

ADMINISTRATION	Grievance and Complaint Resolution Procedures
Classification:	Other
Date Adopted:	01/25/18
Background:	<p>TDOLWD Workforce Services Guidance - Grievance and Complaint Resolution Procedures; 20 CFR 683.600(b)(1); 20 CFR 683.600(c); and 29 CFR 38.1 require policy and procedures for filing grievances and complaints (other than discrimination complaints) from participants, sub-grantees, Local Workforce Development Boards, and other interested parties. WIOA mandates that each State and Local Workforce Development Area (LWDA) or Local Workforce Development Board (LWDB) receiving funds under WIOA establish and maintain a procedure for WIOA grievances or complaints.</p>
Policy:	<p>I. Definitions:</p> <ul style="list-style-type: none"> A) <i>Complainant</i>: the party that files the grievance. B) <i>Days</i>: consecutive calendar days, including weekends and holidays. C) <i>Grievance or complaint</i>: a written complaint filed in accordance with this policy. D) <i>Informal Resolution</i>: an opportunity to resolve complaints informally before they become grievances. E) <i>Interested Parties</i>: includes participants, subgrantees, subcontractors, service providers, One-Stop Partners, providers of training services, and other relevant parties. F) <i>Respondent</i>: the party who argues against the complainant or accuser. G) <i>The Secretary</i>: the acting officer of the U.S. Department of Labor. H) <i>Service Providers</i>: recipients or subrecipients of WIOA Federal financial assistance that are awarded contracts to provide WIOA services under the LWDA or WIOA subrecipients. I) <i>Unit of General Local Government</i>: for the purpose of this guidance shall include a combination of general local government units. J) <i>Hearing Officer</i>: an impartial party who presides at a hearing on a grievance or complaint. <p>II. Policies and procedures required by TDLWD</p> <ul style="list-style-type: none"> A) Job Corps is an exception to this policy. B) All locally developed grievance and complaint policies, procedures, signed acknowledgments, and related documentation shall be maintained and made available for review by TDLWD central office staff. C) All grievance and complaint processes are to be made available in hard copy and posted on each LWDA's website, and must be available in accessible formats for persons with disabilities or other barriers, as required by law. D) Grievance procedures must be posted and accessible in areas where administration or program services are provided. E) A monitoring/tracking system must be maintained to document the grievances received and their disposition. These records shall be available for review for three (3) years. <ul style="list-style-type: none"> 1) The retention period begins on the date of the TDLWD central office staff accepts the final closeout report for the grant or contract. Records shall

be retained beyond three (3) years if any litigation or audit has begun, or if a claim is made involving the grant covered by the records. In these instances, the records shall be retained until the litigation, audit, or claim has been resolved.

F) TDLWD will conduct a review of all contracts, plans, and agreements to ensure the inclusion of equal opportunity policies. These documents will contain (but not be limited to):

- 1) Evidence that efforts have been made to provide equitable services across all substantial population segments.
- 2) Both programmatic and physical access to those with physical, mental, or sensory disabilities will be provided.

G) Written complaints shall include all of the following:

- 1) The full name and mailing address of the complainant and the party or parties alleged to have committed the act and the entity that the complainant alleges is responsible for discrimination;
- 2) The date(s) on which the alleged acts which are the basis of the grievance occurred, or if continuing, when such acts began and ascribe the continuing nature.
- 3) A description of the complainant's allegations in enough detail to allow an initial determination, establish jurisdiction, encourage timeliness, and determine the apparent merit of the complaint; and
- 4) The complainant's signature or the signature of the complainant's authorized representative.

H) Written complaints from either the complainant or the complainant's authorized representative will be received by the:

- 1) Local administrative entity
- 2) Service provider; or
- 3) One-Stop Operator

III. Process for Complaint and Grievance Resolution of WIOA Participants and AJC customers:

A) Customer desires to file a complaint regarding WIOA Services.

B) Customer follows procedures from Attachment II of this document.

C) Local EO Officers have 60 days to review the submitted documentation and issue a response.

D) If complaint is not resolved within 60 days of filing, or either party is dissatisfied with decision, an appeal is filed at the State level.

E) If the complaint is not resolved at this point, TDLWD WIOA Compliance Officer will have 60 days to review documentation and will either issue a resolution or hold a hearing to attempt resolution.

