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To: WIOA Subrecipients of the Orange County
Development Area

From: Brian Rayburn
Interim Director 

Subject: Program Grievance and Complaint Procedures
Information Notice No. 18-OCDB-04
Supersedes Information Notice No. 08-OCWDA-17

PURPOSE:

To provide guidance to subrecipients of the Orange County Development Board (OCDB) in the development, maintenance, and implementation of local-level grievance and complaint procedures. These procedures cover complaints alleging noncriminal violations of the requirements of Workforce Innovation and Opportunity Act (WIOA) in the operation of local WIOA programs and activities. In addition, this directive transmits policy governing WIOA Title I related grievance and complaint procedures at the State level.

This policy applies to programmatic grievances and complaints pursuant to WIOA Section 181 and does not address the procedures for processing complaints alleging discrimination under WIOA Section 188 and/or 29 CFR Part 38. Information and complaints involving allegations of fraud, abuse or other criminal activity must be reported directly to the Department of Labor's (DOL) Office of Inspector General and the Employment Development Department's (EDD) Compliance Review Division (CRD) through the procedures for reporting incidents described in EDD Directive WSD17-01 and OCDB Information Notice No. 17-OCDB-13 and all subsequent updates.

This policy supersedes Information Notice No. 08-OCWDA-17 (Program Grievance and Complaint Procedures) dated March 6, 2009.

EFFECTIVE DATE:

This notice is effective on the date of issuance.

REFERENCES:

- WIOA (Public Law 113-128) Section 181(c)
- Title 20 Code of Federal Regulations (CFR) Sections 683.600 and 683.610
- Title 29 CFR Section 38.9
- Title 22 California Code of Regulations (CCR), Sections 5050 – 5070



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BACKGROUND:

Under WIOA Section 181(c), each state, Local Workforce Development Area (Local Area), and direct recipient of Title I funding is required to establish and maintain procedures for participants and other interested parties to file grievances and complaints alleging violations of WIOA Title I requirements. These procedures must be made available to all relevant parties within the Local Area, including America's Job Center of California (AJCC) partners, service providers, and program participants.

This policy contains guidance regarding the receipt, hearing, resolution, and appeals process of WIOA Title I grievances and complaints at the local, state, and federal level in accordance with Title 20 CFR Sections 683.600 and 683.610. These procedures apply only to programmatic complaints alleging violations of WIOA Title I requirements in the operation/administration of WIOA programs and activities. For information on complaints alleging discrimination under WIOA Section 188 and/or Title 29 CFR Part 38, see Workforce Services Directive Nondiscrimination and Equal Opportunity Procedures (WSD17-01). For information on complaints alleging criminal fraud, waste, abuse, or other criminal activity, see Workforce Services Directive Incident Reporting (WSD12-18). Lastly, for appeals of administrative or financial sanction(s) on a Local Area resulting from monitoring, investigations, or audits, see Workforce Investment Act Directive Audit Resolution (WIAD05-17).

POLICY AND PROCEDURES:

The procedures set forth in this Directive must be used by all Local Areas in the development of their local grievance, complaint, and hearing procedures, and govern the treatment and handling of all grievances or complaints connected with WIOA Title I grant recipients and subrecipients.

Grievances or complaints must be filed within one year of the alleged violation. All grievances, complaints, amendments, and withdrawals must be in writing. All persons filing grievances or complaints shall be free from restraint, coercion, reprisal, and discrimination.

Furthermore, all recipients and subrecipients of WIOA Title I funds must make reasonable efforts to ensure their policies and corresponding information will be understood by affected participants and individuals, including youth and individuals with limited English proficiency. These efforts must comply with the language requirements of Title 29 CFR Section 38.9.

Definition(s)

Complainant – any participant or other interested or personally affected party alleging a noncriminal violation of WIOA Title I requirements.

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

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

Days – consecutive calendar days, including weekends and holidays.

Grievance or complaint – a written expression by a party alleging a violation of WIOA Title I, regulations promulgated under WIOA, recipient grants, subgrants, or other specific agreements under WIOA.

Hearing Officer – an impartial person or group of persons that shall preside at a hearing on a grievance or complaint.

Local Area – the Local Area administrative entity and its subrecipients to whom the administrative entity has delegated the grievance and complaint resolution process.

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

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

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

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

State Review Panel – an entity within the EDD composed of representatives from EDD's Compliance Review Office, Legal Office, and Director's Office. This panel shall review and approve or disapprove decisions and recommendations regarding grievances or complaints.

