

## Section 12

# Complaints and Grievances

## Overview

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**Introduction** Title 20 of the Code of Federal Regulations Section 683.600 requires each Local Workforce Development Area (LWDA) to establish procedures for resolving program-related grievances and complaints alleging a violation of WIOA Title I regulations. This chapter contains information covering programmatic complaints and grievances.

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**References** This handbook chapter contains information regarding WIOA regulations, signed into law in 2014 and State directives received from the U.S. Department of Labor (DOL) and/or Employment Development Department (EDD):

- Training and Employment Notice (TEN) 28-16
  - Workforce Services Directive (WSD) 18-05 and 24-03
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# Definitions

<b>Introduction</b>	This section provides the definitions set by Employment Development Department (EDD) in relations to Programmatic complaints.
<b>Complainant</b>	Any participant or other interested or personally affected party alleging a noncriminal violation of Workforce Innovation and Opportunity Act (WIOA) Title I requirements.
<b>Complaint file</b>	A file that is maintained in a central location within each office, which includes a copy of each complaint filed along with pertinent documentation.
<b>Compliance Review Office</b>	The organization within the EDD that oversees the administrative resolution of WIOA programmatic complaints.
<b>Days</b>	Consecutive calendar days, including weekends and holidays.
<b>Grievance or complaint</b>	Written expression by a party alleging a violation of WIOA Title I, regulations promulgated under WIOA, recipient grants, subgrants, or other specific agreements under WIOA.
<b>Hearing Officer</b>	An impartial person or group of persons that shall preside at a hearing on a grievance or complaint.
<b>Local Area</b>	The Local Area administrative entity and its subrecipients to whom the administrative entity has delegated the grievance and complaint resolution process.
<b>Participant/file</b>	An individual who has been determined to be eligible to participate in and who is receiving services under a program authorized under WIOA. File can be either a hard copy or an electronic file.
<b>Recipient</b>	An entity to which a WIOA grant is awarded directly from the U.S. Department of Labor (DOL) to carry out a program under WIOA Title I.
<b>Service Provider</b>	Public agency, private nonprofit organization, or private-for-profit entity that delivers educational, training, employment, or supportive services to WIOA participants.
<b>State review panel</b>	An entity within the EDD composed of representatives from EDD's Compliance Review Office, Legal Office, and Director's Office. This panel shall review and approve or disapprove decisions and recommendations regarding grievances or complaints.
<b>Subrecipient</b>	An entity to which a recipient awards funds and is accountable to the recipient (or higher tier subrecipient) for the use of the funds provided.

# Programmatic Complaints and Grievances

<b>Introduction</b>	<p>The process is intended to guide the receipt, hearing and resolution of grievances and complaints relating to Workforce Innovation and Opportunity Act (WIOA) Title I programs and activities.</p> <p>Complaints involving allegations of discrimination, fraud, abuse, or criminal activity do not apply in this chapter; refer to the Administrative Handbook (ADMIN HB) Section 8 regarding these complaints.</p>
<b>Who may file a complaint?</b>	<p>Any customer or other interested party who believes he/she has been adversely affected by a decision or action of the local workforce system, including decisions by service providers and America's Job Center of California (AJCC) partners, has the right to file a grievance or complaint with the Director of the Workforce Development Department (WDD).</p>
<b>Freedom from retaliation</b>	<p>All persons filing complaints or grievances shall be free from restraint, coercion, reprisal, or discrimination.</p>
<b>Timeframe for filing</b>	<p>A complaint or grievance must be filed in writing, signed, and dated by the complainant with the Director of the WDD within one (1) year of the alleged violation.</p> <p>The official filing date of the complaint or grievance is the date the written grievance or complaint is received at WDD Administration, its providers, AJCC partners, or subrecipients. The filing shall be considered a request for a hearing and the subrecipient shall issue a written decision within 60 days of the official filing date. The subrecipient shall send a copy of the grievance or complaint to the respondent.</p>
<b>Reasonable efforts</b>	<p>All recipients and subrecipients of WIOA Title I funds must make reasonable efforts to ensure the policies and corresponding information will be understood by affected participants and individuals, including youth and individuals with limited English proficiency. These efforts must comply with the language requirements of Title 29 CFR Section 38.9.</p>
<b>Procedure</b>	<p>WDD must provide a copy of the grievance and complaint procedures to each participant. The procedures must include the following notification:</p> <ul style="list-style-type: none"><li>• The participants have the right to file a grievance or complaint at any time within one year of the alleged violation.</li><li>• Instructions and timelines for filing a grievance or complaint.</li><li>• The participants right to receive technical assistance from the Local Area in filing the grievance or complaint.</li><li>• The participants may file an appeal or request a separate review by Employment Development Department (EDD) if he/she experiences an incident of restraint, coercion, or reprisal as a result of filing a complaint.</li></ul>

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# Programmatic Complaints and Grievances, Continued

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<b>Procedure,</b> continued	<p>The grievance and complaint procedures must be posted in a public location and made available to any interested parties or members of the public.</p> <p>Where an electronic case file is maintained, AJCC staff must either:</p> <ol style="list-style-type: none"><li>1. Enter a case note indicating this notification did occur, the date of the notification, and the name of the staff person who provided it, or</li><li>2. Scan a signed copy of an acknowledgement of receipt of the grievance and complaint procedures and attach it to the participant's case file.</li></ol>
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# Informal Resolution Process

**Introduction** This section provides information on the informal resolution process.

**Good faith effort** The Workforce Innovation and Opportunity Act (WIOA) allows Workforce Development Department (WDD) to notify the complainant and respondent of the opportunity for an informal resolution in a good faith effort to resolve all grievances or complaints prior to schedule a hearing for a formal resolution. Failure on the part of either the complainant or respondent to exert a good faith effort shall not constitute a basis for dismissing a grievance or complaint, nor shall this be considered a part of the facts to be judged during the resolution process.

