

Attachment A

WorkSource Programs Complaint Handbook

Revision 3

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Employment System Administration and Policy
Employment Security Department
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Introduction

The WorkSource Programs Complaint Handbook provides procedural guidance to partners in the WorkSource system for processing complaints related to the following U.S. Department of Labor programs:

- WIOA Title I-B
- Wagner-Peyser Employment Service
- Jobs for Veterans State Grant
- Reemployment Services and Eligibility Assessment
- Trade Adjustment Assistance
- Foreign Labor Certification

Each section of the Handbook is intended as a stand-alone guide for complaint procedures within its applicable program.

WorkSource Policy 1012, Revision 3, which introduces this handbook, is intended to:

- Clarify the oversight role of the State Workforce Agency (SWA) and Local Workforce Development Boards (LWDBs).
- Outline minimum expectations for coordination among partners.
- Encourage prompt resolution of all customer concerns.

This handbook builds on this framework by:

- Clarifying roles and responsibilities of partners and programs regarding program complaint referrals and processing.
- Providing approved procedures containing minimum state and federal requirements for processing program complaints.
- Providing examples of tools (e.g., complaint log and forms) to assist with the implementation of procedures that comply with minimum requirements.

The complaint procedures and tools in this handbook can serve as templates for ESD and LWDBs to adopt or modify. These templates represent the minimum state and federal requirements and should not be modified to remove minimum state and federal requirements.

Discrimination complaints will be processed under the WorkSource System Policy 1017 - Discrimination Complaint Processing Policy.

References

- [WIOA Section 181\(c\)](#)
- [20 CFR 651](#)
- [20 CFR 653.107-109](#)
- [20 CFR 658, subpart E](#)

- [20 CFR 683.600-650](#)
- [29 CFR 38](#)
- [Training and Employment Notice \(TEN\) 08-23](#)

Note: Customers with disabilities must be provided, upon request and at no cost to them, appropriate accommodations, auxiliary aids and services to file their concern or complaint. Customers who are limited English proficient (LEP) must be provided, upon request and at no cost to them, language assistance services, including oral interpretation and/or written translation to file their concern or complaint, per 29 CFR Part 38.

1. State Complaint Officer Responsibilities

- Process to resolution unresolved local program complaints elevated to the State on appeal.
- Refer to local system complaint coordinators and appropriate program complaint representatives within 48 hours all program complaints lodged with the State that have not first been addressed locally
- Gather workforce development area-level complaint statistics from local System Complaint Coordinators in order to provide statewide, summary-level statistics to the Governor and/or state workforce development board, upon request.

2. Local System Complaint Coordinator Responsibilities

- Log and track program complaints across all core, required, and additional partner programs in the workforce development area.
- Provide WDA-wide complaint log and/or summary-level complaint data to the State Complaint Officer or local workforce development board and/or one-stop operator(s), upon request.
- Refer program complaints that are received to corresponding program complaint representatives within 24 hours.

3. Wagner-Peyser Program Complaint Procedures

3.1 Purpose

To establish minimum requirements for accepting, fact-finding, resolving and referring program customer complaints and apparent violations connected to Wagner-Peyser funded services.

3.2 Wagner-Peyser Specific Definitions

Apparent Violation – an apparent violation of Wagner-Peyser regulations or employment-related laws by an employer, where an employee or ESD representative observes, has reason to believe, or has received information regarding a suspected violation. If the employer has posted on the agency’s “WorkSource Washington” website within the past 12 months, the appropriate program complaint representative must

attempt to resolve the apparent violation. If the employer has not posted on the agency's website within the last 12 months, the apparent violation of employment-related law must be referred to the appropriate enforcement agency.

Complainant – an individual, organization, employer, association, or other entity filing a program complaint. When the complainant is an English Language Learner (ELL) all written correspondence with the complainant pertaining to the program complaint must include a translation into the complainant's native language.

Complaint (Wagner-Peyser) – the submission of a written and signed allegation that Wagner-Peyser (employment service) funded programs or partners violated Wagner-Peyser regulations, or an allegation that an employer violated federal, state or local employment-related laws. At a minimum, program complaints must contain the following information:

- Complainant's name.
- Mailing address or other means by which the complainant may be contacted.
- Identification of individual(s) or organizations(s) responsible for the alleged issue.
- A description of the complainant's allegations, which must include enough detail to determine the jurisdiction of the program complaint and the date(s) the alleged incident(s) took place.
- The complainant's written or electronic signature and signature date. The signature of their authorized representative is also acceptable.

Complaint regarding an employment-related law – a complaint filed by an individual that alleges a violation of employment related laws related to the employment relationship, such as those enforced by other Federal, State, or local agencies unrelated to Wagner-Peyser Employment Service (ES) regulations.

Complaint regarding the Employment Service (ES) regulations – an ES complaint may be an agency-related complaint or an employer-related complaint. ES complaints must be made within 2 years of the alleged violation.

- An *agency-related complaint* occurs in instances where a complainant alleges that ESD or a WorkSource partner, through actions or omissions, violated Wagner-Peyser regulations.
- An *employer-related complaint* pertains to complaints against an employer about a specific job to which the applicant was referred in which the complainant:
 - Alleges the employer violated the terms and conditions of the job posting; or
 - Alleges the employer violated an employment-related law such as wages, working conditions, child labor laws, sanitation, or housing standards, etc.

Determination – a written record of the results of an investigation, the conclusions reached on the allegations of the program complaint, and how the complaint was resolved. If the complaint is against ESD, the determination includes an offer to the

complainant of the opportunity to request, in writing, a hearing within 20 business days after the certified date of receipt of the notification.

