Kansas Department of Commerce
Workforce Services
Policy and Procedures Manual

Policy Number: 5-24-00

Originating Office: Commerce Regulatory Compliance

Subject: General WIOA Complaint Processing Procedures

Issued: May 3, 2017

Revised: March 14, 2017

Program: Workforce Innovation and Opportunity Act (WIOA)

Purpose: To transmit state policy and procedures for general complaints under WIOA.

References: The Workforce Innovation and Opportunity Act (WIOA), Section 181; 20 CFR §§ 658.411, 683.600, 683.610

Background: Every recipient of funds under Title I must maintain this procedure for grievances and complaints.

Action: The procedures described in this policy are to be used for *general* complaints involving the proper application of WIOA and its regulations and policies at the local level and complaints involving state policies, programs, activities or agreements. These procedures are different from the policy governing *discrimination* complaints or the procedures for reporting suspected program fraud or abuse found in Policy No. 5-22-00.

Contact: Questions about this policy should be directed to Director, Commerce Regulatory Compliance, (785) 296-2122 TTY: 711, or kdc_crc@ks.gov

Attachment: General WIOA Complaint Form

General WIOA Complaint Processing Procedures

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General WIOA Complaint Processing Procedures

Procedures for processing complaints of discrimination or criminal fraud, waste or abuse are **NOT** covered under this policy.

Introduction

Every recipient of funds under Title I of WIOA must maintain this procedure for grievances and complaints in accordance with 20 CFR 683.600. *All recipient of funds must make reasonable efforts to assure that information about the content of complaint and grievance procedures will be understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals. Such efforts must comply with the language requirements of 29 CFR 37.35 regarding the provision of services and information in languages other than English.*

General WIOA complaints may be made up to one year from the date of the event or condition alleged to be a violation of WIOA. The appropriate resolution process to be followed depends on the nature of the complaint. General WIOA complaints fall into the following two categories:

1. Complaints involving local WIOA programs, agreements, or local workforce development board (LWDB) policies and activities; or
2. Complaints involving State WIOA policies, programs, activities or agreements.

A complaint may be amended or withdrawn at any time prior to a scheduled hearing.

Information that could lead to the identification of the person filing the complaint must be kept confidential, to the extent practical. The identity of any person who furnishes information related to, or assisting in, an investigation shall be kept confidential to the extent possible.

An entity receiving financial assistance under WIOA may not discharge, intimidate, retaliate, threaten, coerce, or discriminate against any person because such person files a complaint, opposes a prohibited practice, furnishes information, assists, or participates in any manner in an investigation or hearing.

General WIOA Complaint Form

Attached to this policy is the General WIOA Complaint Form (see Attachment A) that is used as a complaint intake tool. It may be duplicated for the purpose of receiving general WIOA complaints. Any alternate form must include all information required on the General WIOA Complaint Form. Any complaint received in writing must be accepted and handled in the same manner as if it were made on the General WIOA Complaint Form.

Informal resolution prior to the filing of a written complaint is encouraged. If the complainant is not satisfied with the attempt at informal resolution, they should be encouraged to complete a General WIOA Complaint Form.

The complainant should be allowed sufficient time and technical assistance to allow for a complete and clearly written explanation to occur. If the complainant is unable to write, staff may transcribe his or her words onto the form. Care must be taken not to alter the language of the complainant. When a written complaint is received, it should be reviewed immediately to insure completeness. Care should be taken to assure the following information has been provided, especially if the complaint is not received on the General WIOA Complaint Form:

1. Full name, telephone number and address of the person making the complaint;
2. Full name and address of the respondent; and
3. Statement of the facts (including dates) that constitute the alleged violation(s).

Complaints Involving Local Programs and Policies

Who May File

Any applicant, employee, participant, service provider, program recipient, or other interested party may file a complaint alleging a violation of local WIOA programs, agreements or LWIB policies and activities.

Complainants with Disabilities

Complainants with disabilities will be accommodated in communication and location. Alternate formats will be used on request to notify the complainant of hearings, results and any other written communication. Auxiliary aides and services, such as deaf interpreters or assistive listening devices, will be provided on request for negotiations, hearings and any other meetings where aural communication occurs. An accessible location will be used for hearings and other meetings on request.