The Local Area must assure all grievances or complaints not resolved informally or not withdrawn are given a hearing, regardless of the grievance or complaint's apparent merit or lack of merit.

**Complaint resolution** As noted on the Program Complaint and Grievance Procedures form, the following informal process has been established to afford Workforce Innovation and Opportunity Act (WIOA) customers with the opportunity to resolve program-related grievances and complaints fairly and expeditiously at the local level.

Stage	Description								
1	Customer informs an America's Job Center of California (AJCC) staff of a complaint.								
2	<p>Workforce Development Specialist (WDS) determines who is involved in the allegation:</p> <table> <tr> <th>If the allegation is the ...</th><th>Then refer the complaint to ...</th></tr> <tr> <td>Workforce Development Department (WDD),</td><td>A Workforce Development Supervisor (Supervisor) on the same day the complaint is received.</td></tr> <tr> <td> <ul style="list-style-type: none"> <li>Contracted Service provider, or</li> <li>Partner agency,</li> </ul> </td><td>The Deputy Director</td></tr> <tr> <td>Contracted Youth Service provider</td><td>The WDD Admin Deputy Director.</td></tr> </table>	If the allegation is the ...	Then refer the complaint to ...	Workforce Development Department (WDD),	A Workforce Development Supervisor (Supervisor) on the same day the complaint is received.	<ul style="list-style-type: none"> <li>Contracted Service provider, or</li> <li>Partner agency,</li> </ul>	The Deputy Director	Contracted Youth Service provider	The WDD Admin Deputy Director.
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Contracted Youth Service provider	The WDD Admin Deputy Director.								
3	<p>The Supervisor will discuss complaint with customer within three (3) working days from the date he/she receives the complaint.</p> <table> <tr> <th>If the complaint is ...</th><th>Then ...</th></tr> <tr> <td>At an impasse and, complainant chooses not to proceed to a hearing,</td><td> <ul style="list-style-type: none"> <li>A notice of impasse must be sent to the complainant,</li> <li>Document in case file,</li> <li>File a copy of the notice in complainant case file and</li> <li>Request the complainant provide a written withdrawal of the complaint within 10 days of receipt of the notice of resolution or impasse.</li> </ul> </td></tr> <tr> <td>Resolved,</td><td> <ul style="list-style-type: none"> <li>Document in case file,</li> <li>Send a notice of resolution to the complainant,</li> <li>File a copy of the notice in complainant case file, and</li> <li>No further action is required.</li> </ul> </td></tr> <tr> <td>Not resolved,</td><td>Refer complaint to the Workforce Development Manager (WDM) within one (1) working day.</td></tr> </table>	If the complaint is ...	Then ...	At an impasse and, complainant chooses not to proceed to a hearing,	<ul style="list-style-type: none"> <li>A notice of impasse must be sent to the complainant,</li> <li>Document in case file,</li> <li>File a copy of the notice in complainant case file and</li> <li>Request the complainant provide a written withdrawal of the complaint within 10 days of receipt of the notice of resolution or impasse.</li> </ul>	Resolved,	<ul style="list-style-type: none"> <li>Document in case file,</li> <li>Send a notice of resolution to the complainant,</li> <li>File a copy of the notice in complainant case file, and</li> <li>No further action is required.</li> </ul>	Not resolved,	Refer complaint to the Workforce Development Manager (WDM) within one (1) working day.
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Not resolved,	Refer complaint to the Workforce Development Manager (WDM) within one (1) working day.								

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## Informal Resolution Process, Continued