Employment-Related Laws – those laws that relate to the employment relationship, such as those enforced by the Department of Labor’s Wage and Hour Division (WHD), Occupational Safety and Health Administration (OSHA, or by other Federal, State, or local agencies.

Employment Service (ES) regulations – the Federal regulations at 20 CFR Parts 651, 652, 653, 654, 658, and 29 CFR Part 75.

Enforcement Agency – a body sanctioned by local, state, or national government to enforce laws. Examples include the Washington State Department of Labor and Industries (L&I), Department of Labor’s (DOL’s) Wage & Hour Division (WHD), or the Washington State Human Rights Commission, etc.

H-2A Program – the federal program that allows agricultural employers who anticipate a labor shortage to apply for permission to hire foreign workers temporarily.

H-2B Program – the federal program that allows non-agricultural employers who anticipate a labor shortage to apply for permission to hire foreign workers temporarily.

Migrant Farmworker - a seasonal farmworker (as defined in this section) who travels to the job site so that the farmworker is not reasonably able to return to their permanent residence within the same day.

Migrant Seasonal Farmworker (MSFW) – a migrant farmworker or a seasonal farmworker.

Program Complaint Representative (Complaint Contact Representative) – Workforce Services Division (WSD) Regional Director or the designated local staff assigned to process program complaints according to procedural requirements contained in this section of the Handbook (Wagner-Peyser Program Complaint Procedures).

Resolution – A program complaint is considered resolved when:

- The complainant indicates satisfaction with resolution.
- The complainant chooses not to elevate a complaint to the next level.
- The complainant fails to respond to a written request for information within time frames.
- The complainant exhausts the final level of review.
- The agency with jurisdiction makes a final determination on a referred complaint.

Note: If a complainant or a complainant’s representative fails to respond within the specified time frames, the complainant or the complainant’s representative may reopen the case within one year after it has been closed.

Seasonal Farmworker - an individual who is employed, or was employed in the past 12 months, in farmwork of a seasonal or other temporary nature and is not required to be absent overnight from their permanent place of residence.

Respondent – the individual or entity that is alleged to have committed the violation described in the complaint.

3.3 Program Complaint Representative (Complaint Contact Representative) Availability

A locally designated trained program complaint representative must be available to receive complaints regarding both ES regulations and complaints regarding employment law, at all WorkSource centers and affiliates where Wagner-Peyser funded staff are located.

3.4 Complaints Received in Person

If an individual decides to file a program complaint, the following minimum steps must be followed:

- Offer to explain the operation of the Complaint System and offer to take the complaint in writing. It is recommended, but not required, that complainants use the Program Complaint Form (available in [English](#) and [Spanish](#)) or the federally approved [ETA 8429, Complaint/Apparent Violation Form](#). If the complainant represents several other complainants, all complainants must be named; however, only one signature is required from a complainant listed on the form. An additional sheet may be attached to the form if more space is needed. The additional sheet must be signed and dated by the complainant or the complainant's representative.
- Obtain all necessary information to resolve or refer the complaint.
- If a complaint is filed by an MSFW, ask the complainant to contact WorkSource before leaving the area in order to obtain change of address information. If the complaint is not resolved at the lowest level possible, the complainant will also be advised to maintain communication with the program complaint representative during the fact-finding.
- Provide the complainant and any other complainants named on the form with a copy of the completed complaint form as confirmation of receipt.
- Process as a [complaint regarding ES regulations](#) or a [complaint regarding an employment-related law](#), depending on jurisdiction.

3.5 Complaints Received in Writing

- When a complaint in any form (such as a letter or e-mail) is received that is signed by the complainant (or the complainant's representative) and includes sufficient information to initiate processing, the document must be treated as if it

were a properly completed Complaint Form filed in person by the complainant, and processed as a complaint regarding ES regulations or as a complaint regarding an employment-related law. Confirmation of receipt must be provided to the complainant via hard copy mailing or email.

- If the complainant has not provided sufficient information to process the complaint, additional information must be requested following procedures noted in [Section 3.12](#).

3.6 Procedures for Handling Agency and Employer-related ES Complaints

The program complaint representative must, at a minimum:

- Conduct fact-finding.
- Attempt to resolve the agency related complaint within **15 working days** of receiving the complaint.
- Document all actions taken.
- If unable to resolve the complaint within **15 working days**, the program complaint representative will elevate the complaint to ESD's state contacts using information noted in [Section 3.16](#). The referral will be made in writing and contain a summary of the local determination made regarding the complaint. The local complaint contact must inform the complainant and the respondent in writing, via mail or email, of the referral action made to the state.
- For MSFW complaints, see section [3.11](#).

3.6.1 State-Level Actions on ES complaints against the Agency or employer

- The state complaint contact must attempt to resolve the complaint or, if necessary, may conduct additional fact-finding. If a resolution has not been achieved within **30 working days** from the date of referral, the state will issue a written determination via certified mail and may provide copies via email.
- Complainants may request a hearing if they remain unsatisfied after a determination has been issued by the state. Hearings will be scheduled in accordance with 20 CFR 658.416(e).

3.7 Procedures for Handling Employment-Related Law Complaints

- For all program complaints alleging an employment-related law violation filed by a non-MSFW, the program complaint representative must assist the individual by referring the complaint to the appropriate enforcement agency.
- All complaints regarding an employment-related law that are referred to an enforcement agency must be logged.
- No follow-up is required on referrals made to an enforcement agency on complaints regarding employment-related laws unless the complainant is an MSFW (see [Section 3.11](#)).

