

## **ALAMEDA COUNTY WORKFORCE INVESTMENT BOARD COMPLAINT PROCEDURES**

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This booklet has been developed to help participants of Workforce Investment Act Programs to understand both their rights in relation to the operation of these programs. This document also outlines the procedures to be followed if the participant feels that those rights have not been upheld, or that other problems have occurred that interfered with the attainment or completion of his/her goals.

This booklet will cover three types of complaints and their corresponding procedures:

- 1. CIVIL RIGHTS COMPLAINTS**
- 2. COMPLAINTS INVOLVING THE VIOLATION OF REGULATIONS OF WIA FUNDED PROGRAMS OR ACTIVITIES**
- 3. COMPLAINTS ALLEGING CRIMINAL FRAUD, ACTIVITY, OR GROSS MISMANAGEMENT and WASTE**

It is important to make the distinctions as each type of complaint has its own time frames and reporting requirements. If timelines are not followed, a participant might miss out on having a problem resolved in a satisfactory manner.

If, after reading this booklet, the distinctions and procedures are still unclear, participants may contact their assigned program liaison for further assistance. Participants may also contact the Workforce Investment Board directly, and staff will provide further clarification. Inquiries may be made to:

The Alameda County Workforce Investment Board (ACWIB)  
24100 Amador Street, 6<sup>th</sup> Floor, Rm. 610C  
Hayward, CA 94544  
Phone: (510) 250-3842  
Fax: (510) 259-3845

**ALAMEDA COUNTY WORKFORCE INVESTMENT BOARD  
COMPLAINT PROCEDURES**

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**I. CIVIL RIGHTS COMPLAINTS**

- A. **POLICY** (Section 188 of the Workforce Investment Act of 1998, Title 29 CFR Parts 31, 32, & 37) This policy covers complaints alleging discrimination on the basis of race, color, age, sex, national origin, disability, religion, political affiliation or belief, citizenship or complaints alleging retaliation for filing a complaint based on membership or affiliation with any of the above defined classes of individuals.

This procedure does not apply to administrative disputes between Contractors and the Alameda County Workforce Investment Board (WIB). Such disputes will be resolved independent of this process.

- 1.) Any person who believes that he or she or any specific class of individuals has been or is being subjected to discrimination prohibited by the nondiscrimination and equal opportunity provisions of WIA may file a written complaint, or a representative may file the complaint on his or her behalf.
  
- 2.) Complaints may be filed with either:
  - Alameda County Civil Rights Officer  
Ms. Darleen Brooks, Social Services Agency  
2000 San Pablo Avenue, 4<sup>th</sup> Floor  
Oakland, CA 94610,  
Phone No. (510) 891-3355 .(For the California Relay Services (CRS) call 1-800-735-2922(VOICE) or 1-800-735-2929(TDD)

or

  - Director of the Civil Rights Center  
U.S. Department of Labor  
200 Constitution Avenue, NW, Room N-4123  
Washington, DC 20210
  
- 3.) All complaints filed with either the Alameda County Civil Rights Officer or the Director of the Federal Civil Rights Center must be in writing before the official grievance process will commence. All amendments to complaints or withdrawal of a complaint must be in writing.

- 4.) **Complaints must be filed within 180 days of the alleged discrimination.**
- 5.) Each complainant and respondent has the right to be represented by an attorney or other individual of his or her own choice.
- 6.) The Alameda County Civil Rights Officer (CRO) shall be allowed 90 days to issue a Notice of Final Action. If, during the 90-day period, the CRO issues a decision that is not acceptable to the complainant, the complainant or his or her representative may file a complaint with the Federal Civil Rights Center (CRC) within 30 days after the date on which the complainant receives the Notice.
- 7.) If the 90 days expire and the complainant does not receive a Notice of Final Action from the Alameda County CRO, or the CRO fails to issue a Notice of Final Action, the complainant may, within 30 days of the expiration of the 90-day period, file a complaint with the Federal CRC.
- 8.) These procedures shall not be construed as affecting any other legal remedy outside of the WIA complaint process, either separately or simultaneously, that a person may wish to pursue in the resolution of his/her complaint. Also, these procedures do not restrict the WIB in carrying out informal discussion and resolution of any problems relating to the terms and conditions of employment outside of and without resort to the formal complaint procedures.
- 9.) The identity of any person(s) who has furnished information relating to, or assisting in, an investigation of a possible violation of the nondiscrimination requirements of the Act will be kept confidential unless it is necessary for the completion of an investigation or for enforcement activities.
- 10.) All persons filing a complaint shall be free from restraint, coercion, reprisal, or discrimination. When complaints arise, they shall be considered an individual's right to express himself/herself. Good faith effort shall be made to reach a mutually satisfactory resolution for parties as promptly as feasible.