### Complaint resolution (continued)

Stage	Description												
4	WDM will discuss complaint with customer within three (3) working days from the date the complaint is received.												
	<table> <tr> <th>If the complaint is ...</th><th>Then ...</th></tr> <tr> <td>Resolved,</td><td> <ul style="list-style-type: none"> <li>Document in case file, and</li> <li>No further action is required.</li> </ul> </td></tr> <tr> <td>Not resolved,</td><td> <ul style="list-style-type: none"> <li>Refer complaint to the Deputy Director within one (1) working day, and</li> <li>Instruct the customer to address a letter to the either the Deputy Director explaining the incident surrounding the complaint within three (3) business days.</li> </ul> </td></tr> </table>	If the complaint is ...	Then ...	Resolved,	<ul style="list-style-type: none"> <li>Document in case file, and</li> <li>No further action is required.</li> </ul>	Not resolved,	<ul style="list-style-type: none"> <li>Refer complaint to the Deputy Director within one (1) working day, and</li> <li>Instruct the customer to address a letter to the either the Deputy Director explaining the incident surrounding the complaint within three (3) business days.</li> </ul>						
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5	<p>Deputy Director will:</p> <ul style="list-style-type: none"> <li>Contact the customer within seven (7) working days of receiving the notice of grievance.</li> </ul> <table> <tr> <th>If the complaint is ...</th><th>Then ...</th></tr> <tr> <td>Resolved,</td><td> <ul style="list-style-type: none"> <li>Document in case file, and</li> <li>Advise the Equal Opportunity Officer (EOO) of outcome.</li> </ul> </td></tr> <tr> <td>Not resolved,</td><td> <ul style="list-style-type: none"> <li>Arrange a meeting to discuss complaint with: <ul style="list-style-type: none"> <li>WDD staff, if applicable,</li> <li>Customer, and</li> <li>Witnesses.</li> </ul> </li> <li>Schedule meeting with 25 working days of the date the complaint is received by the WDM.</li> </ul> </td></tr> </table> <ul style="list-style-type: none"> <li>Evaluate outcome of complaint</li> </ul> <table> <tr> <th>If the complaint is ...</th><th>Then ...</th></tr> <tr> <td>Resolved,</td><td> <ul style="list-style-type: none"> <li>Document in case file, and</li> <li>No further action needed.</li> </ul> </td></tr> <tr> <td>Not resolved,</td><td> <ul style="list-style-type: none"> <li>Refer complaint to WDD Director within one (1) working day, and</li> <li>Instruct the customer the WDD Director will contact him/her within seven (7) business days.</li> </ul> </td></tr> </table>	If the complaint is ...	Then ...	Resolved,	<ul style="list-style-type: none"> <li>Document in case file, and</li> <li>Advise the Equal Opportunity Officer (EOO) of outcome.</li> </ul>	Not resolved,	<ul style="list-style-type: none"> <li>Arrange a meeting to discuss complaint with: <ul style="list-style-type: none"> <li>WDD staff, if applicable,</li> <li>Customer, and</li> <li>Witnesses.</li> </ul> </li> <li>Schedule meeting with 25 working days of the date the complaint is received by the WDM.</li> </ul>	If the complaint is ...	Then ...	Resolved,	<ul style="list-style-type: none"> <li>Document in case file, and</li> <li>No further action needed.</li> </ul>	Not resolved,	<ul style="list-style-type: none"> <li>Refer complaint to WDD Director within one (1) working day, and</li> <li>Instruct the customer the WDD Director will contact him/her within seven (7) business days.</li> </ul>
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## Informal Resolution Process, Continued

### Complaint resolution (continued)

Stage	Description						
6	Director will:						
	<ul style="list-style-type: none"><li>• Contact the customer within seven (7) working days of receiving the notice of grievance.</li></ul>						
	<table><tr><th>If the complaint is ...</th><th>Then ...</th></tr><tr><td>Resolved,</td><td><ul style="list-style-type: none"><li>• Send complainant a notice of resolution within 10 days of receipt, and</li><li>• Advise the Equal Opportunity Officer (EOO) of outcome.</li></ul></td></tr><tr><td>Not resolved,</td><td><ul style="list-style-type: none"><li>• Advise the customer he/she may:<ul style="list-style-type: none"><li>– Choose not to proceed to a hearing, or</li><li>– File a formal written complaint with the Workforce Innovation and Opportunity Act (WIOA) Hearing Officer.</li></ul></li><li>• Give the customer the <i>Program Complaint and Grievance Request for Hearing</i> form (WDD 181C).</li><li>• Send a notice of impasse to the complainant if he/she chooses not to proceed to a hearing.</li></ul></td></tr></table>	If the complaint is ...	Then ...	Resolved,	<ul style="list-style-type: none"><li>• Send complainant a notice of resolution within 10 days of receipt, and</li><li>• Advise the Equal Opportunity Officer (EOO) of outcome.</li></ul>	Not resolved,	<ul style="list-style-type: none"><li>• Advise the customer he/she may:<ul style="list-style-type: none"><li>– Choose not to proceed to a hearing, or</li><li>– File a formal written complaint with the Workforce Innovation and Opportunity Act (WIOA) Hearing Officer.</li></ul></li><li>• Give the customer the <i>Program Complaint and Grievance Request for Hearing</i> form (WDD 181C).</li><li>• Send a notice of impasse to the complainant if he/she chooses not to proceed to a hearing.</li></ul>
	If the complaint is ...	Then ...					
	Resolved,	<ul style="list-style-type: none"><li>• Send complainant a notice of resolution within 10 days of receipt, and</li><li>• Advise the Equal Opportunity Officer (EOO) of outcome.</li></ul>					
Not resolved,	<ul style="list-style-type: none"><li>• Advise the customer he/she may:<ul style="list-style-type: none"><li>– Choose not to proceed to a hearing, or</li><li>– File a formal written complaint with the Workforce Innovation and Opportunity Act (WIOA) Hearing Officer.</li></ul></li><li>• Give the customer the <i>Program Complaint and Grievance Request for Hearing</i> form (WDD 181C).</li><li>• Send a notice of impasse to the complainant if he/she chooses not to proceed to a hearing.</li></ul>						
<ul style="list-style-type: none"><li>• Request complainant to provide a written withdrawal of the complaint with 10 days of receipt of the notice of resolution or impasse.</li><li>• Save a copy of the notice of resolution or impasse in the complainant case file.</li><li>• Case note in the complainant case file the outcome of the complaint</li></ul>							

# Formal Resolution Process

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## Introduction

Any individual's complaint or grievance not resolved through the informal resolution process and complainant requested a hearing on the complaint or grievance must be conducted.