3.8 Procedures for Transferring Out-of-Area Complaints Regarding ES Regulations

- Complaints regarding allegations that occurred in another part of the state must be referred to the local ESD administrator where the alleged violation of ES regulations occurred.
- If a WorkSource center or affiliate receives a complaint against more than one site, with an alleged agency-wide violation of ES regulations, the complaint may be initially processed at the state level. Therefore, such complaints must be forwarded to the state for further consideration using the information noted in [Section 3.16](#).
- If a WorkSource center or affiliate receives a program complaint regarding allegations that occurred in another state, the complaint must be taken in writing and submitted to the state using the information noted in [Section 3.16](#) for appropriate referral and processing.

3.9 Apparent Violations

- All apparent violations must be reported to a program complaint representative.
- The program complaint representative, in conjunction with the WorkSource office administrator, must determine if there is enough information to suggest that a violation of Wagner-Peyser (ES) regulations or employment-related law occurred. If that is the case, the relevant complaint procedures must be followed and the violation must be logged.

3.10 Foreign Labor Certification (H-2A and H-2B) Complaints

- All H-2A and H-2B related complaints, whether received from workers referred through WorkSource or otherwise, are considered ES complaints and follow ES complaint procedures per [TEGL 15-24\(D\)](#).
- If a complainant files a complaint against an H-2A or H-2B employer, alleging the employer did not comply with recruitment requirements or contractual terms, the complaint will be processed as an [ES Complaint against the employer](#).
- H-2A complaints filed with the program complaint representative will be forwarded to Agricultural and Seasonal Workforce Services (ASWS) at H2Ahelp@esd.wa.gov.

3.11 Migrant and Seasonal Farm Worker (MSFW) Complaints

All MSFW complaints and apparent violations must be handled according to the type of allegations and situations described in previous sections, with the following **exceptions**:

- For ES, apparent violations and Employment-related law complaints brought by an MSFW as described in Sections [3.6](#), [3.7](#), and [3.9](#), resolution must be attempted within **five working days**, **except** when the program complaint representative determines such attempts may be detrimental to a complainant or may be an allegation of discrimination. In such instances, the program complaint

representative must either immediately refer the complaint to the appropriate enforcement agency or to the Local Equal Opportunity (EO) Officer or the State-Level EO Officer, as appropriate.

- For complaints regarding an employment-related law if the issue is not resolved within 5 business days, the program complaint representative must refer the complaint to the appropriate enforcement agency (or another public agency, a legal aid organization, or a consumer advocate organization, as appropriate) for further assistance.
- For ES complaints, if the issue has not been resolved within 5 working days, the program complaint representative must send the complaint to the State Level Complaint Officer for resolution or further action.
- All complainants must be offered the full array of employment services available at the WorkSource Center.
- MSFW complaints referred to the state level must be sent to the State Program Complaint Officer and the MSFW complainant must be provided the State Program Complaint Officer's contact information ([Section 3.16](#)).
- Monthly follow-up must be conducted on all MSFW complaints referred to an enforcement agency, as described in [Section 3.7](#).
- MSFWs will be given up to **40 working days** from the date of receipt to respond to written requests for additional information, as described in 20 CFR 658.411(e).

3.12 Requests for Additional Information

If a program complaint representative is unable to speak to a complainant to obtain additional information in order to resolve a complaint, a written request for that information will be sent via certified mail or through some other form of communication where receipt can be verified. All non-MSFW complainants are allowed **20 working days** from the date of receipt to respond to a written request for additional information. If a complainant does not respond, the complaint will be considered closed.

3.13 Confidentiality

The identity of a complainant(s) or any person who provides information related to a program complaint, or who assists in a complaint investigation, will be kept confidential to the maximum extent possible, consistent with applicable law and a fair determination of the complaint. The identity of a complainant may only be released upon written consent of the individual(s) providing the information regarding a complaint or apparent violation.

3.14 Record Keeping

All records and correspondence related to program complaints will be maintained by the program complaint representative and kept separately from any other records. All such records must be maintained for a period of not less than three (3) years from the final date of resolution of the complaint in alignment with 29 CFR 97.42.

At a minimum, complaint files will include:

- An original of completed complaint form(s);
- Originals of all correspondence received/transmitted;
- A record of pertinent telephone calls;
- Copies of e-mail correspondence if any;
- Copies of written or typed notes;
- Miscellaneous items relevant to the allegations such as copies of check stubs, work agreements, etc.

3.15 Complaint Log

All WorkSource centers and affiliates will maintain a system for logging Wagner-Peyser program complaints and for maintaining confidentiality of complaint information. An example of a complaint log is attached and meets the requirements for all program complaints. At a minimum, the log must contain:

- The name of the complainant.
- The name of the respondent (employer or state agency).
- The date the complaint is filed.
- Whether the complaint is by or on behalf of an MSFW.
- Whether the complaint pertains to ES regulations.
- If the complaint pertains to ES regulations, whether it is employer-related or agency-related.
- If the complaint alleges an employment-related law violation against an employer, the enforcement agency to which the referral was made.
- The action taken and whether the complaint has been resolved.

If program complaint representatives receive a discrimination complaint, they will log it as follows and then forward the complaint to the local EO Officer and/or the State-Level EO Officer:

- The name and address of the complainant.
- The basis of the discrimination complaint.
- A description of the complaint.
- The date the complaint was filed.
- The disposition and date.
- Any other pertinent information.

Access to the complaint log must be limited to the program complaint representative, local system complaint coordinator, and local EO Officer.

3.15.1 Complaint Log Coordination

Within **one month** of the end of a calendar quarter, the program complaint representative must provide the State Monitor Advocate an electronic copy of all complaints logged during that quarter.