## **B. ROLES AND RESPONSIBILITIES**

- 1.) **Actions Required by the Local WIA Program:**

Intake units shall provide all applicants with a written description of the WIA Civil Rights and the associated complaint procedures. Applicants must certify that they have received and understand the Notification of Civil Rights Laws, including the process and timelines for complaint resolution. Intake units are required to maintain this documentation in the participant's files. Civil Rights and complaint procedures must be posted in a public location that is available to interested parties and members of the public.

a. Informal Complaint

Intake unit or other appropriate staff should first attempt to resolve the problem informally (e.g., three-way meeting with the counselor, instructor, and Complainant. (Complaint does not have to be in writing at this stage of the process.)

b. Formal Complaint

If the informal process does not resolve the problem, a formal complaint may be filed in accordance with applicable procedures.

All formal complaints shall:

- Be signed by the complainant or his/her representative;
- Contain the complainant's name, address, or other means of contacting the complainant;
- Identify the respondent;
- Describe the allegation/complaint in sufficient detail to allow the reviewer to determine whether the CRC or the local Civil Rights Officer has jurisdiction, whether the complaint was filed timely and whether the allegations have apparent merit.
- (See attached complaint forms). Alternatively, forms may be obtained from the Alameda County Civil Rights Officer (510-891-3355. For the California Relay Services (CRS) call 1-800-735-2922(VOICE) or 1-800-735-2929(TDD). If the formal complaint is to be filed instead with the Federal CRC, no specific forms are required, though all the above information must be included.

2.) Actions provided by the Alameda County Civil Rights Officer (CRO):

- a. The complainant will be offered alternative dispute resolution immediately upon receipt of the complaint. The choice whether to use alternative dispute resolution (mediation) rests with the complainant.
- i.) If the parties do not reach an agreement under the mediation process, the complainant may file directly with the Federal CRC.

- ii.) A party to an agreement reached under mediation may file a complaint with the CRC in the event the agreement is breached. Complaint must be filed within 30 days of discovering the breach.
- b. The Local CRO shall notify the complainant in writing immediately upon determining that it does not have jurisdiction over a complaint that alleges a violation of the nondiscrimination and equal opportunity provisions of WIA.
- c. The Local CRO shall investigate the circumstances underlying the complaint.
- d. During the resolution process, the Local CRO shall assure that all parties involved are given due process. These elements include:
  - i.) Within 30 days of filing a grievance/complaint, the CRO will hold a hearing on the issues, if the complaint has not been resolved through conciliation or mediation.
  - ii.) Notice to all parties of the specific charges;
  - iii.) Notice to all parties of the responses to the allegations;
  - iv.) The right of both parties to representation;
  - v.) The right of each party to present evidence, and to question others who present evidence, and
  - vi.) Provide a decision (Notice of Final Action) made strictly on the evidence on the record within 90 days of the filing of the complaint.

3.) **APPEALS:** Decisions based on issues of Nondiscrimination and Equal opportunity should be mailed to:

Director, Civil Rights Center (CRC)  
U.S. Department of Labor  
200 Constitution Avenue NW, Room N-4123  
Washington, DC 20210

## DEFINITIONS

Complainant means any participant or other personally interested or personally affected party alleging a noncriminal violation of the requirements of WIA.

Complaint file is a file that is maintained in a central location within each office which includes a hard copy of each complaint filed along with pertinent documentation.

Days mean consecutive calendar days, including weekends and holidays.

Grievance or complaint means a written expression by a party alleging a violation of WIA, regulations promulgated under WIA, recipient grants, sub agreements, or other specific agreements under WIA. All complaints, amendments, and withdrawals shall be in writing. These procedures are intended to resolve matters, which concern actions arising in connection with the WIA Title I grant program.

Hearing Officer means an impartial party who shall preside at a hearing on a grievance or complaint.

Local Workforce Investment Area includes the LWIA administrative entity and its subrecipients to which the administrative entity has delegated the complaint and grievance resolution process.

Participant means an individual who has been determined to be eligible to participate in, and who is receiving services under a program authorized by WIA as defined in WIA Section 101(34).

\* Participant case file means either a hard copy or an electronic file.

Recipient means an entity to which a WIA grant is awarded directly from DOL to carry out a program under Title I of WIA. The State is the recipient of funds awarded under WIA Sections 127(b), (1) (C) 132(b) (1) (B), and 132(b) (2) (B).

