notice of appeal to the Director of WCDD via e-mail at [WCDDPolicy@esd.wa.gov](mailto:WCDDPolicy@esd.wa.gov) or by mail at:

Workforce Career Development Division  
Employment Security Department  
PO Box 9046  
Olympia, WA 98507-9046

### **3.7 Confidentiality**

The identity of a complainant(s) or any person who furnishes information related to, or who has assisted in an investigation of a complaint shall be kept confidential to the maximum extent possible consistent with applicable law and a fair determination of the complaint. The identity of a complainant may only be released upon written consent of the individual(s) furnishing information regarding a complaint.

### **3.8 Record Keeping**

All records and correspondence related to complaints shall be maintained separately from any other records by the complaint contact. All records regarding WIA Title 1-B complaints and actions taken must be maintained for a period of not less than three (3) years from the final date of resolution of the complaint in alignment with 29 CFR 97.42. See 29 CFR 95.53 for institutions of higher education, non-profit organizations, and commercial organizations.

At a minimum, files shall include:

- The original complaint filed;
- Copies of all documents related to the issues that were collected and reviewed, including all fact-finding reports and interviews; and
- Copies of all correspondence and agreements with involved parties.

### **3.9 Complaint Logs**

All actions taken in relation to receipt, referral, and/or disposition of each complaint must be recorded in a complaint log. An optional complaint log is attached and meets the requirements for all program and EO complaints.

### **3.10 Binding Arbitration**

Complaints shall be processed through a binding arbitration procedure if a collective bargaining agreement covering the parties to the complaint so provides.

### **3.11 References**

- 20 CFR 667 Subpart F – Grievance Procedures, Complaints and State Appeals Processes
- 29 CFR 37 Sec. 37.35 – Responsibilities to Provide Services and Information in Languages Other Than English
- 29 CFR 97.42 – Retention and Access Requirements for Records
- 29 CFR 95.53 – Retention and Access Requirements for Records

## 4. Discrimination Complaint Procedures

### 4.1 Purpose

To establish minimum requirements to Workforce Development Councils (WDCs), their subrecipients of the WIA Title I grant funds, service providers and centers regarding the development, maintenance, and implementation of local-level discrimination complaint procedures. Under these procedures local area One-Stop system customers and staff are able to file discrimination complaints with the entities identified in Section 4.3 of this manual. These procedures apply to the following One-Stop system customers and staff in the local area:

- All customers of One-Stop system programs and services delivered at WorkSource Centers and other provider sites in the local area.
- Partner staff of One-Stop system centers and providers. Partner staff may file a discrimination complaint with his or her organization's Equal Opportunity Officer or under this policy as provided in Section 4.3 of these procedures. Normally when a partner staff discrimination complaint is against the employer or a fellow employee it is filed with the partner's EO Officer. When the discrimination complaint is against any other center or service provider staff it can be filed with the WDC EO Officer or others as provided in Section 4.3 of this manual.
- ESD staff filing a discrimination complaint against WDC or service provider staff. ESD staff filing a discrimination complaint against other ESD staff would use the provisions of ESD Policy and Procedure #0013 – Discrimination Complaint Processing.
- WDC Board and staff.

### 4.2 Discrimination Complaint Definitions

**Civil Rights Center (CRC)** – The CRC is the federal enforcement agency with the United States Department of Labor (USDOL) located in Washington D.C., with jurisdiction over discrimination complaints alleging violations of WIA, Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act, as amended, and similar laws that pertain to recipients of USDOL financial assistance.

**Complaint (Discrimination)** – The submission of a written and signed allegation that programs/partners violated non-Discrimination regulations. At a minimum, discrimination complaints must contain the following information:

- Complainant's name.
- Mailing address, or other means by which the complainant may be contacted.
- Identification of individual(s) or organization(s) responsible for the alleged discrimination; and
- A description of the complainant's allegations, which must include enough details to determine:
  - WDC jurisdiction over the complaint;
  - if the complaint was filed timely (within 180 calendar days of the incident);
  - specific prohibited bases of the alleged discrimination (i.e., race, sex, etc.); and
  - apparent merit of the complaint.
- Complainant's signature or the signature of his/her authorized representative.

**Recipient** – as defined in the WIA nondiscrimination regulations 29 CFR Part 37.4 means any entity to which financial assistance under WIA Title I is extended, either directly from the U.S. Department of Labor

or through the Governor or another recipient, but excluding the participants or beneficiaries of WIA Title I funded programs and activities.

Recipient includes all One-Stop partners to the extent that they participate in the One-Stop delivery system. As a result, all partners in the One-Stop Delivery system are subject to the nondiscrimination requirements of 29 CFR Part 37. However, only WDCs and above are required to have EO Officers and process discrimination complaints.

**Service provider** – as defined in the WIA nondiscrimination regulations at 29 CFR Part 37.4 means any operator of, or provider of, aid, benefits, services, or training to 1) any WIA Title I funded program or activity that receives financial assistance from or through any State or LWIA grant recipient, or to 2) any participant through that participant's Individual Training Account (ITA).

**State Equal Opportunity (EO) Officer** – The State EO Officer is the individual designated at the state level with the oversight responsibility for coordinating, implementing, maintaining and monitoring the nondiscrimination and equal opportunity requirements.

**WDC Equal Opportunity (EO) Officer** – The WDC EO Officer is the WDC's designated staff person responsible for administration of the WDC and its subrecipients and service providers' discrimination complaint processing as outlined in this policy and procedures.

