

Workforce Services Policy – Grievance and Complaint Resolution

Executive Summary

1. What is the general purpose of this policy?

This policy differentiates complaints as they relate to four (4) separate categories:

- Complaints alleging discrimination or denial of equal opportunity;
- Complaints alleging unjust denial of WIOA services;
- Complaints alleging hostile work environment against employers that are not related to WIOA-funded programs or training; and
- Complaints made by staff within the LWDA against other LWDA staff or a sub-recipient entity.

2. What are the notable guidelines conveyed within this policy?

This policy also defines the process to receive, process, and follow up on complaints within Migrant Seasonal Farm Worker (MSFW) and American Job Center (AJC) complaint logs.

3. Have there been any changes since the last policy? If so, describe the modification(s).

Yes, the previous policy did not address how complaints among American Job Center staff will be adjudicated. Furthermore, the policy provides guidance regarding where to direct complaints that do not allege discrimination or denial of equal employment.

4. What must the Local Workforce Development Board do to meet the requirements of this policy?

Local Workforce Development Boards are expected to follow the procedures listed within this policy.

5. How does this policy affect the workforce system?

This policy defines how complaints from WIOA participants—especially those alleging discrimination or denial of equal opportunity—will be addressed by the workforce system. This ensures that eligible individuals will have equal access to programs and services provided using federal funds.



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Workforce Services Policy- Grievance and Complaint Resolution

Effective Date: November 13, 2020

Duration: Automatic Annual Renewal

Purpose:

WIOA mandates that each State and Local Workforce Development Board (LWDB) receiving an allotment under the Workforce Innovation and Opportunity Act (WIOA) establish and maintain a procedure for WIOA-related grievances or complaints. Complaints, other than discrimination complaints, must originate at the local level.

This policy also differentiates complaints as they relate to four (4) separate categories:

- Complaints alleging discrimination or denial of equal opportunity;
- Complaints alleging unjust denial of WIOA services;
- Complaints alleging hostile work environment against employers that are not related to WIOA-funded programs or training; and
- Complaints made by staff within the LWDA against other LWDA staff or a sub-recipient entity.

This policy outlines the process, including required documentation, to address complaints at the state and local levels.

Scope:

Office of the Governor, Tennessee Department of Labor and Workforce Development (TDLWD); Division of Workforce Services (WFS); Tennessee Department of Economic and Community Development (ECD); Tennessee Department of Education (TDOE); Tennessee Department of Human Services (DHS); State Workforce Development Board (SWDB); Title I – Adult, Dislocated Worker, and Youth Programs, Title II – Adult Education and Family Literacy Act Program(AE); Title III – Wagner-Peyser Act Program (WP); Title IV – Vocational Rehabilitation Program (VR); Regional Planning Council (RPC); Local Workforce Development Boards (LWDB); Local Workforce Development Areas (LWDA); American Job Center (AJC); One-Stop Operator (Operator); Workforce System Sub-Recipients (Sub-Recipients); Workforce System Partners (Partners).

I. American Job Center and Migrant Seasonal Farm Worker Complaint Log:

The following list details requirements for American Job Center (AJC) Complaint Log submissions:

- Complaint logs must be sent for all comprehensive and affiliate AJCs within a LWDA.
- Complaint logs must be submitted for each quarter, regardless of whether any complaints were filed. Logs that do not reflect a complaint for the quarter must clearly state 'No complaints filed', or similar language, to indicate that the logs were not submitted with incomplete information. Blank logs will not be accepted.
- Complaint logs must identify the AJC city, reporting period, and reporting quarter. For example: "2019-2020 Q4 Knoxville Complaint Log"
- The complaint log must be cumulative for the fiscal year (October 1 to September 30). The same form must be used throughout the entire year, and updated as needed. For example, complaints that were indicated to be pending in previous quarters will be updated to reflect action steps or final resolution.
- The log must reflect the correct reporting period (listed below) and contain sufficient detail to identify:
 - Who filed the complaint, who received the complaint,
 - What the complaint alleges,
 - Where the complaint was filed, and
 - When the complaint was filed.
- The Local EO Officer must collect the AJC logs for each LWDA, then send them to Workforce.Board@tn.gov.
- Logs sent directly from AJC Team Leads to the TDLWD Central Office will not be accepted.