State Review Panel is an entity within EDD composed of a representative of the EDD's Compliance Review Division, the Legal Office, and the Director's Office. This Panel shall review and approve or disapprove decisions and recommendations regarding grievances or complaints.

Subrecipient means an entity to which a subgrant is awarded and which is accountable to the recipient (or higher tier subrecipient) for the use of the funds provided.

**\* NOTE: The option of documenting the verification of customer data in an electronic environment rather than hardcopy files is now acceptable.**

2. **COMPLAINTS INVOLVING THE VIOLATION OF REGULATIONS OF WIA FUNDED PROGRAMS OR ACTIVITIES.**

A. **POLICY** (Section 181(c) of the Workforce Investment Act (WIA), title 20 CFR Part 667.600) This policy covers non-criminal complaints alleging a violation of WIA regulations, contracts, or agreements developed in connection with the WIA Title I funded programs. Any participant or other interested party adversely affected by a decision or action by the local workforce system, including decisions by One-Stop partners and service providers, has the right to file a grievance or complaint with the local Workforce Investment Board.

- 1.) Complaints may be brought by any individual, class of individuals, or organization including but not limited to program participants, subcontractors, staff of subcontractors, applicants for Workforce Investment Act (WIA) training and services, labor unions, and community-based organizations, or any other interested person(s).
- 2.) All complaints filed with the Alameda County WIB must be in writing before the official grievance process will commence. All amendments to complaints or withdrawal of a complaint must also be in writing.
- 3.) The Alameda County WIB Director serves as the Complaints Officer for all complaints and grievances that do not involve issues of civil rights or discrimination. Such complaints should be addressed to:

Director, Alameda County Workforce Investment Board  
24100 Amador Street, 6<sup>th</sup> Floor, Rm. 610C  
Hayward, CA 94544-1203

- 4.) Complaints must be filed within 1 year of the alleged violation.**
- 5.) Each complainant and respondent has the right to be represented by an attorney or other individual of his or her own choice.
- 6.) Grievance procedures include a process that allows an individual alleging a labor standards violation to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties so provides.
- 7.) These procedures shall not be construed as affecting any other legal remedy outside of the WIA complaint process, either separately or simultaneously, that a person may wish to pursue in the resolution of

his/her complaint. Also, these procedures do not restrict the WIB in carrying out informal discussion and resolution of any problems relating to the terms and conditions of employment outside of and without resort to the formal complaint procedures.

- 8.) The identify of any person(s) who has furnished information relating to, or assisting in, an investigation of a possible violation of the Act will be kept confidential unless it is necessary for the completion of an investigation or for enforcement activities.
- 9.) All persons filing a complaint shall be free from restraint, coercion, reprisal, or discrimination. When complaints arise, they shall be considered an individual's right to express himself/herself. Good faith effort shall be made to reach a mutually satisfactory resolution for parties as promptly as feasible.

## B. ROLES AND RESPONSIBILITIES

### 1.) Actions Required by the Local WIA Program

Initial and continuing notice of the local grievance and complaint procedures and instructions on how to file a complaint must be:

- Posted in a public location and be made available to any interested parties and members of the public.
- Made available to each participant. A copy of a written description of the grievance procedure will include notification of the right to file, instructions, forms, and timeline for filing a grievance (1 year), and notice that the complainant has the right to receive technical assistance.
- A copy of acknowledgement of receipt of the procedures shall be signed by the participant and maintained in the participant's file.
- Verification of customer data which may be filed electronically.

### 2.) Informal Resolution of Complaint

- Intake unit or other appropriate staff should first attempt to resolve the problem informally (e.g., three-way meeting with the counselor, instructor, and Complainant).
- When the complaint has been resolved through the informal resolution process, the Complainant shall provide a written withdrawal of the complaint within **10 days** of the notice of resolution. Copies of this withdrawal shall be maintained in the Complainant's file.

- Each grievance or complaint not resolved informally or not withdrawn is given a hearing, regardless of the complaint's apparent merit or lack of merit.

NOTE:

The absence of any of the requested information shall not be a basis for dismissing the grievance or complaint.

A grievance or complaint may be amended to correct technical deficiencies at anytime up to the time of the hearing. Grievances or complaints may not be amended to add new issues. The one-year time period in which a grievance or complaint may be filed is not extended for grievances or complaints that are refiled with amendments. Grievances or complaints may be withdrawn at any time prior to the issuance of the hearing officer's decision. A copy of the grievance or complaint will be sent to the respondent.