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

State Policy:

It is the policy of the State of California that:

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

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

Local Level Grievance and Complaint Resolution Procedures:

I. GENERAL PRINCIPLES AND REQUIREMENTS

These procedures will guide the receipt, hearing, and resolution of noncriminal grievances and complaints relating to WIOA Title I grant programs and activities that are funded with WIOA Title I grant monies provided to the State by DOL. These procedures will be available for use by all individuals and entities; including WIOA Title I grant participants, OCDB staff, subrecipients of OCDB, and other interested parties. Individuals alleging a labor standards violation will be given the opportunity to submit the grievance to a binding arbitration, if a collective bargaining agreement covering the parties so provides. Additionally, reasonable efforts must be made to assure that information about the content of the grievance and complaint procedures will be understood by affected participants and individuals, including youth and those who are limited English-speaking individuals. Such efforts must comply with the language requirements of Title 29 CFR Section 37.35.

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

Pursuant to Title 20 CFR Sections 683.600, the OCDB has the responsibility to conduct hearings and resolve complaints made by individuals regarding the administration of programs. The following outlines the procedures for resolving issues arising in connection with WIOA Title I grant programs operated by OCDB or its subrecipients. Any participant or other interested party adversely affected by a decision or action by the local workforce system, including decisions by AJCC partners and service providers, has the right to file a grievance or complaint with the OCDB.

A. Notice to Affected Parties

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

- Posted in a public location and be made available to any interested parties and members of the public.
- Made available to each participant. A copy of a written description of the local grievance and complaint procedure shall include:
 - (1) Notification that the participant has the right to file a grievance or complaint at any time within **one year** of the alleged violation;

- (2) Instructions and timeline for filing a grievance or complaint; and
- (3) Notification that the participant has the right to receive technical assistance. Such information shall be modified, as needed, whenever the procedures are changed.

The 'Summary of Rights and Program Grievance and Complaint Form' (Attachment 1) shall be used by all service providers and shall be provided in appropriate formats to individuals with visual impairments and reasonable efforts must be made to assure that content of the form will be understood by participants, including those who are limited English-speaking.

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

The OCDB, its service providers, AJCC partners or subrecipients have the responsibility to provide technical assistance to the complainants, including those grievances or complaints against the OCDB, its service providers, AJCC partners or subrecipients. Such technical assistance includes providing instructions on how to file a grievance or complaint, providing relevant copies of documents such as the WIOA regulations, local rules, contracts, etc., and providing clarification and interpretation of relevant provisions. This requirement shall not be interpreted as requiring the OCDB, its service providers, AJCC partners or subrecipients to violate rules of confidentiality.

II. SERVICE PROVIDER-LEVEL GRIEVANCE AND COMPLAINT PROCEDURES

B. Form and Filing of Grievance or Complaint

The official filing date of the grievance or complaint is the date the written grievance or complaint is received by the service provider. The filing of the grievance or complaint with the provider shall be considered as a request for a hearing, and a written decision must be issued within 30 days of the filing of the grievance or complaint.

The grievance or complaint must be in writing, signed, and dated. For resolution purposes, the following information will be obtained for all complaints:

- Full name, telephone number, and mailing address of the complainant;
- Full name, telephone number, and mailing address of the agency involved (respondent);

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

The absence of any of the requested information shall not be a basis for dismissing the grievance or complaint. Assistance is available through the administrative entities of the provider and OCDB.

A grievance or complaint may be amended to correct technical deficiencies at any time up to the start of the hearing. Grievances or complaints may not be amended to add new issues unless the complainant withdraws and resubmits the complaint. However, the one year time period in which a grievance or complaint may be filed is not extended for grievances or complaints refiled with amendments. Grievances or complaints may be withdrawn at any time prior to the issuance of the hearing officer's decision.

C. Informal Resolution

Informal conferences will be utilized to resolve complaints. Good faith efforts must be made to resolve all grievances or complaints prior to the scheduled hearing. Failure on the part of either party in the grievance or complaint to exert good faith efforts shall not constitute a basis for dismissing a grievance or complaint, nor shall this be considered to be a part of the facts to be judged in the resolution process.

- Designated staff member will meet with the complainant to resolve the problem. If the issue is not resolved at this level, the provider's designated manager will review the case and its facts, prior to meeting with the complainant, so that an appropriate resolution can occur.
- A meeting with the complainant should take place; however, failure to do so should not preclude the complainant's right to request a hearing on the subject.
- If there is a mutually satisfactory resolution to which all parties agree, the manager will write a brief report for the file stating the issues and resolution. The matter will be considered closed.