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## Contents of complaint or grievance

The filing of a complaint or grievance will be considered a request for a hearing, and the Workforce Innovation and Opportunity Act (WIOA) Hearing Officer shall issue a written decision within 60 days of the filing of the complaint or grievance.

The complaint or grievance must be in writing, signed, and dated by the complainant. The complaint should include:

- Full name, telephone number, and mailing address of the:
  - Complainant, and
  - Respondent.
- Clear and concise statement of the facts and dates describing the alleged violation,
- The provisions of the WIOA regulations, grant or other agreements under the WIOA, believed to have been violated,
- Complaints or grievances against individuals, including staff or participants, shall indicate how those individuals did not comply with the WIOA law, regulation, or contract, and
- Remedy sought by the complainant.

**Note:** The absence of any of the above information shall not be a basis for dismissing the complaint or grievance.

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## Technical assistance

The Workforce Development Department (WDD) staff is responsible for providing technical assistance to complainants including those filing grievances or complaints against the Local Area. Technical assistance includes, but is not limited to:

- Providing instructions on how to file a complaint or grievance,
- Providing relevant copies of documents such as the WIOA regulations, local rules, contracts, etc., and
- Providing clarifications and interpretations of relevant provisions.

**Note:** The requirement shall not be interpreted as requiring WDD staff to violate rules of confidentiality.

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## Amendments

A grievance or complaint may be amended to correct technical deficiencies at any time up to the start of the hearing. Grievances or complaints may not be amended to add new issues unless the complainant withdraws and resubmits the complaint. However, the one-year time period in which a grievance or complaint may be filed is not extended for grievances or complaints refiled with amendments.

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# Formal Resolution Process, Continued

<b>Withdrawals</b>	Grievances or complaints may be withdrawn at any time prior to the issuance of the hearing officer's decision.
<b>Correspondence</b>	Copies of all correspondence regarding the complaint or grievance are maintained in the complainant's file.

# Hearing Process

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<b>Introduction</b>	This section provides information regarding the Workforce Innovation and Opportunity Act (WIOA) Hearing Process for Workforce Development Department (WDD).
<b>WIOA hearing officer</b>	The WIOA Hearing Officer for WDD will be designated by the Director of the department.
<b>Hearing Process</b>	The following actions are taken when a written complaint or grievance is received at WDD Administration:

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Stage	Description
1	Deputy County Counsel will: <ul style="list-style-type: none"><li>• Receive the complaint and grievance form.</li><li>• Discuss with the WDD Director who will be the Hearing Officer.</li><li>• Give all complaints and grievances to the Workforce Innovation and Opportunity Act (WIOA) Hearing Officer.</li></ul>
2	Hearing Officer will: <ul style="list-style-type: none"><li>• Schedule a hearing to take place within thirty (30) consecutive days of receipt of the complaint or grievance.</li><li>• Notify the complainant and respondent, in writing, of the Hearing ten (10) consecutive days prior to the date of the Hearing. The ten (10) day notice may be shortened with the written consent of both parties. The Hearing notice must contain the following information:<ul style="list-style-type: none"><li>– Date of the notice,</li><li>– Name of the complainant, and name of the party against whom the grievance is filed,</li><li>– Date, time, and place of the Hearing,</li><li>– Statement of the alleged violation that accurately reflects the content of the complainant's complaint or grievance,</li><li>– Notice of the opportunity for an informal resolution,</li><li>– Name, address, and telephone number of the contact person issuing the notice.</li></ul></li></ul>
3	Respondent must make good faith efforts to resolve complaints or grievances prior to the Hearing.  <b>Note:</b> Complaints resolved prior to the Hearing, the Hearing Officer will ask the complainant to provide a written withdrawal of the complaint within ten (10) consecutive days of the resolution; no further action is required.
4	Complainant may file a written amendment to a complaint or grievance to correct technical deficiencies (e.g., names, addresses, dates) at any time up to the time of the Hearing. <ul style="list-style-type: none"><li>• Grievances or complaints may not be amended to add new issues.</li><li>• The one (1) year time period in which a complaint or grievance may be filed is not extended for complaints or grievances that are refiled with amendments.</li></ul>

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# Hearing Process, Continued

## Hearing Process (continued)

Stage	Description						
5	<p>Impartial Hearing Officer conducts an informal manner of a Hearing. Both the complainant and the respondent have the right to:</p> <ul style="list-style-type: none"> <li>• Present written and/or oral testimony and arguments,</li> <li>• Call and question witnesses in support of his/her position,</li> <li>• Examine records and documents relevant to the issues, and</li> <li>• Be represented at his/her own cost.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Hearings are recorded electronically.</li> <li>• The complainant may withdraw a complaint or grievance in writing at any time prior to issuance of Hearing Officer's decision.</li> <li>• Hearing officer cannot be a member of the Workforce Development Board (WDB) or the Chief Elected Official as he/she cannot conduct an impartial hearing.</li> </ul> <table> <tr> <th>If the Complainant ...</th><th>Then ...</th></tr> <tr> <td>Withdraws the complaint or grievance,</td><td>No further action is required.</td></tr> <tr> <td>Does not withdraw the grievance or complaint,</td><td>Go to Stage 6.</td></tr> </table>	If the Complainant ...	Then ...	Withdraws the complaint or grievance,	No further action is required.	Does not withdraw the grievance or complaint,	Go to Stage 6.
If the Complainant ...	Then ...						
Withdraws the complaint or grievance,	No further action is required.						
Does not withdraw the grievance or complaint,	Go to Stage 6.						
6	<p>The Hearing Officer will mail a written decision (by certified mail) to both parties no later than sixty (60) consecutive days after the date the written complaint or grievance was received at WDD. The written decision contains the following:</p> <ul style="list-style-type: none"> <li>• Names of parties involved,</li> <li>• Statement of the alleged violation(s) and issues related to the violation(s),</li> <li>• Statement of the facts,</li> <li>• The Hearing Officer's decision and reason for the decision,</li> <li>• Statement of any corrective action or remedies to be taken, and</li> <li>• Notice of the right of either party to request a review of the decision by the State Review Panel within 10 days of the receipt of the decision.</li> </ul> <p><b>Note:</b> Refer to the Appeals section for additional information.</p>						