### 4.3 Filing a Discrimination Complaint

All grant recipients/program providers under Title I of WIA are responsible for complying with the discrimination complaint procedures consistent with 29 CFR Part 37, as outlined in this section:

- Any person who believes that he or she, or any specific class of individuals, has been or is being subjected to discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for customers only, citizenship or participation in WIA Title I program, has the right to file a discrimination complaint.
- The Washington Law Against Discrimination, RCW 49.60, prohibits discrimination in public accommodations on these additional bases: marital status, sexual orientation or gender identity, honorably discharged veteran or military status, and the use of a trained guide dog or service animal by a person with a disability.

Discrimination complaints filed on these grounds will be processed based on state law and without any references to the U.S. Department of Labor or the Civil Rights Center. The complainant is not able to file a subsequent complaint with the Civil Rights Center but must file a discrimination complaint with the Washington State Human Rights Commission. It is recommended, but not required, that the discrimination complaint be filed on the WorkSource Discrimination Complaint Form. (English and Spanish attached)

- A discrimination complaint must be written and it must be filed within one hundred and eighty (180) calendar days of the last alleged discriminatory incident.
- Any customer wishing to file a discrimination complaint must be given the option to file it with the WDC EO Officer, State EO Officer or with the Director of the Civil Rights Center, United States Department of Labor (CRC/USDOL). Discrimination complaints may be filed with ESD or the WDC and with the

CRC/USDOL simultaneously. Center or provider staff should file a discrimination complaint with their organization's Equal Opportunity Officer when the allegations are against their employer or a fellow employee. Otherwise they may file as provided in this paragraph. However, the WDC EO Officer should always be notified when a discrimination complaint has been filed and the allegations took place at a local center or provider site. Discrimination complaints received at a WorkSource Center/Affiliate or Service Provider should be immediately forwarded to the WDC Equal Opportunity Officer. Following is contact information for the State EO Officer and the USDOL Civil Rights Center:

State EO Officer	or	Director, Civil Rights Center
Employment Security Department		U.S. Department of Labor
128 10 <sup>th</sup> Ave. SW, 5 <sup>th</sup> Floor		200 Constitution Avenue NW
P.O. Box 9046,		Room N-4123
Olympia, WA 98507-9046		Washington, DC 20210

- A discrimination complaint may be filed using the WorkSource Discrimination Complaint Form (attached) or the complaint may be written out.
- No individual, organization or agency may refuse service, discharge or retaliate in any manner against any person because that person has filed a discrimination complaint, instituted any proceeding related to a discrimination complaint, testified, or is about to testify, in any proceeding or investigation related to a discrimination complaint, or has provided information or assisted in an investigation.

#### **4.4 Distinguishing Between Program and Discrimination Complaints**

A discrimination complaint is a complaint alleging problems with service delivery or participation as the reason for the mistreatment or denial of participation being one or more of the following USDOL prohibited factors: race; color; national origin; sex; religion; age; disability; political affiliation or belief; participation in WIA Title I financially assisted program; or, citizenship/right to work in the United States. State prohibited factors that also apply are: marital status; sexual orientation or gender identity; or, honorably discharged veteran or military status. The EO Officer and program staff will collaborate to process this discrimination complaint.

However, if the complainant alleges s/he was mistreated in service delivery because of a prohibited factor such as race, national origin, sex, etc. and the complainant also alleges she was denied admittance to a program because of her income level, these are handled as a separate discrimination complaint and a program complaint. If the complainant had alleged that both were due to prohibited factors, it would be a single discrimination complaint. The discrimination complaint would be processed under these procedures and the program complaint would be processed under the appropriate program procedures. If desired, the discrimination complaint Notice of Final Action and the program complaint determination letter may be sent in the same letter but must be separate subjects. The Notice of Final Action should always be signed by the Executive Director since the recipient (WDC) and the Governor are jointly and individually liable for all violations of the nondiscrimination and equal opportunity provisions of 29 CFR Part 37. (Part 37.52(a) and (b)).

Discrimination complaint data will be available for review by USDOL Civil Rights Center (CRC) upon request.

#### **4.5 Receiving a Discrimination Complaint**

- If the complainant elects to file a discrimination complaint with an employee in a WorkSource center or affiliate site, that employee will immediately accept the discrimination complaint and forward it to the Complaint Contact who, after reviewing it to determine it is, in fact, a discrimination complaint, will forward it to the WDC EO Officer.
- The WDC EO Officer is responsible for providing local intake services for discrimination complaints to determine if the complaint is covered by 29 CFR Part 37, and for resolving jurisdictional issues, if any.
- Upon receipt of a discrimination complaint, the WDC EO Officer will log the complaint and, if necessary, shall confer with the State EO Officer prior to determining jurisdiction over the matter.

If the WDC EO Officer determines s/he does not have jurisdiction over the discrimination complaint, s/he must immediately notify the complainant in writing, including the reasons for the determination. This Notice of Lack of Jurisdiction must advise the complainant that he has a right to file a complaint with the Director of CRC within thirty (30) calendar days of the issuance of the notice. If the WDC EO Officer determines that another entity has jurisdiction, she will promptly refer the discrimination complaint to that entity and also promptly notify the complainant of the referral.

#### **4.6 Initial Letter, Contents and Timeframes for Processing a Discrimination Complaint**

Within ten (10) working days of receipt of the discrimination complaint, the WDC EO Officer shall issue an initial written Notice of Receipt to the complainant that contains the following information:

- Acknowledgement of receipt of the discrimination complaint.
- Advising the complainant of his right to seek representation by an attorney or other individual of his choice in the discrimination complaint process.
- A list of each issue raised in the discrimination complaint and, for each issue, a statement that the issue is accepted for investigation or is not accepted. The reason(s) must be provided for rejection.
- Advising the complainant of the timeframes for processing the discrimination complaint and providing a determination.
- The total time allowed for processing the discrimination complaint is ninety (90) calendar days from the date on which the complaint was filed. There is no extension available. This timeframe includes sixty (60) days at the local level and thirty (30) days for review at the state level, if needed.
- If the complainant elects to file with both CRC and the WDC, the complainant shall be informed that the WDC has ninety (90) calendar days to process the discrimination complaint and that CRC shall not investigate the complaint until the ninety (90) calendar-day period has expired.
- The complainant must be given an invitation to participate in mediation. This is sent out with the notice of receipt. For more information, see section [4.7](#).