F) If complaint is not resolved at the State after 60 days of filing, or either party is dissatisfied with the decision, an appeal is filed at the Federal level.

G) The Secretary will make a final decision.

IV. Local Policy

The Smoky Mountain Area Workforce Development Board (SMAWB) will establish and maintain a procedure for grievances according to the requirements of WIOA § 181(c). The Board will provide information about the content of the grievance procedure to participants and other interested parties affected by the local workforce system, including participants, subgrantees,

one-stop partners, service providers, subcontractors, providers of training services and other interested parties.

If a WIOA registrant or participant, subgrantee, one-stop partner, service provider, subcontractor, provider of training services, or any other interested party has a grievance against the local workforce development system, an opportunity to submit the grievance will be offered.

V. Required Notice of Grievance Procedures

Efforts shall be taken to assure that the information contained within the Required Notice is understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals. All efforts shall comply with the language requirements of 29 CFR 37.35 regarding the provision of services and information in languages other than English. The one-stop operator shall ensure that Required Notice of Grievance Procedures are:

- 1) distributed to all participants who are receiving WIOA Title I funds,
- 2) displayed in conspicuous locations in all one-stop centers,
- 3) made available in languages that represent the populations, and
- 4) provided to every participant receiving individualized services.

VI. Grievance Procedures

In the event that a WIOA registrant or participant, a One-Stop partner, a service provider, or any other interested party has a grievance against the local workforce system, he or she can submit the grievance. Grievances shall be submitted within 180 calendar days from the date of the violation(s).

VII. Contents of Grievance:

- A) Shall be signed by the grievant or his/her authorized representative;
- B) Shall contain a clear, concise statement of the facts of the case, including the full name, mailing address and phone number of the party or parties filing the grievance;
- C) The full name, mailing address and phone number of the party alleged to have committed the act;
- D) The date(s) on which the alleged acts, which are the basis of the grievance occurred, or if continuing, when such acts began, and describe the continuing nature;
- E) Names and addresses of persons who may have knowledge of the facts of the grievance;
- F) Any other factual information supporting the complaint;
- G) A description of the allegations in sufficient detail so as to allow the Board EOO to determine whether:
 - 1) The SMAWB has jurisdiction over the grievance;
 - 2) The grievance was filed timely;
 - 3) The grievance potentially violated any provision of Title I WIOA;
 - 4) Grievances may be delivered in person or via postal mail to:

Attention: Equal Opportunity Officer
Center for Workforce Development
Walters State Community College
500 S. Davy Crockett Parkway
Morristown, TN 37813

VIII. Informal and Formal Resolutions

A) Informal Resolution

The Dean of Workforce Development or EOO will attempt to resolve any grievance or appeals informally by meeting with the parties in person or discussing the grievance with the parties by telephone. If the grievance is not resolved within fifteen (15) calendar days from the receipt of the grievance, the matter shall then progress to a formal resolution.

B) Formal Resolution

In the event that the grievance cannot be resolved informally, a cohort of Board members and Board staff will schedule a formal hearing to review the grievance. A hearing shall be performed in accordance with relevant law. The hearing process shall be completed within sixty (60) days from the date the grievance was received by the SMAWB.

The grievant and relevant parties shall be notified in writing of the date and place of the formal hearing at least ten (10) days prior to the meeting date.

The cohort will complete the hearing and render a decision within 60 days of the initial filing of the grievance or complaint.

IX. Letter of Response

A written response shall be provided to the grievant notifying him/her of the determination(s), as well as information for filing an appeal with TDWLD.

X. State Level

Appeals Process to Tennessee Department of Labor and Workforce Development

If the cohort does not render a decision within sixty (60) days from the date of the filing of the grievance, or if the complainant is dissatisfied by the results, an appeal may be filed with the TDOLWD WIOA Compliance Officer within (30) days from the expiration of the (60) day time period.

If the State renders a decision with which a party is dissatisfied, the appeal may be filed at the Federal level. The Secretary will make a final decision no later than one hundred and twenty days after receiving the appeal.

XI. Direct Recipients Complaint and Grievance Procedures (20 CFR 683.600[e])

A) Procedures of direct recipients must provide:

- 1) A process for dealing with grievance and complaints from participants and other interested parties affected by the recipient's WIOA programs, and
- 2) An opportunity for an informal resolution and a hearing to be completed within sixty (60) days of the filing of the grievance or complaint.