### Corrective Actions and Remedies

Corrective actions and remedies that may be imposed for a violation of any requirement under WIOA Title I are limited to:

- Suspension or termination of payment under WIOA Title I,
- Prohibition of placement of a customer with an employer that has violated any requirement under WIOA Title I,
- Reinstatement, where applicable, of an employee, payment or lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment, and
- Other equitable relief, where appropriate.

# Appeals

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## Introduction

Under Title 20 Code of Federal Regulation (CFR) Section 683.600(d), the state must establish procedures for resolving appeals of decisions issued at the local level, grievances or complaints regarding statewide workforce programs, and grievances or complaints alleging state violations of Workforce Innovation and Opportunity Act (WIOA) Title I requirements.

This section provides information on the Appeals process a complainant may file with the State.

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## Right to file an Appeal with the State

The complainant has a right to file an appeal or request a review with the State Employment Development Department (EDD), for the following:

- Has not received a decision from the Hearing Officer within sixty (60) consecutive days of the date he/she filed a written grievance or complaint with the Workforce Development Department (WDD) Director, or
  - Is dissatisfied with the decision handed down by the Hearing Officer, or
  - There has been an incident(s) of restraint, coercion, or reprisal at the local level as a result of filing a grievance or complaint.
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## State Hearing request

The complainant may request a state hearing by submitting a written notice of appeal or by mail. Written notice is sent to:

Chief, Compliance Review Division, MIC 22-M  
Employment Development Department  
P.O. Box 826880  
Sacramento, CA 94280-0001

By email: [PACBCROIncidentReports@edd.ca.gov](mailto:PACBCROIncidentReports@edd.ca.gov)

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## Timeframe

All requests for a State Employment Development Department (EDD) review or appeal must be filed or postmarked within:

- Ten (10) consecutive days from the date on which the complainant received the Hearing Officer's written decision, or
  - Fifteen (15) consecutive days from the date on which:
    - The complainant should have received a decision regarding a locally filed, complaint, which is defined as five (5) days from the date the decision was due, or
    - The date on which an instance of restraint, coercion or reprisal was alleged to have occurred as a result of filing the complaint.
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# Appeals, Continued

<b>Required information</b>	<p>All requests for review or appeals must be in writing, signed and dated by the complainant. However, the absence of any of the requested information will not be used as a basis for dismissing the appeal or request for EDD review. The complainant shall include the following in the request or appeal:</p> <ul style="list-style-type: none"><li>• The full name, telephone number, and mailing address of the:<ul style="list-style-type: none"><li>– Complaint,</li><li>– Workforce Development Department (WDD) Director,</li></ul></li><li>• A statement of the basis of the request of appeal or EDD review, and</li><li>• Copies of relevant documents, such as written complaint that was filed with the WDD Director and the Hearing Officer’s decision, if any.</li></ul>
<b>Evidentiary hearing - held</b>	<p>The Compliance Review Office shall request the record of the hearing from WDD if an evidentiary hearing was held at the local level to allow the State Review Panel to review the record without scheduling an additional hearing.</p> <p>WDD is to provide written transcripts of any audio or visual recordings of the hearings via overnight mail. Within 10 days of receipt of the grievance or complaint, the Compliance Review Office shall notify the complainant and respondent of the opportunity for an informal resolution and proceed with the informal resolution process.</p>
<b>Evidentiary hearing – not held</b>	<p>The Compliance Review Office shall instruct WDD to hold a hearing within 30 days of receipt of the appeal or request for EDD review If an evidentiary hearing was not held at the local level.</p> <p>If WDD refuses to hold a hearing within the required timeframe, EDD shall schedule an evidentiary hearing before an impartial hearing officer within the 30-day timeframe.</p>

# State Grievances and Complaints

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## Introduction

All grievances or complaints against the state alleging noncriminal, state violations of Workforce Innovation and Opportunity Act (WIOA) Title I requirements, or grievances or complaints by individuals or interested parties affected by statewide workforce programs shall be filed in writing with the Chief of the Compliance Review Office.

Grievances or complaints filed directly with the state related to Local Area programs will be remanded to the Local Area. Reviews that reveal a trial issue, such as the hearing officer being an interested party, will be remanded to the Local Area for a retrial of the grievance or complaint.

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## Filing date

The official filing date of the grievance or complaint to the State is the date it is received by the Compliance Review Office. The filing shall be considered a request for a hearing and the State Review Panel shall issue a written decision within 60 days of the official filing date. The Compliance Review Office shall send a copy of the grievance or complaint to the respondent.