Reporting periods and deadlines for complaint log submissions are as follows:

Quarters	Fiscal Year Reporting Periods	Deadlines for Submission
Quarter 1	October 1 to December 31	January 30
Quarter 2	January 1 to March 31	April 30
Quarter 3	April 1 to June 31	July 30
Quarter 4	July 1 to September 31	October 30

II. Local-Level Complaint Requirements and Procedures:

A. Local-Level Complaint Requirements¹:

LWDBs must create a grievance and complaint policy explaining local-level procedures. This policy must provide:

- A process for dealing with grievances and complaints², to include an opportunity for participants and other interested parties to allege: discrimination and denial of equal employment, unjust denial of WIOA services that are not discriminatory in nature, hostile work environment experienced during participation in a WIOA-funded program, other complaints against employers that relate to a WIOA-funded program, and complaints made by staff within the LWDA against either other staff or against a sub-recipient entity;
- An opportunity for informal resolution and a hearing to be completed within sixty (60) calendar days of filing the complaint³;
- A process which enables an individual as a party to a collective bargaining agreement, alleging

¹ 20 CFR 683.600(c)

² 20 CFR 683.600(c)(1)

³ 20 CFR 683.600(c)(2)

- a labor standards violation, to submit the grievance to a binding-arbitration procedure⁴; and
- An opportunity for a local-level appeal to TDLWD Central Office staff when⁵:
 - No decision has been made within sixty (60) calendar days; or
 - Either party is dissatisfied with the local decision.

Grievances must be filed within one-hundred eighty (180) calendar days of the alleged occurrence⁶.

B. Local-Level Staff Roles and Required Documentation Regarding Discrimination and Equal Employment:

The Local Equal Opportunity Officer (Local EO Officer) must directly oversee, investigate, and document complaints alleging discrimination or denial of equal opportunity. Documentation must include, but is not limited to:

- Employment and Training Administration (ETA) Complaint/Apparent Violation Form;
- Email correspondence related to the complaint; and
- Meeting minutes regarding any in-person adjudication between LWDA staff and the complainant, if applicable.

An opportunity for a local-level appeal to TDLWD Central Office staff when⁷:

- No decision has been made within sixty (60) calendar days; or
- Either party is dissatisfied with the local decision.

C. Local-Level Staff Roles and Required Documentation Regarding Denial of WIOA Services:

The LWDB Staff Executive Director, or their designee, must directly oversee the adjudication process for complaints alleging unjust denial of WIOA services that do not allege discrimination or denial of equal opportunity. Documentation must include, but is not limited to:

- Employment and Training Administration (ETA) Complaint/Apparent Violation Form;
- Email correspondence related to the complaint; and
- Meeting minutes regarding any in-person adjudication between LWDA staff and the complainant, if applicable.

An opportunity for a local-level appeal to TDLWD Central Office staff when⁸:

- No decision has been made within sixty (60) calendar days; or
- Either party is dissatisfied with the local decision.

D. Local-Level Staff Roles and Documentation Regarding Hostile Work Environment, Related to American Job Center Staff:

The LWDB Staff Executive Director, or their designee, must directly oversee the adjudication process for complaints made by LWDA staff against other LWDA staff or a sub-recipient entity. Documentation must include, but is not limited to:

- Employment and Training Administration (ETA) Complaint/Apparent Violation Form;
- Email correspondence related to the complaint; and
- Meeting minutes regarding any in-person adjudication between LWDA staff and the complainant, if applicable.

⁴ 20 CFR 683.600(c)(3)

⁵ 20 CFR 683.600(c)(4)

⁶ 29 CFR 38.35

⁷ 20 CFR 683.600(c)(4)

⁸ 20 CFR 683.600(c)(4)

An opportunity for a local-level appeal to TDLWD Central Office staff when⁹:

- No decision has been made within sixty (60) calendar days; or
- Either party is dissatisfied with the local decision.

E. Local-Level Staff Roles and Documentation Regarding Hostile Work Environment, Unrelated to American Job Center Staff:

The One-Stop Operator (OSO) Director must ensure complaints alleging a hostile work environment or other unfair treatment by an employer are appropriately forwarded to either the Labor Standards Unit or the Tennessee Occupational Safety and Health Administration (TOSHA).

A. Complaints to the Labor Standards Unit:

- Request inspections of child-labor and non-smoker protection
- Processes claims for unpaid wages
- Investigate if there are allegations of unlawful hiring practices related to illegal aliens and whether workers are lawfully authorized to work.