When the complaint has been resolved through the informal resolution process, the provider shall attempt to contact the complainant and have him or her provide a written withdrawal of the complaint within 5 days of the receipt of the notice of resolution or impasse where a complainant decides not to proceed to an administrative hearing. The provider shall maintain copies of correspondence in the

complainant's file. Where a complaint alleges a violation of WIOA Title I, grant or any agreements under WIOA, the provider must assure that every grievance or complaint not resolved informally or not withdrawn is given a hearing, regardless of the grievance or complaint's apparent merit or lack of merit

D. Notice of Hearing

Hearings on any grievance or complaint shall be conducted within 15 days of filing of a grievance or complaint. The complainant and the respondent must be notified in writing of the hearing 10 days prior to the date of the hearing. The 10-day notice may be shortened with the written consent of both parties. The hearing notice shall be in writing and contain the following information:

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

E. Conduct of Hearings

An impartial hearing officer shall conduct the hearing. ***All members of the Local Workforce Development Board and the local Chief Elected Official(s) are considered interested parties and cannot legally conduct an impartial hearing*** (Title 20 CFR Preamble Page 56212). The provider may seek impartial hearing officers from among the staff of legal offices or personnel departments of municipalities or counties that will not be directly affected by, or will not implement the final resolution of, a specific grievance or complaint.

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

- Full regard must be given to the requirements of due process to ensure a fair and impartial hearing.

- The hearing officer will ensure that everyone involved understands the proceedings.
- The hearing officer will summarize the issues brought forth and manner in which the hearing will be conducted.
- The burden of proof is to be reasonable and depend upon circumstances of the case involved. Generally, the party making the complaint is obligated to establish the party's case, and the party's information should be given first to explain the basis of their complaint.
- If the parties involved, or their representatives, do not know how to ask the right or pertinent questions, the hearing office must step in to elicit all material and relevant facts.

F. Decision

Not later than 30 days after the filing of the grievance or complaint, the hearing officer shall mail a written decision to both parties by first class mail. The hearing officer's decision shall contain the following information:

- The names of the parties involved;
- A statement of the alleged violation(s) and issues related to the alleged violation;
- A statement of the facts;
- The hearing officer's decision and the reasons for the decision;
- A statement of corrective action or remedies for violations, if any, to be taken; and
- Notice of the right of either party to request a review of the decision by the OCDB within 5 days of the receipt of the decision.

G. Appeal

If a complainant does not receive a decision by the provider within 30 days of the filing of the grievance or complaint, or receives an adverse decision, the complainant then has the right to file an appeal with the OCDB.

The complainant may request for the OCDB hearing by submitting a written notice of appeal to:

Equal Opportunity Officer
Orange County Development Board
Orange County Community Services/Community Investment Division
1300 S. Grand Ave., Bldg. B, 3rd Floor
Santa Ana, CA 92705

H. Complaint Logs

Complaint logs shall be maintained to record receipt of a written program complaint by the complainant or complainant's representative. Logs must be available for review, at the request of the OCDB. All providers shall use the OCDB's Complaint Log (Attachment #2).

OCDB requires that all recipients maintain a copy of a complaint log annually (calendar year). If no complaint was filed for the calendar year, recipients will note 'None to report' for the calendar year. Logs must be available, for review, at the request of the OCDB. Recipients shall use OCDB's Complaint Log (Attachment 2).

Submit logs by January 10th annually, to OCDB@OCCR.OCGOV.COM and cc the respective OCDB Program Manager/Administrator.

III. ORANGE COUNTY DEVELOPMENT BOARD (OCDB)-LEVEL GRIEVANCE AND COMPLAINT PROCEDURES

OCDB has the responsibility to resolve appeals of decisions issued by the service providers related to WIOA Title I programs and affording an opportunity for an informal resolution and a hearing to be completed within thirty (30) days of the filing of the grievance or complaint.

A. OCDB Level Informal Resolution and Hearing Procedures

All complaints of noncriminal violations of the requirements of WIOA or complaints by individuals or interested parties affected by the statewide workforce development program shall be filed in writing with the EO Officer of the OCDB. All requests for OCDB hearings shall include the same basic elements necessary for service provider-level hearings. These are:

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

Upon receipt of the request for an OCDB hearing, the OCDB shall review the grievance or complaint and shall provide an opportunity for an informal resolution. The OCDB shall notify the complainant and the respondent within 5 days of receipt of the grievance or complaint and proceed with the informal resolution process. If the OCDB cannot resolve the grievance or complaint informally, then a hearing will be held.