Time and Place for Filing

Complaints may be filed with the local administrative entity or the service provider within one year from the date of the event or condition alleged to be a violation of WIOA.

Resolution Process

Service providers and employers of WIOA participants must have procedures in place to process complaints related to the terms and conditions of the participant's training or employment. Employers and service providers may elect to utilize the system established by the local administrative entity or operate their own complaint procedures. If the employer is required to use the complaint processing procedures under a covered collective bargaining agreement, then those procedures may be used to handle general WIOA complaints.

Any hearings conducted by an employer must comply with all provisions for hearings described in this policy.

Step 1 - Initial Review

If the complaint alleges a violation of any statute, regulation, policy, or program that is not governed by WIOA, the complaint will be referred to the appropriate organization for resolution. Notice of the referral will be sent to the complainant.

The local administrative entity or the service provider will receive the complaint from the complainant or the complainant's designated representative. All complaints will be logged. A complaint file should be established that contains the following:

1. Application and enrollment forms;
2. Completed General WIOA Complaint Form (or complainant's written statement);
3. Chronological log of events or conditions alleged to be a violation of WIOA;
4. Any relevant correspondence; and
5. Record of the attempted informal resolution.

Step 2 - Informal Resolution

An attempt should be made by the local administrative entity or the service provider to informally resolve the complaint to the satisfaction of all parties. The informal resolution process must be completed within ten business days from the date the complaint is filed. If all parties are satisfied, the complaint is considered resolved and the terms and conditions of the resolution must be documented in the complaint file. When a service provider attempts the informal resolution, the service provider will forward the complaint file to the local administrative entity. The local administrative entity will review the complaint file and investigate it further if necessary.

Step 3 - Formal Resolution

When an informal resolution is not possible, the local administrative entity will issue a determination within 20 calendar days from the date the complaint was filed. If an appeal of the determination is not requested, the complaint is considered resolved and the complaint file should be documented accordingly. Any party dissatisfied with the determination may request a hearing within 14 calendar days of the date of the determination.

Step 4 - Hearing

A complaint may be amended or withdrawn at any time prior to a scheduled hearing.

If the complaint is not withdrawn, the local administrative entity will designate a hearing officer to ensure the complaint receives fair and impartial treatment. The hearing must be conducted within 45 calendar days from the date the complaint was filed. The hearing officer will schedule a formal hearing and mail a written notice to the complainant, the respondent, and any other interested party at least seven business days prior to the hearing.

The notice will include the date, time, and place of the hearing. Parties may present witnesses and documentary evidence, and question others who present evidence and witnesses. The complainant may request that records and documents be produced. Attorneys or another designated representatives may represent each party. All testimony will be taken under oath or affirmation. The hearing will be recorded either in writing or by audiotape.

The hearing officer's recommended resolution will include a summary of factual evidence presented during the hearing and the conclusions upon which the recommendation is based. The hearing office will also concur with the chief elected official (CEO) toward reaching consensus on the recommended resolution to the complaint. If consensus cannot be reached, the hearing office will initiate a request to the state for resolution.

Step 5 - Final Decision

The local administrative entity will review the recommendation of the hearing officer and issue a final decision within 60 calendar days from the date the complaint was filed.

Step 6 - Appeal

Any party dissatisfied with the local administrative entity's final decision, or any party who has not received either a final decision or a resolution within 60 calendar days from the date the complaint was filed, may request an appeal. The appeal must be received by the Kansas Department of Commerce (Commerce) within 90 calendar days from the date the complaint was filed at the following address:

Kansas Department of Commerce
Commerce Regulatory Compliance
1000 S.W. Jackson Street, Suite 100
Topeka, Kansas 66612-1354

Commerce will review the complaint file, the hearing record, and all applicable documents and issue a final decision on the appeal within 30 calendar days from the date the appeal was received.

Complaints Involving State WIOA Policies, Programs, Activities or Agreements

Who May File

Applicants, employees, participants, service providers, recipients and other interested parties may file a complaint alleging a violation of state WIOA policies, programs, activities or agreements.