Immediately after issuance of the Notice of Receipt to the complainant, the WDC EO Officer shall either begin the fact-finding or investigation of the discrimination complaint, or arrange to have an investigation conducted by an individual trained in conducting discrimination complaint investigations.

#### **4.7 Alternative Dispute Resolution (ADR)/Mediation Process**

- The WDC EO Officer will include an Invitation to Mediation with the Notice of Receipt, offering discrimination complainants the opportunity to use Alternative Dispute Resolution (ADR). Complainants may voluntarily elect to participate in ADR, which usually takes the form of mediation. If the complainant selects mediation, it allows disputes to be resolved in a less adversarial manner. With mediation, a neutral party assists two opposing parties in a dispute come to an agreement to resolve

their issue. The mediator does not function as a judge or arbiter but simply helps the parties resolve the dispute themselves.

- Upon receiving a request to mediate, the WDC EO Officer will process the request and then immediately forward it to the State EO Officer. The State EO Officer will coordinate with the WDC EO Officer to contract with an approved mediator. The individual conducting the mediation must be a neutral and impartial third party who will act as a facilitator. The mediator must be a person who is acceptable to all parties and who will assist the parties in resolving their disputes.
- If the complainant chooses to participate in mediation, he or his designee must respond in writing within ten (10) calendar days of the date of the invitation. This written acceptance must be dated and signed by the complainant and must also include the relief sought.
- After mediation is arranged, a written confirmation identifying the date, time and location of the mediation conference will be sent to both parties.
- If at all possible, the mediation process should be completed within thirty (30) calendar days of receipt of the discrimination complaint. This will assist in keeping within the ninety (90) calendar-day timeframe of the written Notice of Final Action if the mediation is not successful.
- A consent form will be signed by both parties at initiation of the mediation process affirming that the contents of the mediation will be kept confidential.
- If resolution is reached under ADR/mediation, the agreement will be in writing. A copy of the signed agreement will be sent to the State EO Officer.
- If an agreement is reached under ADR/mediation but a party to the agreement believes his agreement has been breached, the non-breaching party may file a complaint with the CRC Director.
- If the parties do not reach resolution under ADR/mediation, the WDC EO Officer will continue with the investigation.

#### **4.8 Notice of Final Action**

A written Notice of Final Action will be provided to the complainant within ninety (90) calendar days of the date the discrimination complaint was filed. It will contain:

- A statement regarding the disposition of each issue raised in the discrimination complaint and the reason for the determination.
- If the discrimination complaint was resolved by mediation, a copy of the agreement will be attached to the Notice of Final Action.
- A notice that the complainant has the right to file a complaint with CRC within thirty (30) calendar days after the date the Notice of Final Action is issued, if the complainant is dissatisfied with the recipient's final action on the discrimination complaint.

The State EO Officer will review discrimination complaint data on a routine basis. Should deficiencies be noted in the implementation of these discrimination complaint procedures by any WDC, the State EO Officer will collaborate with the WDC EO Officer to review the information and/or provide technical assistance in the discrimination complaint process, alternative dispute resolution, and/or investigation. Discrimination complaint data will be available for review by CRC/USDOL upon request.

#### **4.9 Corrective Action**

If discrimination is found through the process of a complaint investigation, the respondent shall be requested to voluntarily comply with corrective action(s) or a conciliation agreement to implement remedial action. If voluntary compliance efforts fail, sanctions may be considered. Prior to sanctions being applied, procedural due process will be provided.

#### **4.10 Confidentiality**

WDC EO Officers are required to keep the following information confidential to the maximum extent possible, consistent with applicable law and fair determination of the discrimination complaint:

- The fact that the discrimination complaint has been filed;
- The identity of the complainant(s);
- The identity of individual respondents to the allegations; and
- The identity of any person(s) who furnished information relative to, or assisting in, a complaint investigation.

A log will be maintained at the WDC level for logging, tracking, and reporting on discrimination complaints. An optional Complaint Log is attached and meets the requirements for program and EO complaints.

#### **4.11 Record Keeping**

WDC EO Officers must maintain a log of discrimination complaints filed that allege discrimination based on race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIA Title I financially assisted program or activity.

The log must include:

- The name and address of the complainant;
- The basis of the discrimination complaint;
- A description of complaint;
- The date the complaint was filed;
- The disposition and date; and
- Any other pertinent information.

All records regarding discrimination complaints and actions taken on discrimination complaints must be maintained for a period of not less than three (3) years from the final date of resolution of the complaint.

#### **4.12 References**

- Section 188 of WIA
- 29 CFR Part 37 – Regulations promulgating Section 188 of the WIA
- Title VI & VII of the Civil Rights Act of 1964, as amended
- Section 504 of Rehabilitation Act of 1973, as amended
- The Age Discrimination Act of 1975, as amended
- Titles II, of the Americans with Disabilities Act of 1990, as amended
- Equal Pay Act of 1963
- Title IX of Education Amendments of 1972
- President’s Executive Order 11246
- Revised Code of Washington (RCW) 49.60



## 5. Recommended / Optional Tools

- [Complaint Log](#) (sufficient for all complaints). **Download [here](#).**
- [Summary of Rights and Procedures Form](#). **Download [here](#).**
- [Program Complaint Form - English](#) (sufficient for Wagner-Peyser, TAA, and WIA complaints). **Download [here](#).**
- [Program Complaint Form - Spanish](#). **Download [here](#).**
- [WorkSource Discrimination Complaint Form - English](#) (sufficient for discrimination complaints). **Download [here](#).**

NOTE: discrimination complaint forms are available in several other languages on the [CRC website](#). Refer to the section titled “How to file an Equal Opportunity Complaint.”