Hearings on any grievance or complaint shall be conducted within 15 days of the filing of a grievance or complaint. The complainant and the respondent shall be notified in writing of the hearing 10 days prior to the date of hearing. The hearing notice shall advise the following:

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

B. Appeals of Service Provider Decisions or Requests for OCDB Review

A complainant may file a request for review with OCDB if no decision has been issued at the provider level within the 30-day time limit or if there has been an incident of restraint, coercion or reprisal as the result of filing a grievance or complaint. A complainant may file an appeal if the provider has issued an adverse decision. The request for an OCDB review or appeal shall be filed or postmarked (if mailed) within 5 days from the date on which the complainant received an adverse decision from the Provider or 7 days from:

- The date on which a complainant should have received a decision regarding a locally filed complaint, or
- The date on which an instance of restraint, coercion or reprisal was alleged to have occurred as a result of filing the complaint.

All requests for review or appeals shall include the following:

- The full name, telephone number, and mailing address of the complainant;
- The full name, telephone number, and mailing address of the provider;
- A statement of the basis of the request or appeal; and
- Copies of relevant documents, such as the complaint filed at the provider level and the provider decision, if any.

If an evidentiary hearing was held at the provider level, OCDB shall request the record of the hearing from the provider and shall review the record without scheduling an additional hearing. If an evidentiary hearing was not held at the provider level, OCDB shall instruct the provider to hold a hearing within 15 days of receipt of the appeal or request for an OCDB review. If the provider refuses to hold a hearing within the required timeframe, the OCDB shall, within 15 days of receipt of the appeal or request for hearing, schedule an evidentiary hearing before a hearing officer. OCDB shall notify the concerned parties by first class mail, certified with a return receipt, of the following information at least 10 days before a scheduled hearing:

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

C. Hearing

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

- Full regard must be given to the requirements of due process to ensure a fair and impartial hearing.
- The hearing officer will ensure that everyone involved understands the proceedings.
- The hearing officer will summarize the issues brought forth and manner in which the hearing will be conducted.
- If the parties involved, or their representatives, do not know how to ask the right or pertinent questions, the hearing officer must step in to elicit all material and relevant facts.
- The burden of proof is to be reasonable and depend upon circumstances of the case involved. Generally, the party making the complaint is obligated to establish the party's case, and the party's information should be given first to explain the basis of their complaint. The quantity of evidence necessary to sustain a favorable decision for the Complainant shall be substantial or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. If after hearing the evidence of the complaint, the hearing

officer decides that the evidence is inadequate to carry the Complainant's burden of proof, the hearing officer shall recommend against the Complainant.

D. Decision

OCDB will issue a proposed decision and corrective action. The hearing officer will issue a decision 60 days after the grievance or complaint was filed and the decision will include the following:

- Name of the parties involved;
- Statement of the alleged violation(s) and issues related to the alleged violation;
- Statement of the facts;
- Hearing Officer's decision and reasons for the decision;
- A statement of corrective action or remedies for the violation(s)
- Notice of the right to request a review of the decision to EDD

E. Appeal

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

The appeal or request for EDD review must be in writing, signed, and dated by the complainant and include the following information:

- The full name, telephone number, and mailing address of the complainant;
- The full name, telephone number, and mailing address of the LWDA;
- A statement of the basis of the request or appeal; and
- Copies of relevant documents, such as the complaint filed at the LWDA and the local decision, if any.

A complainant may file an appeal if the LWDA has issued an adverse decision. The request for an EDD review or appeal shall be filed or postmarked (if mailed) within 10 days from the date on which the complainant received an adverse decision from LWDA or 15 days from:

- The date on which a complainant should have received a decision regarding a locally filed complaint, which is defined as 5 days from the date the decision was due, or
- The date on which an instance of restraint, coercion or reprisal was alleged to have occurred as a result of filing the complaint.

The complainant may request a State hearing by submitting a written notice of appeal to:

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

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

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

III. STATE-LEVEL GRIEVANCE AND COMPLAINT PROCEDURES

Title 20 CFR Section 683.600(d) requires the State to provide a process for dealing with grievances and complaints from participants or interested parties affected by the statewide workforce development programs, resolving appeals of decisions issued at the LWDA level, remanding grievances and complaints related to the local WIOA Title I programs to the LWDA grievance process, and affording an opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint.