### 3.) Notice of Hearing and Formal Resolution of Complaint

- The WIB Director, acting as the Complaint's Officer, will provide appropriate forms to the Complainant for the filing of a grievance. If the Complainant is a WIA program participant, the form will have been provided during the intake process.
- The hearing will be conducted within **30 days** of the filing of a grievance or complaint.
- Both the Complainant and the Respondent must be notified in writing of the hearing **10 days** prior to the date of the hearing. The date, time, and place of the impartial hearing will be provided in this notice as well as a statement of the alleged violations.
- The Complaint's Officer will seek an impartial hearing officer to conduct the hearing, ensuring that the officer chosen will not be directly affected by, and will not implement the final resolution of a specific complaint.

### 4.) Conduct of Hearings – The Impartial Hearing Officer Shall:

- Begin the hearing by informing the parties of the issues to be considered, the manner in which the hearing will be conducted, and that all testimony will be taken under oath. The parties shall also be informed that the Complainant bears the burden of proof and presents his/her case first.
- Be flexible and shall depend upon the ability or inability of the parties involved to present their case and to protect their rights to due process. The quantity of evidence necessary to sustain a favorable decision for the Complainant shall be substantial or such relevant evidence as a reasonable mind might accept as adequate to support such a conclusion. If after hearing the evidence of the complaint, the Hearing Officer decides that said evidence is inadequate to carry the

Complainant's burden of proof, the Hearing Officer shall recommend against the Complainant.

- Ensure that the hearing be recorded electronically or by a court reporter.
- Issue a proposed decision and corrective action, if applicable to the WIB. The Hearing Officer will issue the decision not later than 60 days after the grievance or complaint was filed, and the decision will include the following information:
  - Names of the parties involved.
  - A statement of the alleged violation(s) and issues related to the alleged violation.
  - A statement of the facts.
  - The Hearing Officer's Decision and the reasons for the decision.
  - A statement of corrective action or remedies for violations, if any, to be taken.
  - 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.

5.) **APPEALS:** Decisions based on issues of Non-Criminal Violations of WIA should be mailed to:

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

### **3. COMPLAINTS ALLEGING FRAUD, CRIMINAL ACTIVITY, OR GROSS MISMANAGEMENT AND WASTE**

A. **Policy:** Title 20 Code of Federal Regulations (CFR) Sections 667.505 and 667.630 require the Alameda County Workforce Investment Board (ACWIB) to report all allegations of WIA-related fraud, abuse, and other criminal activity to the Employment Development Department's Compliance Review Division, and the Department of Labor's Office of Inspector General.

B. **Definitions:**

The federal definitions that follow are provided for use as a guide in the identification of fraud, abuse, and other criminal activity. Since the definitions cannot address every possible activity, questions as to whether an activity is reportable under this policy should be referred to your ACWIB Program Liaison for clarification and guidance.

**Complaint**, for this directive only, means criminal complaint and noncriminal complaints accepted by DOL as incidents, such as gross waste of funds, mismanagement and dangers to the public health and safety.

**Subrecipient**, for this directive, means LWIAs and other recipients that receive WIA funds directly from the State.

**Lower-tier subrecipient** means a recipient that does not receive WIA funds directly from the State

- 1.) **Fraud** is any deceitful act or omission, or willful device used with the intent to obtain some unjust advantage for one party, or to cause an inconvenience or loss to another party. Types of fraud include embezzlement, forgery, theft, solicitation and receipt of bribes (kickbacks), and falsification of records and claims regarding trainees (e.g., knowingly enrolling ineligible participants.). Criminal fraud is a type of larceny and is punishable under both federal and California law as a felony. Civil fraud is subject to tort actions under civil laws.
- 2.) **Misapplication of Funds** is defined as any use of funds, assets, or property not authorized or provided for in the grant or contract. This category includes, but is not limited to, nepotism, political patronage, use of participants for political activity, intentional services to ineligible enrollees, conflict of interest, failure to report income derived from federal funds, violation of contract provisions, maintenance of effort violations, and the use of the Workforce Investment Act (WIA) funds for other than WIA purposes.

- 3.) **Gross Mismanagement** is defined as actions, or situations arising out of management ineptitude or oversight, which lead to a major violation of contract provisions and/or which severely hamper accomplishment of program goals. These include situations, which lead to waste of government resources and put into serious jeopardy future support for a particular project. This category includes, but is not limited to, unauditible records, unsupported costs, highly inaccurate fiscal and/or program reports, payroll discrepancies,
  - 4.) **Employee/Participant Misconduct** should be considered as actions occurring during or outside work hours, that reflect negatively on the program or its purpose, and may include, but are not limited to, conflict of interest involving outside employment, business and professional activities, and the receipt or giving of gifts, fees, entertainment, and favors; misuse of federal property; misuse of official information; and other activities that might adversely affect the confidence of the public regarding the integrity of government.
  - 5.) **Standard of Conduct Violations** are violations of terms and conditions stipulated in the subgrant agreement. The relevant stipulations in the subgrant agreement are General Assurances, Employment of Former State Employees, Conducting Business Involving Relative, Conducting Business Involving Close Personal Friends and Associates, Avoidance of Conflict of Economic Interest, and Maintenance of Effort
- C. Reporting Procedures – Allegations of fraud, abuse, gross waste, or other criminal activity may originate from sources other than ACWIB staff, WIA Program Operators, clients, etc. Such sources may include informants, independent auditors, or local law enforcement agencies.
- 1.) All incident reporting documents will be submitted directly to the ACWIB to the following address:

