



## Bay Consortium Workforce Development Board

**Policy Number: 16-06**

**Effective Date: February 1, 2017**

**Title: Grievance Policy**

### Purpose

This policy sets forth the procedures required under the Workforce Development Act (WIOA) to address grievances or complaints alleging a violation under the requirements of WIOA by the Commonwealth of Virginia, the Bay Consortium Workforce Development Board (BCWDB), a One-Stop Center, Service or Training Providers.

This policy does not address the procedure for processing complaints alleging discrimination under WIOA section 188 and/or 29 CFR part 37. Such complaints must be handled in accordance with the procedures set forth in that regulatory part. Questions about or complaints alleging a violation of the non-discrimination provision of WIOA section 188 may be directed or mailed to Executive Director, BCWDB, PO Box 1117 or 487 Main Street, Warsaw, VA 22572 or Director, Civil Rights Center, US Department of Labor, Room N4123, 200 Constitution Avenue, NW, Washington, DC 20210, for processing.

### References

P.L. 113-128, Workforce Innovation and Opportunity Act of 2014, Section 181(c).

Federal Register, August 19, 2016, Part VI, Department of Labor, Employment and Training Administration, 20 CFR Part 603,651,652, et al.

Workforce Innovation and Opportunity Act; Final Rules. 20 CFR Part 683, Subpart F- Grievance Procedures, Complaints, and State Appeals Processes. 29 CFR Part 38, WIOA Section 188 Nondiscrimination and Equal Opportunity Regulations.

Virginia Workforce Letter # 16-09 WIOA Program Grievance and Complaint Processing

### Definitions

The following terms, when used in this policy, have the following meanings unless the context clearly indicates otherwise:

*Complainant* – an individual, group or agency that files a formal complaint alleging violation of



the WIOA and/or provisions of a related agreement.

*Direct Recipient* – any person or governmental department, agency or establishment that receives WIOA funds through a local area in order to carry out WIOA programs, but does not include an individual who is the beneficiary of such a program.

*Grievant* – an individual, group or agency that files a formal grievance alleging violation of the WIOA and/or provision of a related agreement.

*Interested Parties* – includes sub-grantees, subcontractors, service providers, employees, One-Stop partners, and training providers.

*Participant* - an individual who has been determined to be eligible to participate in and who is receiving services (except follow-up services authorized under the WIOA) under a program authorized by the WIOA. Participation commences on the first day, following determination of eligibility on which the individual begins receiving subsidized employment, training or other services provided under WIOA.

*Respondent* – the individual and entity against whom the grievance or complaint is alleged.

## **GRIEVANCES AND COMPLAINTS PROCESSING**

The grievance and complaint review procedures for the local level apply to alleged violations of the requirements of WIOA and/or provisions of a related agreement. These grievances or complaints may be submitted by participants and other interested parties affected by the local workforce Development system, including one-stop partners and service providers.

### *Filing a Grievance or Complaint*

The One-Stop Center, Service or Training Provider shall provide participants with the name, address and telephone number of the agency's official and the BCWDB Executive Director to whom grievances and complaints can be directed. Examples of who may file a grievance or complaint include the following:

1. Applicants and/or registrants for aid, benefits, services or training,
2. Eligible applicants/registrants,
3. Participants,
4. Employers,
5. Applicants for employment under WIOA,
6. Service providers or
7. Eligible service providers.

Each grievance or complaint must be filed, in writing, within 30 calendar days of the alleged situation and must contain the following information:

1. The name, address and phone number of the person filing the grievance or complaint;
2. The date of the alleged situation and the date the grievance or complaint was filed;
3. The identity of the respondent (i.e. the individual or entity against whom the grievance or complaint is alleged);
4. A description of the allegation(s). This description must include enough detail to allow the reviewer to decide whether the allegation(s), if true, would violate any of the provisions of WIOA; and
5. The signature of the person filing the grievance or complaint.

#### *Methods of Resolution/Disposition of Complaints*

Upon receipt of the grievance or complaint, the reviewer will provide written notice to the grievant or complainant. This correspondence will be sent within five (5) business days and must include the following:

1. A summary of the allegation(s) submitted;
2. The date, time and place of the meeting or hearing with the reviewer;
3. A notice that the BCWDB Executive Director may arrange for an informal resolution to the complaint prior to the official meeting or hearing;
4. A notice that the grievant or complainant may be represented by an attorney; and
5. A notice that the grievant or complainant may present witnesses and documentary evidence.

Each One-Stop Center, Service or Training provider must notify the BCWDB Executive Director, in writing, of the complaint within 48 hours of receiving the complaint. The BCWDB Executive Director has a maximum of 30 calendar days to conduct an investigation of the allegations and offer a resolution.