In cases where the State has imposed either administrative or financial/monetary sanction(s) resulting from monitoring, investigations, or audits, the complainant may file an appeal with the State through the procedures as described in WIOA Directive WIOAD05-17, Audit Resolution.

A. State-Level Grievances and Complaints

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

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

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

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

B. EDD Hearing

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

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

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

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

C. State Review Panel

Following completion of the EDD hearing, the EDD hearing officer shall make a written recommendation to the State Review Panel. The hearing officer’s recommendation shall contain the following information:

- The names of the parties involved;
- A statement of the alleged violation(s) and issues related to the alleged violation;
- A statement of the facts;
- The EDD hearing officer's decision and the reasons for the decision; and
- A statement of the corrective action or remedies for violations, if any, to be implemented.

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

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

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

D. Referral of Local Grievances or Complaints

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

E. Remedies

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

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

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

F. Federal-Level Appeal Process

If the State Review Panel has issued an adverse decision regarding a grievance or complaint, or has not issued a decision within 60 days of receipt of a local level appeal, request for EDD review, or grievance or complaint, the complainant may file an appeal with the Secretary. This appeal process applies to grievances and complaints that originated at the local or state level.

Appeals of an adverse decision must be filed within 60 days of receipt of the adverse decision from the State Review Panel. In cases where the State Review Panel did not issue a decision, the complainant must file an appeal within 120 days of either of the following:

- The date on which the complainant filed the appeal of a local level decision or request for EDD review with the state.
- The date on which the complainant filed the grievance or complaint with the state.

All appeals to the Secretary must be sent to the DOL National Office via certified mail with return receipts requested. Copies of the appeal must simultaneously be provided to the DOL Employment and Training Administration (ETA) Regional Administrator and the respondent. Mailing addresses for the DOL National Office and ETA Regional Administrator are included below:

Secretary of Labor
Attn: Assistant Secretary of ETA
U. S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

A copy of the appeal must be simultaneously provided to the ETA Regional Administrator-Region 6 and the opposing party.

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

Grievances or complaints filed directly with the Secretary that were not previously filed with the Local Area and/or state will be remanded to the Local Area or state, as appropriate.

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

ACTION:

Bring this policy and procedure to the attention of all staff. All subrecipients shall review the grievance and complaint procedures specified in this policy, and ensure compliance in accordance with these requirements. All subrecipients shall insert their Agency name (where indicated) on the standardized 'Summary of Rights and Program Grievance and Complaint Procedures' form (Attachment 1) and the Complaint Log (Attachment 2).

INQUIRIES:

If you have any questions regarding this policy, please contact your Contract Administrator at 714-480-6500.

ATTACHMENTS:

- Attachment 1: Summary of Rights and Program Grievance and Complaint Procedures Form
- Attachment 2: Orange County Development Board Complaint Log
- Attachment 3: Flow Chart – Programmatic Grievance and Complaint Procedures Provider Level
- Attachment 4: Flow Chart – Programmatic Grievance and Complaint Procedures OCDB Level

Attachment 1

**SUMMARY OF RIGHTS AND
PROGRAM GRIEVANCE AND COMPLAINT PROCEDURES**

If you believe that [Insert Agency Name](#) has violated any provision of the Workforce Innovation and Opportunity Act (WIOA) Title I concerning the administration of employment and job training programs, services, policies and procedures, grants, or regulations and other agreements under WIOA, you have certain rights that you should know about:

RIGHTS

You have the right to file a grievance/complaint if you feel you have a grievance/complaint relating to your employment and/or training program or service. Your grievance/complaint must contain sufficient information for us to determine if it should be heard by the [Insert Agency Name](#) or, more appropriately, be referred to another agency. You will not be punished in any way for filing a grievance/complaint.

FILING A GRIEVANCE/COMPLAINT

You must file a written grievance/complaint **within one (1) year** of the incident. The [Insert Agency Name](#) will provide you with the necessary information and assistance to put your grievance/complaint **in writing**, if you request assistance. Your written grievance/complaint must include, at a minimum, the following:

- (1) Your full name and address;
- (2) The full name and address of the agency or party you are complaining against;
- (3) A clear statement of the facts, including dates;
- (4) Your written grievance/complaint must be mailed to: [Insert Agency EO Officer's Name/Agency/Address](#)

Within **one (1) week** of filing the grievance/complaint, an informal conference may be held to resolve the matter. If you feel that your complaint/grievance is not resolved during the informal conference, you may request a hearing. A hearing with an impartial hearing officer will be provided within **fifteen (15) days** of filing your grievance/complaint. You will be notified, in writing, **ten (10 days)** before the date of the hearing.