3.16 Elevating Complaints to the State

Program complaints must be elevated to the State for resolution or further action if:

- No decision or resolution has been reached within **15 working days for non-MSFWs and 5 working days for MSFWs** of the filing of an ES complaint against the agency;
- No decision or resolution has been reached within **15 working days for non-MSFWs and 5 working days for MSFWs** of the filing of an ES complaint against an employer.
- An ES complaint is made against more than one WorkSource center or affiliate, with an alleged agency-wide violation as noted in [Section 3.8](#); or
- A complaint is made against a respondent from another state as noted in [Section 3.8](#).

To elevate a non-MSFW complaint, the program complaint representative must submit it to the state complaint officer at:

ESDGPStateComplaintOfficer@esd.wa.gov

or

Attention: State Complaint Officer
Employment System Policy and Integrity Division
Employment Security Department
PO Box 9046
Olympia, WA 98507-9046

To elevate an MSFW complaint ([Section 3.11](#)), the program complaint representative must email the complaint to:

ESDGPStateComplaintOfficer@esd.wa.gov

3.18 Discontinuation of Services

ESD will initiate discontinuation of services to employers consistent with 20 CFR 658 Subpart F and [Wagner-Peyser Employment System Policy 4060](#).

3.19 References

- [20 CFR 658 Subpart E](#) – Employment Service and Employment-Related Law Complaint System (Complaint System)
- [20 CFR 658 Subpart F](#) – Discontinuation of Services to Employers by the Wagner-Peyser Act Employment Service
- [20 CFR 653.113](#) – Apparent Violations
- [20 CFR 653.503](#) – Field Checks
- [29 CFR 97.42](#) – Retention and Access Requirements for Records

4. Trade Adjustment Assistance Act (TAA) Program Complaint Procedures

4.1 Purpose

To establish minimum requirements for customer service program complaints related to all TAA program service providers.

4.2 TAA Specific Complaint Definitions

Complaint (TAA) – the submission of a written and signed allegation that TAA funded service providers violated TAA regulations. At a minimum, TAA program complaints must contain the following information:

- Complainant’s name.
- Mailing address or other means by which the complainant may be contacted.
- Identification of individual(s) or organizations(s) responsible for the alleged issue.
- A description of the complainant’s allegations, which must include enough detail to determine the jurisdiction of the complaint and the date(s) the alleged incident(s) took place.
- The complainant’s written or electronic signature and signature date. The signature of their authorized representative is also acceptable.

Program Complaint Representative (Complaint Contact) – WSD Regional Director or designated local staff assigned to process program complaints according to procedural requirements contained in this section.

4.3 Complaints Received in Person

If an individual elects to file a program complaint, the following minimum steps will be followed:

- Offer to assist the complainant in filing a complaint. It is recommended, but not required, that complainants use the Program Complaint Form (available in [English](#) and [Spanish](#)).
- Provide the complainant, and any other complainants identified on the complaint, with a completed copy of the complaint form.
- Follow procedures for handling TAA complaints.

4.4 Complaints Received in Writing

- When a complaint in any form (e.g., a letter) is received that is signed by the complainant and includes sufficient information to initiate processing, the document must be treated and processed as if it were a properly completed Complaint Form filed in person by the complainant.
- If the complainant has not provided sufficient information, additional information must be requested in alignment with procedures noted in [Section 4.5](#).

4.5 Procedures for Handling TAA Program-Related Complaints

TAA program-related complaints will, at a minimum, be processed as follows:

- Conduct fact-finding.
- Attempt to resolve the complaint within **15 working days** of receiving the complaint.
- Document all actions taken.
- If unable to resolve the complaint within **15 working days**, the program complaint representative must elevate the complaint to the state using information noted in [Section 4.10](#). The referral must be made in writing and contain a summary of the local determination made. The program complaint representative will inform the complainant and the respondent, in writing, of the referral action made to the state.
- The state must attempt to resolve the complaint or, if necessary, may conduct additional fact-finding. If a resolution has not been achieved within **30 working days** from the date of referral, the state will issue a written determination via certified mail.
- The complainant may request a hearing if they remain unsatisfied after a determination has been issued by the state. Hearings will be scheduled in accordance with 20 CFR 658.416(e).

4.6 Requests for Additional Information

If a program complaint representative is unable to speak to a complainant to obtain additional information needed to resolve a complaint, a written request for additional information will be sent via certified mail or through some other form of communication where receipt can be verified. All TAA complainants are allowed **20 working days** from the date of receipt to respond to a written request for additional information. If a complainant does not respond, the complaint will be considered closed.

4.7 Confidentiality

The identity of a complainant(s) or any person who furnishes information related to, or who has assisted in an investigation of a complaint, will be kept confidential to the maximum extent possible, consistent with applicable law and a fair determination of the complaint. The identity of a complainant may only be released upon written consent of the individual(s) furnishing information regarding a complaint or apparent violation.

4.8 Record Keeping

All records and correspondence related to program complaints must be maintained by the program complaint representative and kept separately from any other records. All records regarding TAA complaints and actions taken must be maintained for a period of not less than three (3) years from the final date of resolution of the complaint in alignment with 29 CFR 97.42. At a minimum, files must include:

- An original of completed complaint form(s).
- Originals of all correspondence received/transmitted.
- Copies of e-mail correspondence, if any.
- Copies of written or typed notes.
- Miscellaneous items relevant to the allegations, such as copies of check stubs, work agreements, etc.

4.9 Complaint Log

All WorkSource centers and affiliates must maintain a system for logging TAA program complaints and for maintaining confidentiality of complaint information. A complaint log example is attached and meets the requirements for all program complaints. At a minimum, the log must contain:

- The name of the complainant.
- The name of the respondent.
- The date the complaint is filed.
- The action taken and whether the complaint has been resolved.

