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**Supersedes:** N/A

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## **Purpose**

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To provide guidance and standards for conflict resolution between partners in the local One-Stop Delivery System. This policy applies to disagreements in general regarding contracts, awards, monitoring outcomes and also specifically applies to those involving PacMtn Memorandum of Understanding, the One-Stop Operator Agreement, and other policies and procedures regarding the integration and coordination of services throughout the One-Stop.

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## **Policy**

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Disputes arising from grievances or complaints regarding violations of the requirements within WIOA regulations and programs from any contractor, affected or interested party shall be reviewed by the applicable PacMtn program manager and resolution of issues handled at the lowest possible level between all parties involved. The program manager shall document any dispute and attempt to resolve the issue through negotiations within 60 days. In general, disputes that are not resolved immediately between the parties involved should be brought to the one-stop operator for review, consultation and resolution. If agreement cannot be reached the dispute resolution process will escalate to the Executive Finance Committee and then to ESD as a final measure.

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## **Guidelines**

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All disputes involving two or more One-Stop partners will be handled via the PacMtn dispute resolution procedures. Disputes should, whenever possible, be resolved at the lowest possible level. All actions taken to resolve disputes will be documented. Disputes will generally fall into these categories:

1. General conflicts over the normal course of providing employer and job seeker services
2. One-Stop Operator disputes, including One-Stop Operator Agreement and amendments
3. Memorandum of Understanding (MOU) disputes prior to failure to sign
4. MOU disputes regarding failure to sign

Dispute resolution, under the first three categories, will proceed as follows:

- All attempts to resolve disputes among or between One-Stop system partners will begin with negotiations between the disagreeing parties. Partners are expected to put forth good faith efforts in communication and compromise to resolve disagreements in a cooperative and timely manner.
- Should the partners be unable to directly resolve their dispute, they will notify the One-Stop Operator of the dispute and provide in writing an explanation of the matter.

- Disputes requiring additional efforts to resolve will be directed to the PacMtn Executive Finance Committee for review and written recommendation.

If the local dispute resolution policy and process have been met and the parties to a dispute cannot reach agreement, they may appeal to the Employment Security Department (ESD) Commissioner for resolution.

The Employment Security Department (ESD) Commissioner who will make a decision in consultation with the PacMtn Board Chair and the local Chief Elected Official(s) within 30 calendar days of receiving appeals.

#### Disputes regarding failure to sign the MOU

All steps in the previous sections must be completed and documented. When the local board and partners have entered into good faith negotiations and have still reached an impasse, the following additional steps shall be taken:

- The local board and required partners must send a letter to the Employment Security Department (ESD) Commissioner, as the administrative entity of the Workforce Innovation and Opportunity Act, notifying of the impasse and outlining the issues. A copy of that letter must also be sent to the Assistant Commissioner of the WSID. Documentation of the attempts to resolve the dispute should be attached.
- The Commissioner may seek alternatives to propose a resolution.
- If an impasse continues, notifications of failure to sign will be issued with applicable sanctions to the extent of applicable state and federal laws as noted in 20 CFR §662.310(b) & (c). In addition, any local area in which a local board has failed to execute an MOU with all of the required partners is not eligible for state incentive grants.

The above steps are intended to provide assistance to resolve disputes and add clarification. They do not supersede or replace language in the Workforce Innovation & Opportunity Act or regulations.

#### Disputes Involving Employment Security Department

If the dispute involves ESD, either party to the dispute can request the services of an independent mediator or hearing officer.

1. The selection process for the mediator or hearing officer must be concluded within 10 business days and include the following:
  - a. Each party to the dispute will identify one representative.
  - b. From the list of three mediators/hearing officers identified through a mutually-agreed upon source (e.g. local dispute resolution councils, State Department of Enterprise Services, etc.), each representative will eliminate one individual with the remaining individual selected by that process of elimination.
  - c. Both parties to the dispute agree to share the cost of the mediator/hearing officer equally.
2. The mediator or hearing officer will, within 30 calendar days of being retained, deliver a recommendation, in writing, to the ESD Commissioner.

3. The ESD Commissioner has five business days to render a decision by accepting or rejecting the recommendation with the latter limited to three “just cause” allowances:
  - a. Undisclosed conflict of interest on the part of the mediator/hearing officer
  - b. Clear misapplication of the law and/or regulations
  - c. The finding does not fit the record or facts of the case
4. If the ESD Commissioner rejects the mediator/hearing officer recommendation, either party to the dispute and Commissioner’s (rejection) decision can be appealed to the US Department of Labor as described in WIOA Section 181(c).

If one or more of the parties to the dispute is dissatisfied with the ESD Commissioner’s decision, the decision can be appealed to the US Department of Labor as described in WIOA Section 181(c).

Per WIOA Section 121(h) and proposed 20 CFR 678.725-750, local disputes related to funding of one-stop infrastructure costs are exempt from this policy and will instead be addressed through application of the state one-stop funding mechanism determined by the Governor and subject to a state-level appeals process established by the Governor.

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## References

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State Policy # 5410, Revision 1- Dispute Resolution and Appeals  
Public Law 113-128, Workforce Innovation and Opportunity Act of 2014, Section 181(c)-Grievance Procedure

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