DECISION

If you do not receive a written decision from the [Insert Agency Name](#) **within thirty days (30 days)** after filing your grievance/complaint, you may proceed to file your grievance/complaint with the Orange County Development Board (OCDB), at the address listed below. You must file your written grievance/complaint with OCDB within **seven (7) days** of the 30-day deadline (in other words within **thirty seven (37) days** from the day on which your initial complaint was filed with the [Insert Agency Name](#)).

OCDB LEVEL APPEAL

If you receive a written decision from the [Insert Agency Name](#) but you are dissatisfied with their decision, you may file your appeal with OCDB, at the address listed below, within **five (5) days** of the date on which you received the [Insert Agency Name](#) written decision.

OCDB Address: Orange County Development Board/EO Officer, OC Community Services/Community Investment Division, 1300 S. Grand Avenue, Bldg B, 3rd Floor, Santa Ana, CA 92705.

STATE LEVEL: If you do not receive a decision from OCDB **within sixty (60 days)** after filing your grievance/complaint, you may proceed to file your grievance/complaint with the State Employment Development Department (EDD) within **fifteen (15) days** of the 60-day deadline [in other words, within **seventy-five (75) days** from the day on which your initial complaint was filed with the agency you filed against]. If you receive an adverse decision from OCDB, you may file an appeal with the State within **ten (10) days** of the date on which you received the OCDB's determination. Submit a written notice to: Chief, Compliance Review Division, MIC 22-M, Employment Development Department, PO Box 826880, Sacramento, CA 94280-0001.

I understand these procedures as explained by Staff. A full copy of these procedures is available to me upon request.

Participant Signature

Date

Parent/Guardian Signature

Date

This WIOA Title I-financially assisted program or activity is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Request for services, aids, and/or alternative formats need to be made by calling: TDD [Insert Agency TDD #](#) or TTY users 711.

ORANGE COUNTY DEVELOPMENT BOARD Complaint Log

CALENDAR YEAR:

Date of Complaint	Name of Complainant	Address of Complainant	Status of Complaint	DOL-Funded Program	Date of the Alleged Discriminatory Incident	Grounds of Complaint	Description/Issue of Complaint	Name of Respondent	Is Respondent a Recipient? Yes or No	Disposition	Date of Disposition	ADR Yes or No
Date	Name	Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input checked="" type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
Date	Name	Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No
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Date	Name	Address	Status	Program	Date of Incident	Grounds	Description	Respondent	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	Disposition	Date	<input type="checkbox"/> Yes/ <input type="checkbox"/> No

PROGRAMMATIC GRIEVANCE AND COMPLAINT PROCEDURES PROVIDER LEVEL

**GRIEVANCE OR COMPLAINTS MUST BE FILED WITHIN ONE YEAR
OF THE ALLEGED VIOLATION**

**Handling of Complaints filed at the Provider level
arising in connection with the Workforce Innovation
and Opportunity Act.**

FILING WITH THE PROVIDER

Filing Date: Date Written Complaint is Received

Provider Sends Written Notification of Hearing
10 Days Prior to Date of Hearing



Hearing Conducted
Within 15 Days of the Day Complaint was Filed



Provider Issues Written Decision
Within 30 Days of the Day Complaint was Filed

UNSATISFACTORY DECISION OR NO DECISION

Complainant may file complaint with OCDB

Within 7 days - adverse decision from Provider

Within 5 days - no decision received from Provider

PROGRAMMATIC GRIEVANCE AND COMPLAINT PROCEDURES OCDB LEVEL

**GRIEVANCE OR COMPLAINTS MUST BE FILED WITHIN ONE YEAR
OF THE ALLEGED VIOLATION**

**Handling of Complaints filed at the OCDB level
arising in connection with the Workforce Innovation
and Opportunity Act.**

FILING WITH THE OCDB

Filing Date: Date Written Complaint is Received

OCDB Sends Written Notification of Hearing

10 Days Prior to Date of Hearing



Hearing Conducted

Within 30 Days of the Day Complaint was Filed



OCDB Issues Written Decision

Within 60 Days of the Day Complaint was Filed

UNSATISFACTORY DECISION OR NO DECISION

Complainant may appeal to the State EDD

Within 10 days - adverse decision from OCDB

Within 15 days - no decision received from OCDB