B) Direct Recipients include but is not limited to LWDBs, One-Stop Operators, training providers, and service providers.

XII. Process for the Filing of Discrimination Complaints to the Federal Civil Rights Center:

Note: the Civil Rights Center of the USDOL, not the TDLWD, will administer the functions of this section.

Local Workforce Development Boards and their administrative entities must adopt the guidance set forth in this document and **WIOA Section 188** in regards to informing their staff and contractual service providers of the requirements and prohibitions set forth in **WIOA Section 188** regarding non-discrimination.

XIII. Compliance

The WIOA Equal Opportunity Officer shall review all grievance claims and the response of board staff to ensure each claim process is compliant with local policy and procedures.

It shall be the responsibility of the EOO to develop and carry out methods and procedures to implement this policy - including directives, technical assistance, and compliance monitoring activities.

COMPLAINTS BASED ON DISCRIMINATION

Complaints based on discrimination in violation of WIOA Section 188 may be filed directly with the Federal government (information concerning complaint submission can be found on page 9 of the TDLWD Grievance and Complaint Guidance) and submitted to the Director of the Civil Rights Center. These complaints will not be handled directly by the AJC. No participant in a WIOA program shall be discriminated against on the grounds of - but not limited to - race, color, religion, sex, national origin, age, disability, political affiliation or belief. This nondiscrimination policy applies to any program or activity that receives financial assistance under Title I. Further information concerning discrimination-based complaints can be found on pages 9-13 of the TDLWD Grievance and Complaint Guidance.

Complaints based on discrimination may be submitted using the three options below:

- Sent by postal mail to:
Director
Civil Rights Center
ATTENTION: Office of External Enforcement
U.S. Department of Labor
Room N-4123
200 Constitution Avenue NW
Washington, DC 20210
- Faxed to (202) 693-6505, Attention: Office of External Enforcement (limit of 15 pages)
- Emailed to CRCEXternalComplaints@dol.gov

Attachment I

TDLWD WIOA American Job Center: Staff Procedure for Processing Customer Complaints

The following process must be in place and adhered to in each AJC when a customer files a complaint.

- A) When the customer asks to file a complaint, the AJC site lead (or staff assisting the customer in the absence of the site lead) must provide a copy of the Grievance and Complaint Resolution Procedures Guidance (to include Attachment II of the Guidance) and a copy of the Complaint/Apparent Violation Form (ETA 8429). Additional forms may be downloaded at:

https://doleta.gov/programs/pdf/ETA_8429_Complaint_Form.pdf.

The customer must file the complaint within one hundred eighty (180) calendar days of the alleged occurrence. The complaint is considered to be filed the date the customer returns the completed paperwork to the AJC.

- B) The site lead or staff assisting the customer must enter the information regarding the complaint on their AJC complaint log (form LB0552) at the time the customer asking to file the complaint is given the Grievance and Complaint Resolution Procedures Guidance and a copy of the complaint/Apparent Violation Form. This log must be maintained at the local level, updated with pertinent information as it occurs, and submitted to TDLWD each time that it is updated with additional information.
- C) The complainant's information can be left out allowing the complainant to remain anonymous if the Form is being used to record an apparent violation. Further, the Form does not require the signature of the complainant if it is an apparent violation (***Training and Employment Notice No. 01-17***).
- D) The customer should be provided with the name of the AJC site lead who will be responsible for collecting the completed form as well as where and when the form should be returned. The customer must complete the form and return it to the AJC site lead. The site lead will provide a copy of the completed form to the customer.
- E) Part II of the Complaint/Apparent Violation form will be filed out in entirety by the site lead, and will include any actions taken, as well as whether or not the complaint/apparent violation was resolved.
- F) For record keeping purposes, a copy of the Complaint form will be emailed by the site lead to the local area One-Stop Operator as well as the local area EEO designated officer. A copy must also be emailed to WIOA.complaints@tn.gov. It is at this point that the local level must begin working to resolve the issue.