If the program complaint representative receives a discrimination complaint, they will log it as follows and then forward the complaint to the local EO Officer, local system complaint coordinator, and/or the State-Level EO Officer:

- The name and address of the complainant.
- The basis of the discrimination complaint.
- A description of the complaint.
- The date the complaint was filed.
- The disposition and date.
- Any other pertinent information.

Access to the complaint log must be limited to the program complaint representative, local system complaint coordinator, and local EO Officer.

4.10 Elevating Customer Service-Related Complaints to the State

A TAA customer service-related complaint may be elevated to the state if:

- No decision or resolution has been reached within **15 working days** of the filing of the complaint; or
- The TAA customer service-related complaint is made against more than one WorkSource center or affiliate, with an alleged agency-wide violation.

To elevate a TAA customer service-related program complaint to the state, the program complaint representative must submit a written notice to the state complaint officer at:

ESDGPStateComplaintOfficer@esd.wa.gov

or

Attention: State Complaint Officer
 Employment System Policy and Integrity Division
 Employment Security Department
 PO Box 9046
 Olympia, WA 98507-9046

4.11 References

- [20 CFR 618](#) – Trade Adjustment Assistance under the Trade Act of 1974, as amended
- [Public Law 93-618](#) – Trade Act of 1974, as amended
- [Training and Employment Guidance Letter \(TEGL\) 11-02](#), [Change 1](#) and [Change 2](#) – Trade Act of 2002
- [TEGL 22-08](#) and [Change 1](#) – Trade and Globalization Adjustment Assistance Act of 2009
- [20 CFR 658 Subpart E](#) – Employment Service and Employment-Related Law Complaint System
- [20 CFR 683.600\(c\)\(1\)](#) – Requirement for Process Dealing with Complaints
- [29 CFR 97.42](#) – Retention and Access Requirements for Records

5. WIOA Title I-B Program Complaint Procedures

5.1 Purpose

To establish minimum requirements for resolving complaints alleging a violation of WIOA Title I-B regulations, grants, or other agreements under WIOA.

5.2 WIOA Specific Complaint Definitions

Complainant – an individual, organization, association, or other entity filing a complaint.

Complaint (WIOA) – the submission of a written and signed allegation that WIOA Title I-B funded programs/partners violated WIOA Title I-B regulations. The Program Complaint Form (available in [English](#) and [Spanish](#)) may be used; however, at a minimum, complaints must contain the following information:

- Complainant's name.
- Mailing address or other means by which the complainant may be contacted.
- Identification of individual(s) or organization(s) responsible for the alleged issue.
- A description of the complainant's allegations, which must include enough detail to determine the jurisdiction of the complaint and the date(s) the alleged incident(s) took place.
- The complainant's written or electronic signature and signature date. The signature of their authorized representative is also acceptable.

Local Hearing – the process by which a local area, through an impartial hearing officer, reaches a determination in an attempt to resolve a WIOA complaint within **60 calendar days** from the date of complaint submission. For all intents and purposes, the local hearing is the formal resolution process prescribed by WIOA for program complaints, but complaints can be resolved prior to, and in lieu of, a local hearing.

Local Hearing Officer – an impartial officer responsible for conducting a hearing. Impartial officers will not be directly connected to the allegations or potentially affected by the results of the determination(s).

Program Complaint Representative (Complaint Contact) – LWDB Director or designated local staff assigned to process program complaints according to procedural requirements contained in this section.

5.3 Providing Information about WIOA Program Complaint Procedures

- Information about the local WIOA program complaint procedures, including instructions on how to file a complaint, must be made available to WIOA Title I-B participants and other interested parties in the WorkSource System upon request.
- Individuals receiving WIOA Title I-B funded services will be provided a notice of their right to file a program complaint. An acknowledgement of receipt will be signed by the participant and included in the participant's file. For an example, refer to the [WIOA Summary of Rights and Procedures Form](#).
- Reasonable efforts must be made to ensure that information about the content of the WIOA complaint procedures will be understood by all individuals, including youth, individuals with limited English proficiency (LEP), and individuals with disabilities.

5.4 Program Complaint Resolution Timeline

Complainants must be provided an opportunity to resolve complaints without a hearing, and an opportunity for a hearing if the resolution is not agreeable to any party involved.

An initial resolution should be attempted within the **first 25 calendar days** of receipt of the complaint to allow LWDBs sufficient time to prepare for and conduct a hearing, in the event that the complaint is not resolved. The hearing must be completed, and a determination provided, **within 60 calendar days** of receipt of the complaint.

5.5 Local Hearings

The submission of a complaint is considered a complainant's hearing request. A hearing before an impartial hearing officer will be completed within **60 calendar days** of the filing of a complaint unless such a complaint is resolved prior to the hearing.

The complainant and the respondent must be notified in writing of the hearing prior to the date of the hearing. The hearing notice must be in writing and must contain the following information:

- Date of the notice, name of the complainant, and the name of the party against whom the complaint is filed.
- Date, time, and place of the hearing.
- Statement of the alleged violations.
- Name, address, and telephone number of the contact person issuing the notice.

The hearing will be conducted according to the procedures established by the LWDB, and a hearing determination will be provided to complainant within **60 calendar days** from the date of complaint submission.

5.6 State-Level Appeal

An appeal may be filed with the State Complaint Officer if:

- No local decision has been reached within **60 calendar days**; or
- Either party remains dissatisfied with the local hearing decision.