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## Required information

All requests for review or appeals must be in writing, signed and dated by the complainant. However, the absence of any of the requested information will not be used as a basis for dismissing the appeal or request for EDD review. The complainant shall include the following in the request or appeal:

- The full name, telephone number, and mailing address of the:
    - Complaint,
    - Workforce Development Department (WDD) Director,
  - A clear and concise statement of the facts and dates describing the alleged violation.
  - The provision(s) of WIOA, federal regulations, state laws or regulations, grant, or other agreements under WIOA believed to have been violated.
  - Grievances or complaints against individuals, including staff or participants, shall indicate how those individuals did not comply with WIOA law, regulation, or contract.
  - The remedy sought by the complainant.
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## Notification

The Chief of the Compliance Review Office or his/her designee shall review the grievance or complaint and notify the complainant and respondent of the opportunity for an informal resolution within 10 days of receipt. If the state cannot resolve the grievance or complaint informally, a hearing will be held.

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## State Grievances and Complaints, Continued

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### EDD Hearing

Hearings on any grievance or complaint filed against the state shall be conducted within 60 days of the filing of the grievance or complaint. The complainant, respondent, and Local Area (in cases of local level appeals and requests for EDD review) shall be notified in writing of the hearing at least 10 days prior to the hearing.

The hearing shall be conducted by an impartial officer. The EDD hearing shall be conducted in an informal manner without the application of strict rules of evidence. The complainant and EDD have the right to be represented at their own cost, present written and/or oral testimony under oath and arguments, call and question witnesses, and request and examine records and documents relevant to the issues. Both the complainant and the respondent have the right to:

- Present written and/or oral testimony and arguments,
- Call and question witnesses in support of his/her position,
- Examine records and documents relevant to the issues, and
- Be represented.

**Note:** Hearings are recorded electronically or by a court reporter.

Title 22 CCR Sections 5050 through 5070 outline all applicable state laws and must be adhered to by the EDD hearing officers. Examples of subjects addressed include special hearing accommodation, electronic hearings, ex parte communications, and consolidation of similar cases.

All references to “administrative law judge” hold the same meaning as “hearing officer” within these regulations.

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### Hearing notice

The hearing notice shall contain the following information:

- The date of the notice, name of complainant, and the name of the party against whom the grievance is filed.
  - Date, time, and location of the hearing.
  - A statement of the alleged violations. These statements must accurately reflect the content of the grievance or complaint as submitted by the complainant. However, clarifying notes may be added to assure the grievance or complaint is addressed accurately.
  - Name, address, and telephone number of the contact person issuing the notice.
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# State Review Panel

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**Introduction** Following completion of the Employment Development Department (EDD) hearing, the hearing office will forward the information to the State Review Panel to complete a determination. This section provides information regarding the State Review Panel process.

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**EDD Recommendation** The EDD hearing officer shall make a written recommendation to the State Review Panel and include the following information:

- The names of the parties involved.
  - A statement of the alleged violation(s) and related issues.
  - A statement of the facts.
  - EDD hearing officer's decision and reasoning.
  - A statement of the corrective action or remedies for violations, if any, to be implemented.
- 

**State Review Panel process** The State Review Panel will not conduct a new evidentiary hearing; however, will review the record established by either the local level hearing or the EDD hearing.

The State Review Panel will issue a decision on the basis of the information contained within the record. The State Review Panel may accept, reject, or modify the hearing officer's recommendation, and shall issue a written decision to the concerned parties within 60 days of the EDD's receipt of the local level appeal or request for EDD review.

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**Notice** The State Review Panel will send a written decision to both the complainant and the respondent by certified mail. The decision shall contain the following information:

- Names of the parties involved.
  - Statement of the alleged violation(s) and related issues.
  - Statement of the facts.
  - State Review Panel's decision and reasoning.
  - Statement of the corrective action or remedies for violations, if any, to be implemented.
  - Notice of the right of either party to file an appeal with the U.S. Secretary of Labor.
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# Federal Level Appeal Process

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## Introduction

In situations where the State Review Panel or Employment Development Department (EDD) Hearing Officer issued an adverse decision regarding a grievance or complaint or has not issued a decision within 60 days of receipt of a local level appeal, request for EDD review, or grievance or complaint, the complainant may file an appeal with the Secretary of Labor. This appeal process applies to grievances and complaints that originated at the local or state level.

Grievances or complaints filed directly with the Secretary that were not previously filed with the Local Area and/or state will be remanded to the Local Area or state, as appropriate.

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## Right to file an Appeal on the Federal level

In cases where the State Review Panel did not issue a decision, the complainant must file an appeal within 120 days of either of the following:

- The date on which the complainant filed the appeal of a local level decision or request for EDD review with the state.
  - The date on which the complainant filed the grievance or complaint with the state.
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## Federal appeals

The complainant must submit his/her appeal to the Department of Labor (DOL) National Office via certified mail with return receipts requested. Copies of the appeal must simultaneously be provided to the DOL Employment and Training Administration (ETA) Regional Administrator and the respondent.

Mailing addresses for the DOL National Office and ETA Regional Administrator are as follows:

DOL National Office:	Secretary of Labor Attention: Assistant Secretary of ETA U.S. Department of Labor 200 Constitution Avenue, NW Washington, DC 20210
ETA Regional Administrator:	Office of Regional Administrator U.S. Department of Labor P.O. Box 193767 San Francisco, CA 94119-3767

Grievances or complaints filed directly with the Secretary that were not previously filed with the subrecipient and/or state will be remanded to the subrecipient or state, as appropriate.