More information can be accessed through the following link:

<https://www.tn.gov/workforce/employers/safety---health/regulations-compliance/regulations---compliance-redirect/labor-standards-unit.html>

B. Complaints to TOSHA:

- Request inspections if concerned with the possible existence of safety and health hazards.

More information can be accessed through the following link:

<https://www.tn.gov/workforce/employees/safety-health/tosha-redirect/file-a-safety-complaint.html>

The OSO Director must assist the complainant to file a complaint with the organizations listed above, to include follow up with the customer to confirm that transfer between organizations. This process must be reflected in AJC Complaint Log and documentation must be maintained at the AJC.

III. State-Level Complaint Procedures¹⁰:

A. State-Level Staff Roles and Required Documentation Regarding Discrimination and Denial of Equal Opportunity:

In order to monitor discrimination, equal opportunity, and denial of WIOA service complaints, the State will use the following steps:

1. Program Integrity staff will collect AJC complaint log submissions on a quarterly basis to oversee when submission have been made, how resolution has progressed, and whether complaints were resolved according to regulations mandated by WIOA.
2. Program Integrity staff will monitor complaints to ensure that they do not exceed a sixty (60) calendar day limit without continued follow-up by appropriate LWDA staff¹¹.
3. Program Integrity staff will remand complaints to the local-level¹² when there is insufficient

⁹ 20 CFR 683.600(c)(4)

¹⁰ 20 CFR 683.600(d)

¹¹ 20 CFR 683.600(d)(4)

¹² 20 CFR 683.600(d)(3)

documentation to demonstrate that an opportunity for an informal hearing was offered. Complaints returned to the local-level will receive continued follow-up to ensure either resolution or proper escalation.

4. If the complaint has exceeded the sixty (60) calendar day resolution period¹³, or if either party is dissatisfied with the local-level decision and wishes to file an appeal, Program Integrity staff will request documentation to demonstrate how the complaint has been handled on the local-level. Staff will compare the provided documentation to the local grievance and complaint policy to determine whether the process was carried out according to local regulations.
5. The State EO Officer will investigate allegations of discrimination and denial of equal opportunity if all procedures listed in this section have been exhausted, or an appeal has been requested. A decision will be made by the State EO Officer within sixty (60) calendar days of when documentation was received. The decision will be shared with the LWDB, LWDB Staff Executive Director, and the Local EO Officer.
6. The State EO Officer will provide an opportunity for a federal-level appeal concerning discrimination and denial of equal opportunity allegations when¹⁴:
 - No decision has been made within sixty (60) calendar days; or
 - Either party is dissatisfied with the state decision.

B. State-Level Staff Roles and Required Documentation Regarding Denial of WIOA Services or Complaints Submitted by American Job Center Staff:

In order to monitor for non-discrimination complaints, or those made against WIOA-related programs or staff, will use the following steps:

1. Program Integrity staff will collect AJC complaint log submissions on a quarterly basis to oversee when submission have been made, how resolution has progressed, and whether complaints were resolved according to regulations mandated by WIOA.
2. Program Integrity staff will monitor complaints to ensure that they do not exceed a 60-day limit without continued follow-up by appropriate LWDA staff¹⁵.
3. Program Integrity staff will remand complaints to the local-level¹⁶ when there is insufficient documentation to demonstrate that an opportunity for an informal hearing was offered. Complaints returned to the local-level will receive continued follow-up to ensure either resolution or proper escalation.
4. If the complaint has exceeded the sixty (60) calendar day resolution period¹⁷, or if either party is dissatisfied with the local-level decision and wishes to file an appeal, Program Integrity staff will request documentation to demonstrate how the complaint has been handled on the local-level. Staff will compare the provided documentation to the local grievance and complaint policy to determine whether the process was carried out according to local regulations.
5. The TDLWD Workforce Services Director of Program Integrity, or their designee, will investigate allegations of unjust denial of WIOA services and internal complaints made by LWDA staff against other staff or a sub-recipient entity in the event that all aforementioned procedures are exhausted, or an appeal has been requested. In cases that allege discrimination or denial of Equal Opportunity, the TDLWD HR Director will lead the investigation. A decision will be made by the Program Integrity Director within sixty (60) calendar days of when documentation was received. The decision will be shared with the

¹³ 20 CFR 683.600(d)(4)

¹⁴ 20 CFR 683.600(d)(5)

¹⁵ 20 CFR 683.600(d)(1)

¹⁶ 20 CFR 683.600(d)(3)

¹⁷ 20 CFR 683.600(d)(4)

LWDB, LWDB Staff Executive Director, and the Local EO Officer.