- G) Efforts will be made by the local AJC management, regional director, and LWDB EEO staff to resolve any issues at the local level. Local Workforce Development Areas must follow their local Complaint and Grievance policy, which must include the following:
- H) A process for dealing with grievances and complaints from participants and other interested parties.
- I) An opportunity for informal resolution and a hearing to be completed within sixty (60) days of filing the complaint
- J) A process which enables an individual as a party to a collective bargaining agreement, alleging a labor standards violation, to submit the grievance to a binding-arbitration procedure
- K) An opportunity for a local level appeal to TDLWD central office staff when:
1) No decision has been made within sixty (60) days; or
2) Either party is dissatisfied with the local hearing decision
- L) In the event that a complaint or grievance cannot be resolved at the local level within 60 days and an appeal is required, the dissatisfied party must appeal the decision by emailing the complaint form and any other pertinent information to Nicholas Bishop, Director of Compliance and Policy-Division of Workforce Services (Nicholas.bishop@tn.gov). WIOA.complaints@tn.gov will also be cc'd on the email sent to Nicholas Bishop. The State EEO officer, Evelyn Gaines Guzman, should also be included on this email: Evelyn.gaines.guzman@tn.gov
- M) TDLWD WIOA Compliance Officer will have sixty (60) days to review the submitted documentation and will:
1) Issue a resolution based on the evidence provided, or
2) Hold a hearing to attempt to resolve the complaint or grievance

The Secretary (DOL) investigates allegations arising through the grievance procedures when:

- A) A decision on a grievance or complaint has not been reached within sixty (60) days of receipt of the grievance or complaint or within sixty (60) days of receipt of the request for appeal of a local level grievance and either party appeals to the Secretary, or
- B) A decision on a grievance or complaint has been reached and the party to which such decision are adverse appeals to the Secretary.
- C) The Secretary must make a final decision on an appeal no later than one hundred twenty (120) days after receiving the appeal.

Attachment II

TDLWD WIOA American Job Center: Customer Process to File a Complaint and ETA 8429 Complaint Form

The following steps must be completed by the customer and staff when a customer requests to file a formal complaint:

- I. The American Job Center (AJC) customer must be provided, from staff, a copy of the Tennessee Department of Labor and Workforce Development (TDLWD) Grievance and Complaints Policy, along with this document. The AJC must also provide a copy of the Complaint/Apparent Violation Form (ETA 8429). AJC staff should provide contact information for the American Job Center lead who will be receiving the completed form.
- II. The complaint must be filed by the customer within one hundred eighty (180) calendar days of the alleged occurrence.
- III. The customer must fill out Part I of the Complaint/Apparent Violation Form and submit the form to the site lead; this document formally identifies the problem and provides an opportunity to describe the circumstances that lead to the grievance or provide a description of the apparent violation. The customer will submit this form to the American Job Center lead. Information must be provided to the customer on whom the form should be returned to, as well as where and when to return the form.
- IV. The complainant's information can be left out allowing the complainant to remain anonymous if the Form is being used to record an apparent violation. Further, the Form does not require the signature of the complainant if it is an apparent violation (***Training and Employment Notice No. 01-17***). The customer will be given a copy for their records.
- V. The customer will receive a response from the American Job Center, which will issue a determination on the complaint, within sixty (60) days of filing the Complaint/Apparent Violation Form (ETA 8429).
 - A) If a determination has not been made within sixty (60) days, or the customer is dissatisfied with the decision, then the complaint can be appealed to the TDLWD. Appeal requests should be directed to WIOA.complaints@tn.gov, Nicholas.Bishop@tn.gov and Evelyn.gaines.guzman@tn.gov.
 - B) The TDLWD will issue a determination within sixty (60) days of receiving the complaint.
 - C) If a decision has not been issued within sixty (60) days, or the customer was dissatisfied with the decision, a final appeal can be made the Secretary of the United States Department of Labor.

Attachment III

**LWAD 2 EQUAL OPPORTUNITY
COMPLAINT LOG**

Don Shadow
LWDA 2 Equal Opportunity Officer
500 S Davy Crockett Parkway
Morristown, TN 37813
423-587-7036

Case Number: _____

Date Complaint Filed: _____

Name of Complainant: _____

Address of Complainant: _____
Street

City, State, Zip

Basis of Complaint: _____

Description of Complaint: _____

Disposition of Complaint: _____

Other Information: _____