The Secretary of Labor shall issue a final determination no later than 120 days after receiving the appeal.

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# Federal Level Appeal Process, Continued

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Remedies	<p>Remedies that may be imposed for a violation of any requirement under WIOA Title I shall be limited to the following:</p> <ul style="list-style-type: none"><li>• Suspension or termination of payments under WIOA Title I.</li><li>• Prohibition of placement of a participant with an employer that has violated any requirement under WIOA Title I.</li><li>• Reinstatement of an employee, where applicable, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment.</li><li>• Other equitable relief, where appropriate.</li></ul> <p>None of the above shall be construed to prohibit a complainant from pursuing a remedy authorized under another federal, state, or local law for a violation of WIOA Title I.</p>
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# Incident Reporting

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## Introduction

All subrecipients who receive Workforce Innovation and Opportunity Act (WIOA) funds must promptly report all allegations of WIOA-related fraud, abuse, and other criminal activity directly to the Office of Inspector General (OIG).

This section provides information on the incident reporting process for Workforce Development Department (WDD) staff.

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## EDD CRO

EDD's CRO reports the allegation received immediately through the Department of Labor's (DOL's) Incident Reporting System to the OIG with a copy simultaneously provided to the Employment and Training Administration (ETA).

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## OIG

Reporting allegations of fraud, program abuse, or criminal conduct involving grantees or other entities and subrecipients must be submitted in two steps to the OIG:

1. Complete the relevant fields on the [OIG Hotline Portal](#).
2. Send a copy of the incident report, including screenshots or photos of the three OIG Hotline Portal screens to [ETAIncidentReporting@dol.gov](mailto:ETAIncidentReporting@dol.gov).

**Note:** The OIG Hotline Portal **should not** be used for resolving employee grievances, Equal Employment Opportunity complaints, labor disputes, or other personnel concerns.

When the OIG receives an incident report from any source, the OIG will determine whether the allegations have merit, and when appropriate, conduct or arrange for an investigation and/or audit.

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## OIG Hotline

Incidents can be reported to the OIG through the following hotlines, if Internet access is not available:

- Toll-free hotline 1-800-347-3756
  - Non-toll-free hotline 1-202-693-6999
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## Reporting entities

Allegations of fraud, abuse, or other criminal activity involving WIOA-funded programs may originate from sources other than WDD staff. Such sources may include:

- Informants,
- Independent auditors, or
- Local law enforcement agencies.

Whenever the EDD receives an allegation from a source other than WDD, the CRO will prepare and submit an Incident Report to the OIG Complaints Analysis Office and to ETA Region 6. In such a case, the CRO will inform, when appropriate, the subrecipient of the incident reported and advise what action needs to be taken.

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## Incident Reporting, Continued

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### Emergency

An emergency is a situation involving imminent health or safety concerns or the imminent loss of funds exceeding an amount much larger than \$50,000. Allegations considered to be of an emergency nature may be reported by telephone to the:

- Compliance Resolution Unit Supervisor at 1-916-654-8354, or
- OIG Hotline at 1-800-347-3756.

While all incidents should be reported as soon as possible, situations involving imminent health or safety concerns, or the imminent loss of funds exceeding an amount larger than \$50,000 are considered emergencies and must be immediately reported to the OIG and ETA no later than one working day after the emergency discovery.

Action will not be taken against any complainant for disclosing information concerning criminal or improper activities or making a valid complaint to proper authorities. Complainants may remain anonymous. If a complainant considers that his/her position will be compromised by reporting information through an incident report, the complainant may submit the report directly to the OIG.

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### Reporting

The following table provides the stages when reporting fraud, abuse, or other criminal activity involving WIOA funds.

Stage	Description
1	WDD staff will: <ul style="list-style-type: none"><li>• Immediately notify his/her Manager/Supervisor of the detection or discovery of information alleging fraud, abuse, or other criminal activity involving WIOA funds.</li><li>• Provide any documents, if applicable, to his/her Manager/Supervisor</li></ul>
2	Manager/Supervisor will: <ul style="list-style-type: none"><li>• Report to WDD Management within one (1) day of the detection or discovery.</li><li>• Provide a clear, concise report of each incident. Reports must include:<ul style="list-style-type: none"><li>– A statement of all facts, known at the time, and</li><li>– The estimated loss of WIOA funds resulting from the incident.</li></ul></li><li>• Include any documentation regarding the incident, if applicable.</li></ul>
3	WDD Management will: <ul style="list-style-type: none"><li>• Complete the relevant fields on the <a href="#">OIG Hotline Portal</a>,</li><li>• Save a copy of the Incident Report in the subrecipients/individuals file.</li><li>• Email a copy of the Incident Report to, including screenshots or photos of the three (3) OIG Hotline Portal screens to <a href="mailto:ETAIncidentReporting@dol.gov">ETAIncidentReporting@dol.gov</a>.</li></ul> <p><b>Note:</b> The submission of an incident report should not be delayed, even if all the facts are not readily available.</p>
4	OIG will: <ul style="list-style-type: none"><li>• Determine whether the allegations have merit, and when appropriate, conduct or arrange for an investigation and/or audit.</li><li>• Refer to the ETA for instances where the OIG determines the incident report does not have investigative or audit merit for resolution.</li><li>• Refer case back to ETA for investigation/resolution, if the OIG decides not to investigate an Incident Report.</li></ul>