Alameda County Workforce Investment Board  
24100 Amador Street, 6<sup>th</sup> Floor, Rm. 610C  
Hayward, CA 94544  
Phone: (510) 259-3842  
Fax: (510) 259-3845  
Attn: WIB Director
  - 2.) Reports must be submitted within one workday (24 hours) of detection or discovery of information alleging fraud, abuse, criminal activity, or gross mismanagement and waste.

- 3.) Reporting Forms for Fraud, Abuse, Criminal Activity, etc., are attached. However, ACWIB staff will also accept verbal reports, and the key information will be gathered and documented.
- 4.) ACWIB staff is responsible for taking any action it deems appropriate, including contacting the local law enforcement agency when immediate action is required.
- 5.) ACWIB is responsible for forwarding all incident reports to the following agencies:
  - Compliance Review Division, MIC 22 M  
Employment Development Department  
P.O. Box 826880  
Sacramento, CA 94280-0001  
(916) 653-3270
  - Office of Inspector General  
United States Department of Labor  
200 Constitution Avenue, NW, Room S-5506  
Washington, DC 20210
  - Alameda County Board of Supervisors  
County Administrator's Building  
1221 Oak Street, Suite 536  
Oakland, CA 94612

#### 4. TIMELINES FOR COMPLAINTS & RESOLUTION PROCESS

TYPE OF COMPLAINT	FILING DEADLINE FROM DATE OF INCIDENT	HEARING DEADLINES	DECISION ISSUED	APPEALS
NONDISCRIMINATION AND EQUAL OPPORTUNITY.	180 Days from the date of the alleged violation.	Mediation is voluntary. Both parties must consent.	90 Days to File a "Notice of Final Action"	Filed with the CRC within 30 days of the 90 day period for reaching a decision.
NONCRIMINAL VIOLATIONS OF WIA	One Year from the date of the alleged violation	Impartial Hearing held 30 days from filing grievance. 10-day prior notice of hearing required.	60 Days after filing grievance, decision reached.	Filed with the State within 10 days of receipt of the local decision.
CRIMINAL ALLEGATIONS OF FRAUD, OR GROSS WASTE	Within 24 hours of discovery	N/A	N/A	N/A

## **ADOPTION OF WIB COMPLAINT PROCEDURES BY WIB FUNDED CONTRACTORS**

WIB funded contractors, including private-for-profit employers of WIB participants/trainees, et al, may either operate their own complaint systems or elect to utilize the Alameda County WIB complaint procedures for complaints initiated by WIB participants/trainees that relate to the terms and conditions of their employment. However, all eligible participants/trainees and/or employees must receive notice of the option to contact the Federal Civil Rights Center (CRC) directly to file any complaint relating to discrimination.

**NOTE: When contractors adopt and utilize their own complaint procedures, copies of all discrimination complaints must be forwarded to the Alameda County Civil Rights Officer at the following address:**

Ms. Darleen Brooks  
Civil Rights Officer  
County of Alameda / Social Services Agency  
2000 San Pablo Avenue, 4<sup>th</sup> Floor  
Oakland, CA 94610,

If a WIB contractor elects to operate its own procedures, said system shall provide for review of any decisions thereunder by the WIB and, if necessary, the Governor, in accordance with 20 CFR 627.460. It shall be the responsibility of the contractor to advise his/her participant/trainees/employees as to which complaint procedures they are to follow.

### **Governor's 15 and 25 Percent Subgrantees**

The WIA Title I Governor's 15 and 25 Percent subgrantees (except LWIAs) are not required to develop a process for dealing with grievances and complaints from participants and interested parties, but must designate an individual who will be responsible for adopting and publishing the EDD grievance and complaint procedures. Therefore in lieu of local complaint procedures, WIA Title I Governor's 15 and 25 Percent subgrantees must adopt the EDD's State-Level Grievance and Complaint Procedures. Contact the Workforce Services Division at (916) 654-7799.