Complainants with Disabilities

Complainants with disabilities will be accommodated in communication and location. Alternate formats will be used on request to notify the complainant of hearings, results and any other written communication. Auxiliary aides and services, such as deaf interpreters or assistive listening devices, will be provided on request for negotiations, hearings and any other meetings where aural communication occurs. An accessible location will be used for hearings and other meetings on request.

Time and Place for Filing

Complaints may be filed with the state service provider or Commerce within one year from the date of the event or condition alleged to be a violation of WIOA.

Resolution Process

Step 1 - Initial Review

If the complaint alleges a violation of any statute, regulation, policy, or program that is not governed by WIOA, the complaint will be referred to the appropriate organization for resolution. Notice of the referral will be sent to the complainant.

The state service provider or Commerce will receive the complaint from the complainant, or the complainant's designated representative. All complaints will be logged. A complaint file should be established that contains the following:

1. Application and enrollment forms;
2. Completed General WIOA Complaint Form (or complainant's written statement);
3. Chronological log of events or conditions alleged to be a violation of WIOA;
4. Any relevant correspondence; and
5. Record of the attempted informal resolution.

Step 2 - Informal Resolution

An attempt should be made by the state service provider to informally resolve the complaint to the satisfaction of all parties. The informal resolution process must be completed within ten business days from the date the complaint is filed. If all parties are satisfied, the complaint is considered resolved and the terms and conditions of the resolution must be documented in the complaint file.

Step 3 - Formal Resolution

When an informal resolution is not possible, the state service provider will forward the complaint file to the address below:

Kansas Department of Commerce
Commerce Regulatory Compliance
1000 S.W. Jackson Street, Suite 100
Topeka, Kansas 66612-1354

Commerce will review the complaint file, conduct further investigation if necessary, and issue a determination within 20 calendar days from the date the complaint was filed. If an appeal of the determination is not requested, the complaint is considered resolved and the complaint file should be documented accordingly. Any party dissatisfied with the determination may request a hearing within 14 calendar days of the date of the determination.

Step 4 - Hearing

A complaint may be amended or withdrawn at any time prior to a scheduled hearing. If the complaint is not withdrawn, Commerce will designate a hearing officer to ensure the complaint receives fair and impartial treatment. The hearing must be conducted within 45 calendar days from the date the complaint was filed. The hearing officer will schedule a formal hearing and mail a written notice to the complainant, the respondent, and any other interested party at least seven business days prior to the hearing. The notice will include the date, time, and place of the hearing.

Parties may present witnesses and documentary evidence, and question others who present evidence and witnesses. The complainant may request that records and documents be produced. Attorneys or another designated representatives may represent each party. All testimony will be taken under oath or affirmation. The hearing will be recorded either in writing or by audiotape. The hearing officer's recommended resolution will include a summary of factual evidence presented during the hearing and the conclusions upon which the recommendation is based.

Step 5 - Final Decision
Commerce will review the recommendation of the hearing officer and issue a decision within 60 calendar days from the date the complaint was filed. The decision of Commerce is considered final.

Attachment A

WIOA General Complaint Form

Complainant (person filing the complaint)

Name:			
Address:	City:	State:	Zip:
Telephone:		E-mail:	

Complainants with disabilities will be accommodated during the complaint process. If an accommodation is required in communication or accessibility of location, please indicate the kind of accommodation required, e.g. accessible location, deaf interpreter (please indicate type of sign language), notification of results and/or hearing dates in alternative format such as Braille, large print or cassette.

Respondent (person/entity complaint filed against)

Name:			
Address:	City:	State:	Zip:
Telephone:		E-mail:	

Instructions: Provide a clear and brief statement of the facts. Include relevant dates that will assist in the investigation and resolution of the complaint. If additional space is needed, use reverse side of this form or attach additional sheets.

The above information is true and correct to the best of my knowledge.

_____ _____

Signature of Complainant Date

FOR OFFICIAL USE ONLY		
Person Receiving Complaint:	Title:	
Address:	City:	State:
Telephone:	E-Mail:	