- [Coordinated Concern and Complaint Resolution Process Flow](#). **Download [here](#).**

# Complaint Log

Workforce Development Area: \_\_\_\_\_

Program Year: \_\_\_\_\_

Complaint Coordinator: \_\_\_\_\_

Quarter Ending: \_\_\_\_\_

ID	Date of Receipt	Complainant's Name	Complainant's Address	Program/ Process	MSFW	Grounds / Description	Respondent	Resolution / Disposition	Date of Resolution	ADR
	Click here to enter a date.			Choose an item.	Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Click here to enter a date.			Choose an item.	Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Click here to enter a date.			Choose an item.	Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Click here to enter a date.			Choose an item.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				Click here to enter a date.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Click here to enter a date.			Choose an item.	Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Click here to enter a date.			Choose an item.	Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Click here to enter a date.			Choose an item.	Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Click here to enter a date.			Choose an item.	Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Click here to enter a date.			Choose an item.	Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Click here to enter a date.			Choose an item.	Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.	Yes <input type="checkbox"/> No <input type="checkbox"/>

**Instructions / Definitions:**

**Date of Receipt** - The day the complaint is received. Complaints must be submitted within a year of the incident for Wagner-Peyser or 180 days for discrimination complaints.

**ID** - The last two digits of program year + consecutive 3 digit ID number (i.e., the first complaint of PY 2013 will be "13-001").

**Program or Process** - Refers to a federal program (e.g. WIA) or it could be a specific function (e.g. Job Referral). Program or Process also indicates jurisdiction.

**Resolution / Disposition** - The outcome or determination of the investigation, including any referral/transfer. If referred/transferred, the agency or partner the complaint has been transferred to needs to be clearly identified.

**Respondent** - Refers to the organization and individual within the WorkSource system whom the complaint is filed against.

# WIA Summary of Rights and Procedures

## RIGHTS

You have the right to file a complaint if you feel you have a complaint relating to your employment and/or training and will not be penalized for filing a complaint. Your complaint must contain sufficient information for us to determine who is authorized to handle the complaint.

## FILING A COMPLAINT

To file a complaint, contact a local staff person and tell her/him that you want to file a complaint. Local staff will provide you with the necessary information and assistance to put your complaint in writing. Within 25 days of filing the complaint, a solution will be offered to resolve the matter. If you feel that your complaint is not resolved during this initial resolution effort, a hearing will be scheduled.

## INFORMATION REGARDING HEARINGS

A hearing will be provided within sixty (60) days of the receipt of a complaint, unless the complaint is resolved prior to the hearing date. The following information will be provided to you prior to the hearing date:

- 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;
- A statement of the alleged violations; and
- The name, address, and telephone number of the contact person issuing the notice.

## DECISION AND APPEAL PROCESS

A hearing decision will be provided within 60 days of filing your complaint, unless the complaint is resolved without a hearing. If you are not satisfied with the final decision, or if a decision has not been reached within the 60 day timeframe, you may send a written and signed notice of appeal via e-mail to [WCDDPolicy@esd.wa.gov](mailto:WCDDPolicy@esd.wa.gov) or by mail at:

Workforce Career Development Division  
Employment Security Department  
PO Box 9046  
Olympia, WA 98507-9046

*The Workforce Development Council is an Equal Opportunity Employer and Provider of Employment and Training Services. Auxiliary aids and services are available upon request to individuals with disabilities. For Washington Telecommunications Relay Service dial 711 or 1-800-833-6384.*

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Applicant Signature

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Date

# Program Complaint Form

Complainant's Information			Respondent's Information	
Last Name	First Name	MI	Name of Person Complaint is Against	
Address (No., St., City, State, Zip)			Name of Organization / Office	
Email			Address (No., St., City, State, Zip)	
Phone #	Alt. Phone #	Phone #	Email	
<b>Description of the Complaint</b> (Please explain the incident and circumstances)				
<b>Date of Incident</b>				
<b>Desired Resolution</b> (Please explain any resolution(s) you are seeking in response to this complaint)				
<b>Certification:</b> I CERTIFY that the information furnished is true and accurately stated to the best of my knowledge. I AUTHORIZE the disclosure of Certification this information to other enforcement agencies for the proper investigation of my complaint. I UNDERSTAND that my identity will be kept confidential to the maximum extent possible, consistent with applicable law and a fair determination of my complaint.				
Can we share this complaint/information with the individual this complaint has been filed against? Yes <input type="checkbox"/> No <input type="checkbox"/>				
<b>Signature of Complainant: X</b>			<b>Date:</b>	
<b>**Staff Use Only**</b>				
<b>What program was involved in the alleged incident?</b> (check all that apply)				
<input type="checkbox"/> <b>Employment Service (Wagner Peyser)</b>		<input type="checkbox"/> <b>Workforce Investment Act (DW, Adult, Youth) Program</b>		
<input type="checkbox"/> Against ESD		<input type="checkbox"/> <b>Trade Adjustment Assistance (TAA) Program</b>		
<input type="checkbox"/> Against Employer, Job Order WA# _____		<input type="checkbox"/> <b>Other Program/Provider: _____</b>		
<input type="checkbox"/> Alleged Violation of Wagner Peyser Regulations				
<input type="checkbox"/> Alleged Violation of Employment Law(s)				
<input type="checkbox"/> <b>Non Employment Service Complaint Against Employer</b>				
<input type="checkbox"/> Alleged Violation of Employment Law(s)				
<input type="checkbox"/> Other: _____				
<b>Referrals (if applicable):</b>				
<b>Agency / Organization Receiving Referral</b>				
Dept. of Labor & Industries <input type="checkbox"/>		Dept. of Health <input type="checkbox"/>		Human Rights Commission <input type="checkbox"/> Other: _____
<b>Agency Contact</b>			Phone #	Email
<b>Name of Staff Person Receiving Complaint</b>				
Last Name	First Name	Office Address (No., St., City, State, Zip)		
		Phone #	Email	
<b>Staff Signature: X</b>		<b>Date:</b>		