To request a state hearing, the complainant must submit a written and signed notice of appeal to:

ESDGPStateComplaintOfficer@esd.wa.gov;

or

Attention: State Complaint Officer
Employment System Policy and Integrity Division
Employment Security Department
PO Box 9046
Olympia, WA 98507-9046

5.7 Confidentiality

The identity of a complainant(s) or any person who furnishes information related to, or who has assisted in, an investigation of a complaint will be kept confidential to the maximum extent possible consistent with applicable law and a fair determination of the complaint. The identity of a complainant may only be released upon written consent of the individual(s) furnishing information regarding a complaint.

5.8 Record Keeping

All records and correspondence related to program complaints will be maintained by the program complaint representative and kept separately from any other records. All records regarding WIOA Title I-B complaints and actions taken must be maintained for a period of not less than three (3) years from the final date of resolution of the complaint in alignment with 29 CFR 97.42. See 29 CFR 95.53 for institutions of higher education, non-profit organizations and commercial organizations.

At a minimum, files will include:

- The original complaint filed.
- Copies of all documents related to the issues that were collected and reviewed, including all fact-finding reports and interviews.
- Copies of all correspondence and agreements with involved parties.

5.9 Complaint Log

All WorkSource centers and affiliates must maintain a system for logging WIOA program complaints and for maintaining confidentiality of complaint information. All actions taken related to receipt, referral, or disposition of each complaint must be recorded in a complaint log. An example of a complaint log is attached and meets the minimum respective requirements for program complaints.

If the program complaint representative receives a discrimination complaint, they will log it as follows and then forward the complaint to the local system complaint coordinator, local EO Officer and/or the State-Level EO Officer:

- The name and address of the complainant.
- The basis of the discrimination complaint.
- A description of the complaint.
- The date the complaint was filed.
- The disposition and date.
- Any other pertinent information.

Access to the complaint log must be limited to the local system complaint coordinator and the local EO Officer.

5.10 Binding Arbitration

Complaints will be processed through a binding arbitration procedure if a collective bargaining agreement covering the parties to the complaint so provides.

5.11 References

- 20 CFR [683](#) Subpart F – Grievance Procedures, Complaints and State Appeals Processes
- [29 CFR 97.42](#) – Retention and Access Requirements for Records
- [29 CFR 95.53](#) – Retention and Access Requirements for Records

6. Reemployment Services and Eligibility Assessment (RESEA) Program Complaint Procedures

The RESEA program follows the Wagner-Peyser complaint process identified in [Section 3](#).

7. Jobs for Veterans State Grant (JVSG) Program Complaint Procedures

The JVSG program follows the Wagner-Peyser complaint process identified in [Section 3](#).

8. Complaint Posters

All comprehensive, affiliate, and specialized WorkSource centers must display two complaint-related posters in an area that is conspicuous and readily visible to the public:

- The WorkSource complaint poster that cites the Local Complaint System Coordinator as the point of contact.
- The U.S. Department of Labor-mandated Wagner-Peyser complaint poster that cites the ESD WorkSource administrator and State Monitor Advocate in accordance with TEN 08-23.

9. Examples of Tools

- Program Complaint Log [Download Word version here](#)
- [Summary of Rights and Procedures Form](#) [Download Word version here](#)
- [Program Complaint Form - English](#) (sufficient for Wagner-Peyser, TAA, and WIOA complaints) [Download Word version here](#)
- [Program Complaint Form – Spanish](#) (sufficient for Wagner-Peyser, TAA, and WIOA complaints) [Download Word version here](#)

Complaint/Apparent Violation Log

Local Workforce Development
 Board: _____
 Complaint Coordinator: _____

Program Year: _____
 Quarter Ending: _____

ID	Date of Receipt	Complainant's Name	Complainant's Address	Program/ Process	MSFW	Grounds / Description	Respondent	Resolution / Disposition	Date of Resolution
					Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.
					Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.
					Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.
					Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.
					Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.
					Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.
					Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.
					Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.
					Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.
					Yes <input type="checkbox"/> No <input type="checkbox"/>				Click here to enter a date.

NOTE: The identity of complainants and any persons who furnish information relating to, or assisting in, an investigation of a complaint must be kept confidential to the maximum extent possible, consistent with applicable law and a fair determination of the complaint.

Instructions/Definitions:

Date of Receipt - The day the complaint is received, or apparent violation is observed. Complaints must be submitted within two years of the incident for Wagner-Peyser; **ID** - The last two digits of program year + consecutive 3-digit ID number (i.e., the first complaint of PY 2019 will be "19-001").

Program or Process - Refers to a federal program (e.g., WIOA) or it could be a specific function or activity (e.g., workshop). Program or Process also indicates jurisdiction.

Resolution/Disposition - The outcome or determination of the investigation, including any referral/transfer. If referred/transferred, the agency or partner the complaint has been transferred to needs to be clearly identified.

Respondent - Refers to the organization and individual within the WorkSource system against whom the complaint is filed.

WIOA Summary of Rights and Procedures

RIGHTS

You have the right to file a complaint if you feel you have a complaint relating to your employment or training and will not be penalized for filing a complaint. Your complaint must contain sufficient information for us to determine who is authorized to handle the complaint.

FILING A COMPLAINT

To file a complaint, contact a local staff person and tell them that you want to file a complaint. Local staff will provide you with the necessary information and assistance to put your complaint in writing. Within 25 days of filing the complaint, a solution will be offered to resolve the matter. If you feel that your complaint is not resolved during this initial resolution effort, a hearing will be scheduled.

INFORMATION REGARDING HEARINGS

A hearing will be provided within 60 days of the receipt of a complaint, unless the complaint is resolved prior to the hearing date. The following information will be provided to you prior to the hearing date:

- 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.
- A statement of the alleged violations.
- The name, address, and telephone number of the contact person issuing the notice.