6. Decisions made by the Workforce Services Program Integrity Director will be considered final and will not be subject to appeal.

C. State-Level Staff Roles and Documentation Regarding Hostile Work Environment or Employer-Related Complaints:

Program Integrity staff will not investigate complaints alleging unfair work practices or those made against an employer unless the complaint is directly related to WIOA-funded activities. Such complaints must be directed to the following entities:

A. Complaints to the Labor Standards Unit:

- Request inspections of child-labor and non-smoker protection
- Process claims for unpaid wages
- Investigate if there are allegations of unlawful hiring practices related to illegal aliens and whether workers are lawfully authorized to work.

More information can be accessed through the following link:

<https://www.tn.gov/workforce/employers/safety---health/regulations-compliance/regulations---compliance-redirect/labor-standards-unit.html>

B. Complaints to TOSHA:

- Request inspections if concerned with the possible existence of safety and health hazards.

More information can be accessed through the following link:

<https://www.tn.gov/workforce/employees/safety-health/tosha-redirect/file-a-safety-complaint.html>

IV. Federal-Level Complaint Procedures¹⁸:

- The Secretary investigates allegations arising through the grievance procedures¹⁹ when:
 - A decision on a grievance or complaint under 20 CFR 683.600(d) has not been reached within sixty (60) calendar days of receipt of the grievance or complaint or within sixty (60) calendar days of receipt of the request for appeal of a local level grievance and either party appeals to the Secretary; or
 - A decision on a grievance or complaint under 20 CFR 683.600(d) has been reached and the party wishes to appeal to the Secretary.
- The Secretary must make a final decision on an appeal under paragraph (1) of this section no later than 120 calendar days after receiving the appeal.
- Appeals made under paragraph (1)(ii) of this section must be filed within sixty (60) calendar days of the receipt of the decision being appealed. Appeals made under paragraph (1)(i) of this section must be filed within one-hundred twenty (120) calendar days of the filing of the grievance with the State, or the filing of the appeal of a local grievance with the State. All appeals must be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210, Attention: ASET. A copy of the appeal must be simultaneously provided to the appropriate ETA Regional Administrator and the opposing party.

¹⁸ 20 CFR 683.610

¹⁹ 20 CFR 683.600

- Except for complaints arising under WIOA Section 184(f) or WIOA Section 188, grievances or complaints made directly to the Secretary will be referred to the appropriate State or local area for resolution in accordance with this section, unless the Department notifies the parties that the Department of Labor will investigate the grievance under the procedures at 20 CFR 683.430.

V. Reporting Fraud, Waste, and Abuse:

Information and complaints involving criminal fraud, abuse, or other criminal activity must be reported immediately in one of three ways²⁰:

A. Tennessee Comptroller of Treasury:

Contact the Fraud, Waste and Abuse Hotline at 1 (800) 232-5454.

B. Office of Investigations, Region 3

Send an Incident Report to:

Atlanta Regional Office

Office of Investigations: United States Department of Labor

61 Forsyth Street Southwest

Room 6T1

Atlanta, GA 30303

C. Office of Investigations:

Send an Incident Report to:

Inspector General

Office of Investigations (OIG) Room S5514

U.S. Department of Labor

200 Constitution Avenue, Northwest

Washington, DC 20210

D. Employment and Training Administration:

Simultaneously provide a copy of the Office of Investigations Incident Report to:

<https://www.oig.dol.gov/contact.htm> or call 1 (800) 347-3756.

Contact:

For any questions related to this policy, please contact the Program Integrity Unit at Workforce.Board@tn.gov.

References:

20 CFR 683.600, 683.600(c), 683.600(c)(1), 683.600(c)(2), 683.600(c)(3), 683.600(c)(4), 683.600(d)(1), 683.600(d)(3), 683.600(d)(4), 683.600(d)(5); 20 CFR 683.610; 20 CFR 683.620; 29 CFR 38.35



Tim Berry, State Workforce Development Board Chair

²⁰ 20 CFR 683.620