## FORMA PARA QUEJAS

Información Del Reclamante		Información De La Persona/Organización Demandada	
Apellido	Nombre	Nombre y Apellido De La Persona Demandada	
Dirección (número, calle, ciudad, estado, código postal)		Nombre de la Organización, Negocio, Empresa o Empleador	
Email (correo electrónico)		Dirección (número, calle, ciudad, estado, código postal)	
# De Teléfono	# De Teléfono Alternativo	Teléfono	Email (correo electrónico)

**Declaración** (Explique qué pasó. Incluya nombres, direcciones, números de teléfono, lugares, testigos, etc. )

**Fecha Del Incidente**

**Solución/Resultado Deseado**

(Por favor explique cualquier solución(es) que está buscando en respuesta a la queja)

**Certificación:** DECLARO que la información que estoy dando es verdadera y correcta de acuerdo con mi conocimiento. AUTORIZO la divulgación de esta información a otras agencias para la investigación apropiada y el cumplimiento de mi queja. ENTIENDO que mi identidad se mantendrá confidencial tanto como sea posible, en consistencia con las leyes que se aplican y con una determinación justa de mi queja.

Podemos compartir esta queja/ información con el individuo que esta queja ha sido presentada en contra? Sí  No

**Firma Del Reclamante:** X

**Fecha:**

**\*\*Staff Use Only\*\***

**What program was involved in the alleged incident? (check all that apply)**

- |  |   |
|--|---|
| <input type="checkbox"/> <b>Employment Service (Wagner Peyser)</b><br><input type="checkbox"/> Against ESD<br><input type="checkbox"/> Against Employer, Job Order WA# _____<br><input type="checkbox"/> Alleged Violation of Wagner Peyser Regulations<br><input type="checkbox"/> Alleged Violation of Employment Law(s) | <input type="checkbox"/> <b>Workforce Investment Act (DW, Adult, Youth) Program</b><br><input type="checkbox"/> <b>Trade Adjustment Assistance (TAA) Program</b><br><input type="checkbox"/> <b>Other Program/Provider: _____</b> |
| <input type="checkbox"/> <b>Non Employment Service Complaint Against Employer</b><br><input type="checkbox"/> Alleged Violation of Employment Law(s)<br><input type="checkbox"/> Other: _____  |   |

**Referrals (if applicable):**

**Agency / Organization Receiving Referral**

Dept. of Labor & Industries  Dept. of Health  Human Rights Commission  Other: \_\_\_\_\_

**Agency Contact**

**Phone #**

**Email**

**Name of Staff Person Receiving Complaint**

**Last Name**

**First Name**

**Office Address (No., St., City, State, Zip)**

**Staff Signature:**

**Date Received:**

**Phone #**

**Email**

X



# Washington Discrimination Complaint Information Form

Please read the form carefully. **Type or print your answers.** Answer each question as completely as possible. If you cannot fit your whole answer in the space on this form, you may add more pages.

If a question or field has a star (\*) next to it, you must provide that information. Providing the other information requested is optional, but will assist the WorkSource Washington in processing your discrimination complaint. If you do not know the answer to a question, put "not known" in the space for the answer. If the question does not apply to your case, put "n/a."

\*1. Are you the complainant or a representative of the complainant? Please check the correct  Complainant  Representative box.

\*2. Please give your name and the other information we ask you for on the lines below. If you are a representative of the complainant, give the complainant's name and contact information in this section, and your own name and contact information in section 2A.

\_\_\_\_\_  
\*Complainant's Name

\_\_\_\_\_  
\*Street Address

\_\_\_\_\_  
\*City

\_\_\_\_\_  
\*State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Telephone number(s) where we can reach you.

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
Best time to contact you.

**2A. If you are the complainant's representative, please give your name and contact information in this section.**

\_\_\_\_\_  
Representative's Name

\_\_\_\_\_  
Representative's Organization (if any)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Telephone number(s) where we can reach you. (Do not give your work number if you don't want us to call you there.)

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
Best time to contact you.

**For the rest of the questions on this form, if you are filing this discrimination complaint on behalf of someone else, "you" means that person (the complainant), not you personally. Please give the answers the complainant would give if he or she was filling out the form.**

\*3. This discrimination complaint is about something that happened to (Please check the appropriate box):

- Only me       Me and other people       Other people, but not me

3A. I am a: Customer  Staff  Job applicant

\*4. Please give the name of the WorkSource Center, service provider or organization that you are complaining about. If you have any contact information for the service provider or organization, please give that information as well.

\_\_\_\_\_  
\*Name of Office or Organization

\_\_\_\_\_  
Telephone Number(s)

\_\_\_\_\_  
Street or Mailing Address

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Telephone Number(s)

**\*5. What program was involved in the discrimination you are complaining about?** If you do not know the name of the program, and your discrimination complaint does not involve a WorkSource Center or a service provider, please check "Do not know."

- Workforce Investment Act Program
- Unemployment Insurance Benefit Program
- Employment Service or Job Service
- Trade Assistance Act Program
- Migrant and Seasonal Farm Workers Program
- Other (what program?)
- Do not know

**6. What person(s) at the WorkSource Center, service provider or organization listed in response to item 4 above was engaged in the alleged discrimination?** If you need more space to list all of the people, please attach more pages to this form.