DECISION AND APPEAL PROCESS

A hearing decision will be provided within 60 days of filing your complaint, unless the complaint is resolved without a hearing. If you are not satisfied with the final decision, or if a decision has not been reached within the 60-day timeframe, you may send a written and signed notice of appeal via e-mail or mail to:

ESDGPStateComplaintOfficer@esd.wa.gov

or

Attention: State Complaint Officer
Employment Security Department
Employment System Policy and Integrity Division
PO Box 9046
Olympia, WA 98507-9046

The Local Workforce Development Board is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Washington Relay Service 711.

Applicant Signature

Date

Program Complaint/Apparent Violation Form

Complainant's Information

Last Name	First Name	MI
Address (No., St., City, State, Zip)		
Email		
Phone #	Alt. Phone #	

Respondent's Information

Name of Person Complaint is Against	
Name of Organization/Office	
Address (No., St., City, State, Zip)	
Phone #	Email

Description of the Complaint or Apparent Violation (Please explain the incident and circumstances)

Date of Incident

Desired Resolution (Please explain any resolution(s) you are seeking in response to this complaint)

Certification: I CERTIFY that the information furnished is true and accurately stated to the best of my knowledge. I AUTHORIZE the disclosure of this information to other enforcement agencies for the proper investigation of my complaint. I UNDERSTAND that my identity will be kept confidential to the maximum extent possible, consistent with applicable law and a fair determination of my complaint.

Can we share this complaint/information with the individual this complaint has been filed against? Yes No

Signature of Complainant (not required for Apparent Violations):

Date:

X

Staff Use Only

What program was involved in the alleged incident? (check all that apply)

- | | |
|---|---|
| <input type="checkbox"/> Employment Service
<input type="checkbox"/> Against ESD
<input type="checkbox"/> Against Employer
<input type="checkbox"/> Alleged Violation of Wagner-Peyser Regulations
<input type="checkbox"/> Migrant or Seasonal Farm Worker (MSFW) | <input type="checkbox"/> Workforce Innovation and Opportunity Act (DW, Adult, Youth) Program

<input type="checkbox"/> Trade Adjustment Assistance (TAA) Program

<input type="checkbox"/> Other Program/Provider: _____ |
| <input type="checkbox"/> Employment -Related Law Complaint
<input type="checkbox"/> Alleged Violation of Employment – Related Law(s)
<input type="checkbox"/> Other: _____ | <p>Note: Discrimination Complaints are documented using the complaint form in WSS Policy 1017, Discrimination Complaint Processing. Forward to EO Officer after logging.</p> |

Referrals (if applicable):

Agency/Organization Receiving Referral

Dept. of Labor & Industries Dept. of Health Human Rights Commission Other: _____

Agency Contact

Phone #

Email

Actions taken on Complaint/Apparent Violation (use separate paper if additional space needed)

Action taken by: (first and last name)

On: (date)

Complaint/Apparent Violation resolved at local level? Yes No (If no, explain (use separate paper for additional space))

Provided other services? Yes No (If no, explain (use separate paper for additional space))

Name of Staff Person Receiving Complaint/Apparent Violation

Last Name	First Name	Office Address (No., St., City, State, Zip)	
Staff Signature: X		Phone #	Email
Date:			

FORMULARIO PARA QUEJAS O INFRACCIONES APARENTES

Información del Trabajador / Individuo		Información del Encuestado / Organización	
Apellido	Nombre	Nombre de la Persona de quien se Queja	
Dirección (Número, Calle, Ciudad, Estado, Código Postal)		Nombre de la Organización o Empleador	
Correo Electrónico		Dirección (Número, Calle, Ciudad, Estado, Zona Postal)	
Teléfono	Teléfono Alternativo	Teléfono	Correo Electrónico

Declaración de la Queja o Infracción Aparente (Por favor explique el incidente y circunstancias)

Fecha del Incidente

Resolución Deseada (Explique cualquier resolución que esté buscando en respuesta a esta queja.)

Certificación: CERTIFICO que la información proporcionada es verdadera y precisa según mi leal saber y entender. AUTORIZO que se comparta esta información a otras agencias para la adecuada investigación de mi queja. ENTIENDO que mi identidad se mantendrá confidencial en la mayor medida posible, de acuerdo con las leyes que aplican y con una determinación justa de mi queja.

¿Podemos compartir esta queja / información con la persona contra la que se ha presentado esta queja? Sí No

Firma del Trabajador / Individuo: (No se requiere para Infracciones Aparentes) **Fecha:**
X

Staff Use Only (Para Uso del Personal Solamente)

What program was involved in the alleged incident? (check all that apply)

<input type="checkbox"/> Employment Service (Wagner-Peyser) <input type="checkbox"/> Against ESD <input type="checkbox"/> Against Employer <input type="checkbox"/> Alleged Violation of Wagner-Peyser Regulations <input type="checkbox"/> Migrant or Seasonal Farm Worker (MSFW) <input type="checkbox"/> Employment-Related Law Complaint <input type="checkbox"/> Alleged Violation of Employment-Related Law(s) <input type="checkbox"/> Other: _____	<input type="checkbox"/> Workforce Innovation and Opportunity Act (DW, Adult, Youth) Program <input type="checkbox"/> Trade Adjustment Assistance (TAA) Program <input type="checkbox"/> Other Program/Provider: _____ Note: Discrimination Complaints are documented using the complaint form in WSS Policy 1017, Discrimination Complaint Processing. Forward to EO Officer after logging.
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Referrals (if applicable):

Agency/Organization Receiving Referral
Dept. of Labor & Industries Dept. of Health Human Rights Commission Other: _____

Agency Contact | **Phone #** | **Email**

Actions taken on Complaint/Apparent Violation (use separate paper if additional space needed)

Action taken by: (first and last name) | **On: (date)**

Complaint/Apparent Violation resolved at local level? Yes No (If no, explain (use separate paper for additional space))

Provided other services? Yes No (If no, explain (use separate paper for additional space))

Name of Staff Person Receiving Complaint/Apparent Violation

Last Name	First Name	Office Address (No., St., City, State, Zip)
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Staff Signature: X	Date Received:	Phone #	Email
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11. Concern and Complaint Processing Questions & Answers (Q&A)

Q: What is the difference between a concern and a complaint?

