



Concern and Complaint Processing Questions & Answers (Q&A)

Question	Answer
1. What is the difference between a concern and a complaint?	<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. What do I do if I'm not familiar with the program or scope of the concern presented?	<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. What should I do if a customer indicates they want to file a complaint?	<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. Can a complaint be filed via e-mail?	<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. What is an example of a written concern that is not a complaint?	<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. Do concerns resolved at the local level need to be logged?	<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>



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7.	How can a customer file a complaint?	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. The Customer Complaint Handbook contains additional information regarding what must be included on a complaint form, including an optional form that can be implemented.
8.	Who has local authority over program complaint jurisdiction?	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 WDC EO officer for complaints of this nature.
9.	May WDCs develop a local policy and process that applies to all WorkSource sites located in a WDA?	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.	Is a local hearing required to respond to a Wagner-Peyser complaint that is not resolved at the local level?	No. If a complaint is made against the Employment Security Department (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 1.6.1 of the handbook.
11.	For Wagner-Peyser, what is the difference between a complaint and an apparent violation?	<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 section 1.9 of this handbook. Complaint contacts shall evaluate the individual circumstances of the issue presented and determine whether the allegation warrants action.</p>
12.	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 to the appropriate agency?	<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>



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13.	<p>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?</p>	<p>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.</p>
14.	<p>What happens if a complainant moves and we don't receive a confirmation receipt?</p>	<p>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.</p>
15.	<p>Can only ESD discontinue services or can a Non-ESD entity providing labor exchange services also discontinue services?</p>	<p>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.</p>
16.	<p>What specific services could be discontinued according to the Wagner-Peyser complaint process?</p>	<p>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.</p>
17.	<p>Where can I find a WorkSource complaint poster that satisfies Wagner-Peyser requirements?</p>	<p>You may print a copy of the WorkSource Complaint Poster for your office. The poster must be printed in color on 11' X 17' card stock paper in order to enhance readability.</p> <p>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 WCDDpolicy@esd.wa.gov.</p>
18.	<p>Why are TAA Complaint & Eligibility Appeal Procedures included in the handbook?</p>	<p>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.</p>
19.	<p>Why is the term “grievance” not defined or noted in the WIA complaint procedures?</p>	<p>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.</p>



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20.	For WIA complaints, can a complaint contact serve as an impartial hearing officer?	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.	Where can I find guidance on how to prepare for or how to conduct a hearing on a WIA complaint?	The Washington State Office of Administrative Hearings (OAH) serves as an independent state agency that conducts impartial administrative hearings. OAH's website at http://www.oah.wa.gov/hearings.shtml offers instruction on how to schedule and prepare for a hearing. For WIA complaints, OAH may serve as an impartial hearing officer. Ohio's policy manual also provides several helpful examples, including a hearing notice and hearing determination outline. Refer to pages 33-36: https://ifs.ohio.gov/owd/WorkforceProf/Docs/WIAComplaintProceduresManual.pdf .
22.	Can program complaints and discrimination complaints all be maintained in one log?	Yes. As noted in section 1.15 , 2.12 , 3.9 and 4.10 , an optional complaint log is attached to this handbook and meets the requirements for program and EO complaints.