Person's Name	Job Title	Telephone Number
---------------	-----------	------------------

**\*7. What do you think was the basis (reason) for the alleged discrimination?** Please check a box next to the basis (reason) you think was involved in the alleged discrimination, and answer any other questions that go along with that box.

**If you do not check at least one box, you will slow down the processing of your discrimination complaint. You may check more than one box.**

**Because of my National Origin (Please answer questions below.)**

Are you Hispanic or Latino?  Yes  No

What is your national origin (the country from which you, your parents, your grandparents, or your earlier ancestors came)?

**Because of my Limited English Proficiency (What is the language in which you feel most comfortable communicating?)**

(For example, Spanish, Croatian, Cambodian)

**Because of my Race (please answer questions below.)**

What is your race? Please check all that apply.

- White or Caucasian
- Black or African American
- American Indian or Alaska Native
- Asian
- Native Hawaiian or Other Pacific Islander

**Because of my Sex/Gender (Specify:  Male  Female)**

**Because of my Color**  **Because of my Religion**  **Because of my Age (what is your date of birth?)** \_\_\_\_\_

**Because of my Political Affiliation or Political Belief**

**Because of my Disability (Please check one of the following three boxes.)**  I have a record of a disability.

I have a disability (which may be active or inactive presently).  I do not have a disability, but the organization or program treats me as if I am disabled.

**Because of my Citizenship (What is your citizenship?)**

**Because of my participation in a program that receives Federal financial assistance (Name the program.)**

**I was Retaliated Against (Retaliation) because I complained about discrimination, or because I gave a statement during an investigation, testified in a proceeding about discrimination, or was involved in some other way with a discrimination complaint.**

**\*8 Please explain what happened, how you were (or someone else was) harmed by what happened, and how or why you think what happened was because of discrimination.** If other persons or groups were treated differently from you, please describe who was treated differently, how their treatment was different, and how the different treatment harmed you (or the other people you think were discriminated against.) Please be specific and brief. Give the name(s) of and contact information for any of the people involved.

If your answer does not fit in the space below, please use more pages of paper to finish your answer, and attach those pages to this form.

**\*9. On what date(s) did the alleged discrimination take place?**

9A. Date of the first  
action: \_\_\_\_\_

9B. Date of most recent  
action: \_\_\_\_\_

9C. If the date of the most recent allegedly discriminatory action was more than 180 days ago, please explain why you did not file a discrimination complaint before now.

**10. Please list below any other people (witnesses, coworkers, supervisors, or others) whom you have not already named and whom we should contact for information about your discrimination complaint.** Attach additional pages if you need more space for this information.

\_\_\_\_\_  
Person's Name

\_\_\_\_\_  
Relationship to case (witness, coworker, etc.)

\_\_\_\_\_  
Best time to contact this person.

\_\_\_\_\_  
Telephone number(s) and/or e-mail address(es) where we can contact this person.

**12. What remedies are you asking for?**

**\*13. Please sign and date this form in the appropriate space below.**

\_\_\_\_\_  
Signature of Complainant

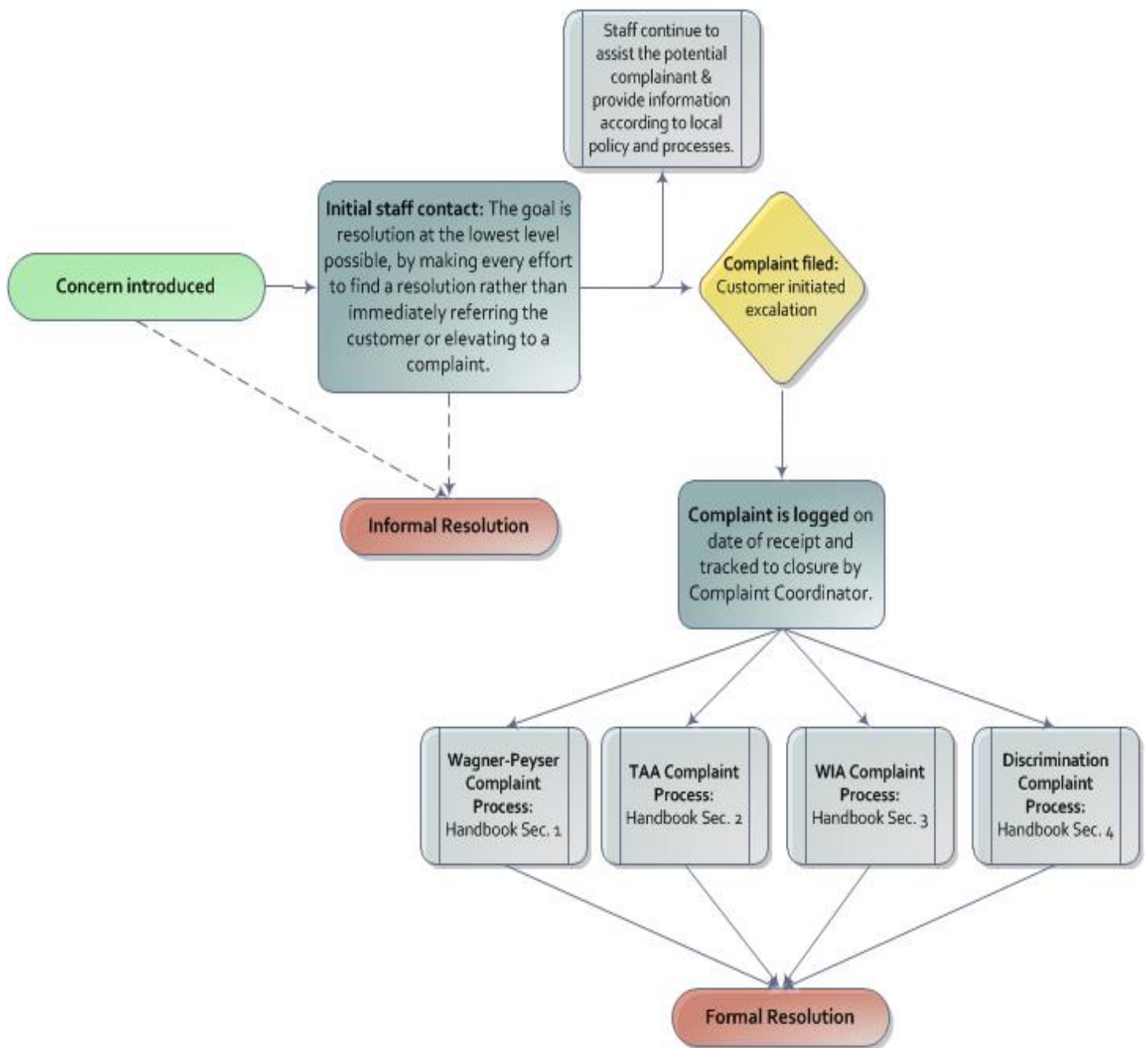
\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Complainant's Representative