A: A concern is any written or verbal expression of dissatisfaction rather than alleged violations of program regulations noted in this handbook. A written expression of dissatisfaction may also be processed as a concern except for alleged violations of program rules or laws noted in this handbook.

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.

Q: What do I do if I'm not familiar with the program or scope of the concern presented?

A: 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.

Q: What should I do if a customer indicates they want to file a program complaint?

A: 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 program complaint representative for further processing.

Q: What should I do if a customer indicates they want to file a discrimination complaint?

A: If a customer says they feel discriminated against or feels they were treated poorly because of a protected characteristic (race, gender, age, etc.), first give the customer their rights to file a discrimination complaint with the local EO Officer, the State-Level EO Officer, and the USDOL Civil Rights Center. After giving the customer their rights, continue to provide service to the customer. Please refer to WorkSource System Policy 1017 - Discrimination Complaint Processing.

Q: Can a program complaint be filed via email?

A: Yes. A complaint provided in any reasonable form, (letter or email) which is signed by the complainant or their representative (written or electronic) and includes sufficient information

to initiate an investigation must be treated as if it were a completed locally approved form filed in person.

Q: What is an example of a written concern that is not a program complaint?

A: Here's an example: an email submitted to a legislator expressing dissatisfaction with services, as opposed to an allegation of a violation of program regulations, is considered a concern.

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 signature. The complaint processes in this handbook are tied to specific funding sources, and external complaint processes exist to correspond with external funding sources.

Q: Do concerns resolved at the local level need to be logged?

A: 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.

Q: How can a customer file a program complaint?

A: 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. This handbook contains additional information regarding what must be included on complaint forms, including examples of forms that can be implemented.

Q: Who has local authority over program complaint jurisdiction?

A: For WIOA Title I-B-related complaints it would be the LWDB director or appointee (WIOA Title I-B program complaint representative; for Wagner-Peyser, TAA, JVSG, and RESEA-related complaints, it would be the WSD regional director or appointee.

Q: May LWDBs develop a local policy and process that applies to all WorkSource sites located in a WDA?

A: Yes. It is not required for each site to maintain separate policies or procedures. However, local areas may consider appointing more than one program complaint representative (or other representative) for program complaints to assist with facilitation of the LWDB's process even if the LWDB is governed by one policy or procedure.

Q: Is a local hearing required to respond to a Wagner-Peyser complaint that is not resolved at the local level?

A: No. If a complaint is made against ESD and that program complaint has not been resolved within 15 working days, the program complaint representative will elevate the

complaint to the state following procedures noted in [Section 3.6.1](#) of the handbook.

Q: For Wagner-Peyser, what is the difference between a complaint and an apparent violation?

A: 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.

Partners should be cautioned that it **is not** 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 system representative for processing according to the requirements in [Section 3.9](#) of this handbook. Those program complaint representative will evaluate the individual circumstances of the issue presented and determine whether the allegation warrants action.

Q: What happens if a complainant moves and we don't receive a confirmation receipt?

A: When using certified mail, a confirmation receipt is normally returned. If the confirmation receipt is returned, indicating 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 must be saved in a file as a document that confirms an attempt to make contact was made.

Q: Can only ESD discontinue services or can a non-ESD entity providing labor exchange services also discontinue services?

A: Per 20 CFR 658.501(a), the state workforce agency (ESD) must initiate procedures for discontinuation of services to employers. This 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.

Q: What specific services could be discontinued according to the Wagner-Peyser program complaint process?

A: 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.

Q: Why are TAA Complaint Procedures included in this handbook?

A: TAA complaint procedures, as well as those for JVSG and RESEA, were added to the handbook in order to increase visibility of complaint processing requirements among partners. In addition, it made sense to centralize the location of other program complaint

procedures to make partners aware that there are specific procedures for each.

Q: Why is the term “grievance” not defined or noted in the WIOA Title I-B complaint procedures?

A: The term “grievance,” while noted in WIOA regulations, is not defined. In addition, a review of WIOA Title I-B complaint procedures from other states indicated that the word “grievance” is often used interchangeably with the word “complaint.” To reduce possible confusion, Employment System Administration and Policy has eliminated the use of the word “grievance” until guidance is received from DOL offering a definition that is different from the word complaint.

Q: For WIOA Title I-B program complaints, can a program complaint representative serve as an impartial hearing officer?

A: Program complaint representatives may serve as impartial hearing officers only if they are 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 LWDB or representatives of the LWDB as hearing officers if they are not directly connected or potentially affected by the determination.

Q: Where can I find guidance on how to prepare for or how to conduct a hearing on a WIOA Title I-B program complaint?

A: The Washington State Office of Administrative Hearings (OAH) serves as an independent state agency that conducts impartial administrative hearings. [OAH's website](#) offers instruction on how to schedule and prepare for a hearing. For WIOA Title I-B complaints, OAH may serve as an impartial hearing officer.

[Ohio's Complaint Procedures Manual](#) also provides several helpful examples, including a hearing notice and hearing determination outline. Refer to pages 33-36.