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# Incident Reporting, Continued

## Reporting, continued

Stage	Description
5	ETA will: <ul style="list-style-type: none"><li>• Either forward the incident report to the EDD Compliance Review Office (CRO) to research and report back, or</li><li>• Work with the CRO to analyze and report on the incident.</li></ul>
6	Incident report is remanded to the CRO, the CRO: <ul style="list-style-type: none"><li>• Will prioritize and request a fact-finding and resolution report from the appropriate next level of oversight, depending on the nature of the allegations.</li><li>• May require the EDD’s direct subrecipients to submit a fact-finding, and local resolution report, or the fact-finding mission may be conducted by the CRO.</li></ul> <p><b>Note:</b> The fact-finding may, in certain circumstances, rise to the level of a special monitoring review, an investigation, or an audit by the appropriate state entities or by independent third-party auditors, as determined by the CRO.</p>

**Corrective action**      The reporting procedures do not supersede the responsibility for WDD to safeguard WIOA funds by taking prompt and appropriate corrective action when any evidence of a violation of WIOA or its implementing regulations is found.

**Record retention**      All financial records, supporting documents, statistical records, and all other non-federal entity records must be retained for a period of three (3) years from the date of submission of the:

- Final expenditure report, or
- Quarterly or annual financial report.

WDD may not impose any other record retention requirements upon non-federal entities. The only exceptions are:

- Any unresolved litigation, claim, or audit finding, all records must be retained until all findings have been resolved and final action taken.
- When WDD is notified in writing by the federal awarding agency, or oversight audit agency for indirect costs to extend the retention period.
- Records for real property and equipment acquired with federal funds must be retained for three (3) years after final disposition.

**Note:** Refer to Section 7 – Fiscal for additional information related to record retention.

**Definitions**      The following definitions apply to anything involving an incident report:

Term	Definition
Emergency	A situation involving imminent health or safety concerns or the imminent loss of funds exceeding an amount much larger than \$50,000.

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## Incident Reporting, Continued

### Definitions, continued

Term	Definition
Employee/Participant Misconduct	<p>Actions occurring during or outside work hours that reflect negatively on EDD or its mission including, but not limited to:</p> <ul style="list-style-type: none"><li>• Conflict of interest or the appearance of conflict of interest involving outside employment, business and professional activities,</li><li>• The receipt or giving of gifts, fees, entertainment, and favors,</li><li>• Misuse of federal property, and</li></ul> <p>Misuse of official information and such other activities as might adversely affect the confidence of the public in the integrity of the government (29 CFR Part 0 and 5 CFR Parts 2635 and 5201) as well as serious violations of federal and state laws.</p>
Fraud, Misfeasance, Nonfeasance or Malfeasance	<p>Any alleged deliberate action or inaction which may be in violation of federal statutes and regulations. This category includes, but is not limited to indications of:</p> <ul style="list-style-type: none"><li>• Bribery,</li><li>• Forgery,</li><li>• Extortion,</li><li>• Embezzlement,</li><li>• Theft of participant checks,</li><li>• Kickbacks from participants or contractors,</li><li>• Intentional payments to a contractor without the expectation of receiving services,</li><li>• Payments to ghost (fake) enrollees,</li><li>• Misuse of appropriated funds, and</li><li>• Misrepresenting information in official reports.</li></ul>
Gross Mismanagement	<p>Actions or situations arising out of management ineptitude or oversight and leading to a major violation of statutory (such as WIOA or Wagner Peyser) processes, regulations, or contract/grant provisions. Such actions or situations have the potential to severely hamper accomplishment of program goals, waste government resources, and jeopardize future support for a particular program or project.</p> <p>This category includes, but is not limited to:</p> <ul style="list-style-type: none"><li>• Unauditable records,</li><li>• Unsupported costs,</li><li>• Highly inaccurate fiscal reports or program reports,</li><li>• Payroll discrepancies and deductions not paid to the IRS, and</li><li>• Lack of good internal control procedures.</li></ul>
Incident Referrals	<p>The OIG refers incidents and allegations concerning ETA programs to the ETA in instances where the OIG determines that the incident report does not have investigative or audit merit.</p>

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## Incident Reporting, Continued

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### Definitions, continued

Term	Definition
Misapplication of Funds	<p>Any alleged deliberate use of funds, assets or property not authorized or provided for by legislation or regulations, grants, or contracts. This category includes, but is not limited to:</p> <ul style="list-style-type: none"><li>• Nepotism,</li><li>• Political patronage, use of participants for political activity,</li><li>• Ineligible enrollees,</li><li>• Conflicts of interest,</li><li>• Failure to report income from federal funds,</li><li>• Violation of contract/grant procedures, and</li><li>• The use of federal funds for other than specified purposes.</li></ul> <p>An incident report should be filed when there appears to be an intent to misapply funds rather than merely for a case of minor mismanagement. It should be noted that there are some exceptions related to nepotism for the Indian and Native American programs,</p>
Subaward	<p>An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.</p>
Subrecipient	<p>A non-federal entity who receives a subaward from a pass-through entity to carry out part of a federal award; but does not include an individual who is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a federal awarding agency.</p>

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