\_\_\_\_\_  
Date



# Coordinated Concern and Complaint Resolution Process



## 6. Concern and Complaint Processing Questions & Answers (Q&A)

Question	Answer
1. <b>What is the difference between a concern and a complaint?</b>	<p>A concern is any verbal expression of dissatisfaction. A written expression of dissatisfaction may also be processed as a concern except for alleged violations of program or non-discrimination rules or laws noted in this handbook.</p> <p>Concerns do not require the same formal process as a complaint (i.e., logging, tracking, etc.). Local processes may include additional requirements for processing concerns.</p>
2. <b>What do I do if I'm not familiar with the program or scope of the concern presented?</b>	<p>Customers can't be expected to know what program they are connected to or who to ask for help. Our goal is to resolve all concerns as easily and quickly as possible. Because WorkSource customers usually don't know what program they are connected to it's important to do your best to assist any customer to defuse situations as early as possible. If necessary, connect the customer with the appropriate partner or do some networking and get back to the customer. Complaint submission is not required to connect the customer with the appropriate contact.</p>
3. <b>What should I do if a customer indicates they want to file a complaint?</b>	<p>If you haven't already, ask the customer what would resolve the issue and offer assistance. Often times the customer just wants to express a concern or receive assistance, without realizing the implications of submitting a formal complaint. That being said, a customer has the right to due process. If the customer's intent is to file a complaint, direct the customer to the appropriate complaint contact for further processing.</p>
4. <b>Can a complaint be filed via e-mail?</b>	<p>An e-mail, alone, is not considered a complaint. A complaint must contain sufficient information to initiate fact-finding (see complaint definition) and a physical signature. Without a signature, partners may not have legal authority to attempt a resolution of a complaint. However, an e-mail that includes an attached letter or form, if it contains a physical signature and sufficient information to initiate fact-finding, can be accepted as a complaint. Under those circumstances, both the e-mail trail and the signed copy of the complaint form/letter shall be included in a complaint file.</p>
5. <b>What is an example of a written concern that is not a complaint?</b>	<p>Here's an example: an e-mail submitted to a legislator expressing dissatisfaction with services is considered a concern <u>if it does not contain an attachment with a physical signature</u>.</p> <p>Also, a written expression of dissatisfaction made against a WorkSource partner that administers a program or a process not covered by this handbook may be processed as a concern (and referred as appropriate), even if it contains a physical signature. The complaint processes in this handbook are tied to specific funding sources, and external complaint processes exist to correspond with external funding sources.</p>
6. <b>Do concerns resolved at the local level need to be logged?</b>	<p>A local area is not required to track customer concerns. However, a local area may choose to document concerns through the use of a log or some other method.</p>
7. <b>How can a customer file a complaint?</b>	<p>A customer may file a complaint by submitting a locally approved complaint form that is filled out and signed or by submitting a signed letter with sufficient information to initiate fact-finding. This handbook contains additional information regarding what</p>

		must be included on a complaint form, including an <a href="#">optional form</a> that can be implemented.
8.	<b>Who has local authority over program complaint jurisdiction?</b>	For WIA related complaints it would be the WDC Director or appointee (WIA complaint contact); for Wagner-Peyser and TAA related complaints, it would be the WCDD Regional Director or appointee (Wagner-Peyser or TAA Complaint Contact). For discrimination complaints, it will depend on the programs involved, and we advise you to start by consulting your local EO officer for complaints of this nature.
9.	<b>May WDCs develop a local policy and process that applies to all WorkSource sites located in a WDA?</b>	Yes, it is not required for each site to maintain separate policies or procedures. However, local areas may consider appointing more than one complaint contact (or other representative) to assist with facilitation of the WDA's process even if the WDA is governed by one policy/procedure.
10.	<b>Is a local hearing required to respond to a Wagner-Peyser complaint that is not resolved at the local level?</b>	No. If a complaint is made against ESD and such complaint has not been resolved within 15 working days, the complaint contact shall elevate the complaint to the state following procedures noted in section <a href="#">1.6.1</a> of the handbook.
11.	<b>For Wagner-Peyser, what is the difference between a complaint and an apparent violation?</b>	<p>An apparent violation is a violation of employment law made by an employer, where an ESD representative observes, has reason to believe, or is in receipt of information regarding a suspected violation. Apparent violations do not involve a written and signed allegation made by a customer against an employer.</p> <p>Partners should be cautioned that it <u>is not</u> within ESD's role to search out potential employer violations of employment law. However, if violations of employment law become apparent, such situations must be documented and reported to the appropriate complaint contact for processing according to the requirements in <a href="#">section 1.9</a> of this handbook. Complaint contacts shall evaluate the individual circumstances of the issue presented and determine whether the allegation warrants action.</p>
12.	<b>In section 1.6.2, there is no mention of attempting to resolve complaints. Does that mean that all complaints alleging an employment law violation against an employer need to be referred directly</b>	<p>Yes. Previous Wagner-Peyser and MSFW complaint policies and procedures required that complaint specialists (now known as complaint contacts) attempt to resolve complaints alleging a violation of employment law or a violation of H2 regulations prior to making a referral to the appropriate enforcement agency. While well intentioned, involvement in such complaints that do not require intervention may put ESD at risk as unnecessary involvement may delay appropriate action from authorized agencies.</p> <p>Partners, may however, attempt to resolve customer concerns involving H-2 program violations or employment law violations in alignment with their local policy and procedures.</p>

	to the appropriate agency?	
13	<b>It seems impractical to require follow-up on ES complaints alleging employment law violations once they have been referred to another agency. Shouldn't the agency handling the referral be responsible for follow-up?</b>	Per 20 CFR 658.416(b)(1), the referring agency "shall follow-up with the enforcement agency monthly regarding MSFW complaints and quarterly regarding non-MSFW complaints, and shall inform the complainant of the status of the complaint periodically." The intent of this section to ensure ESD is informed whether an employer who filed a job order within the last twelve months violated employment law. If the employer is found to have violated employment law, ESD shall initiate discontinuation of services procedures consistent with 20 CFR 658 Subpart F.
14	<b>What happens if a complainant moves and we don't receive a confirmation receipt?</b>	When using certified mail, a confirmation receipt is normally returned. If the confirmation receipt is returned that indicates the complainant no longer resides at the address provided, or the certified mail is returned as undeliverable and no other form of contact is available, the receipt or returned mail will be saved in a file as a document that confirms an attempt to make contact was made.
15	<b>Can only ESD discontinue services or can a Non-ESD entity providing labor exchange services also discontinue services?</b>	Per 20 CFR 658.501(a), "the State agency shall initiate procedures for discontinuation of services to employers." This language places the burden on ESD to initiate discontinuation of services procedures. Depending on the circumstances, non-ESD entities providing labor exchange services may, however, recommend that ESD initiate discontinuation of services.
16	<b>What specific services could be discontinued according to the Wagner-Peyser complaint process?</b>	Labor exchange services would no longer be provided to the employer in question. Other services may be discontinued if such services are supported by Wagner-Peyser funds.
17	<b>Where can I find a WorkSource complaint poster that satisfies Wagner-Peyser requirements?</b>	You may print a copy of the <a href="#">WorkSource Complaint Poster</a> for your office. The poster must be printed in color on 11' X 17' card stock paper in order to enhance readability.  If you would prefer to request a copy of Washington's ETA-approved WorkSource complaint poster (above), or if you have questions or comments regarding the Initial Customer Complaint Policy, please contact <a href="mailto:WCDDpolicy@esd.wa.gov">WCDDpolicy@esd.wa.gov</a> .

18	<b>Why are TAA Complaint &amp; Eligibility Appeal Procedures included in the handbook?</b>	TAA complaint & eligibility appeals procedures were added to the handbook in order to increase visibility of TAA requirements among partners. In addition, it made sense to centralize the location of TAA complaint procedures and appeal procedures to make partners aware that there are specific procedures for each.
19	<b>Why is the term “grievance” not defined or noted in the WIA complaint procedures?</b>	The term “grievance,” while noted in WIA regulations is not defined. In addition, a review of WIA complaint procedures from other states indicated that the word “grievance” is often used interchangeably with the word “complaint.” To reduce possible confusion, WCDD decided to eliminate the use of the word “grievance” until guidance is received from DOL offering a definition that is different from the word complaint.
20	<b>For WIA complaints, can a complaint contact serve as an impartial hearing officer?</b>	A complaint contact may serve as an impartial hearing officer only if s/he is not directly connected to the allegations or potentially affected by the results of the determination(s). The impartial hearing officer must be in a position to render an impartial decision in order to avoid the appearance of unfairness. Local procedures could establish the WDC, or representative of the WDC, as a hearing officer (if s/he is not directly connected or potentially affected by the determination).
21	<b>Where can I find guidance on how to prepare for or how to conduct a hearing on a WIA complaint?</b>	<p>The Washington State Office of Administrative Hearings (OAH) serves as an independent state agency that conducts impartial administrative hearings. OAH's website at &lt;<a href="http://www.oah.wa.gov/hearings.shtml">http://www.oah.wa.gov/hearings.shtml</a>&gt; offers instruction on how to schedule and prepare for a hearing. For WIA complaints, OAH may serve as an impartial hearing officer.</p> <p>Ohio's policy manual also provides several helpful examples, including a hearing notice and hearing determination outline. Refer to pages 33-36: &lt;<a href="https://jfs.ohio.gov/owd/WorkforceProf/Docs/WIAComplaintProceduresManual.pdf">https://jfs.ohio.gov/owd/WorkforceProf/Docs/WIAComplaintProceduresManual.pdf</a>&gt;.</p>
22	<b>Can program complaints and discrimination complaints all be maintained in one log?</b>	Yes. As noted in section <a href="#">1.15</a> , <a href="#">2.12</a> , <a href="#">3.9</a> and <a href="#">4.10</a> , an optional complaint log is attached to this handbook and meets the requirements for program and EO complaints.