#### *Notice of Final Action*

Once the investigation is complete and a decision has been reached, a Notice of Final Action must be sent to the grievant or complainant with a copy to the agency. If an informal resolution was provided, the Notice of Final Action must summarize the resolution agreed upon. If no informal resolution was provided, the Notice of Final Action must contain the following information:

1. The reviewer's decision and the reasons supporting the decision;
2. A brief description of the investigation process implored to reach the decision;
3. A notice that, if no decision is reached within 60 days or if dissatisfied with the decision, the grievant or complainant may appeal to the Commonwealth of Virginia within 10 business days of receipt of the Notice of Final Action; and
4. A notice that the grievant or complainant may seek a remedy authorized under another Federal, State or local law.

### *Record Keeping Requirements*

Records regarding grievances and complaints must be maintained for at least three years from the date of resolution of the grievance or complaint. All records must include the following:

1. The name and address of the grievant or complainant;
2. A description of the grievance or complaint;
3. The date the grievance or complaint was filed;
4. The disposition (final action);
5. The date of disposition of the grievance or complaint; and
6. Any other pertinent information

To the maximum extent possible, the identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation of the WIOA shall be kept confidential. The information may only be used for purposes of:

1. Record keeping and reporting;
2. Determining the extent to which an entity is operating its WIOA funded programs or activities in a nondiscriminatory manner; or
3. Other use authorized by the nondiscrimination and equal opportunity provisions of WIOA.

### **PROCESSING APPEALS OF AGENCY LEVEL GRIEVANCE AND COMPLAINT DECISIONS**

The grievance and complaint review procedures for the agency level apply to alleged violations of their requirements of WIOA and/or provisions of a related agreement. These grievances or complaints may be submitted by participants and other interested parties affected by the local workforce Development system, including One-Stop Centers, Center Partners, Service and Training Providers. The Bay Consortium Workforce Development Board (BCWDB) will review:

1. Appeals of decisions made at the local agency level during the grievance and complaint process; Grievances or complaints alleging a violation of the requirements of the WIOA and/or provisions of a related agreement, filed by interested parties who have no recourse to the grievance and complaint procedure of a local agency, but who are affected by the WIOA programs offered through the Virginia Career Works system;
2. Grievances or complaints from eligible providers of training services who are denied equitable opportunities to provide training programs to WIOA participants, by a one-stop center or program operator, or otherwise adversely affected by the one-stop center or program operator. \*



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\*Grievances or complaints from providers of training services who are denied eligibility by the BCWDB, or who's eligibility is terminated or otherwise adversely affected by the BCWDB must file their complaints with the Commonwealth of Virginia.

### *Filing an Appeal*

Each appeal must be filed, in writing, within 10 business days of the date of which the Notice of Final Action is received and must contain the following information:

1. The name, address and phone number of the person filing the appeal;
2. The identity of the respondent (i.e. the individual or entity against whom the grievance or complaint is alleged);
3. A description of the allegation(s). This description must include enough detail to allow the reviewer to decide whether the allegation(s), if true, would violate any of the provision of WIOA;
4. Pertinent dates, including the date on which the grievance or complaint was filed at the local agency level, the date of the alleged occurrence for which the grievance or complaint was filed and the date a written decision was issued (or should have been issued);
5. If applicable, copies of the provisions of the WIOA, the regulations, etc. which are believed to have been violated;
6. A statement disclosing other steps pursued at any level regarding the grievance or complaint in question;
7. A copy of the agency's Notice of Final Action, if such was rendered; and
8. The signature of the person filing the appeal.

NOTE: The appeal must be accompanied by all documentation submitted to the agency when filing the original complaint. Only information received by the agency during the initial investigation will be allowed as evidence in the appeal process.

### *Methods of Resolution/Disposition of Complaints*

Upon receipt of the written request for appeal and all of the pertinent information outlined above, the reviewer for the BCWDB will provide the grievant, or complainant, and the respondent with written acknowledgement of the appeal. This correspondence will be sent within five (5) business days and include both, a summary of the allegations submitted and an offer to resolve the issue informally prior to rendering a decision based on the written records. Finally, the acknowledgment will include a notice that upon review of the documentary evidence presented, the reviewer will make his/her decision.

The reviewer may offer the opportunity to resolve the issue informally prior to rendering a decision based on the written records. If the parties decline this opportunity, the reviewer will accept, reject or modify the decision for the local agency based on a review of the evidence. The reviewer may also remand the grievance or complaint to the local agency for further



investigation. In any case, the reviewer has a maximum of 30 calendar days to review the allegation(s) and offer a resolution.

### *Notice of Final Action*

Once a decision is reached, a Notice of Final Action must be sent to the grievant or complainant and respondent. If an informal resolution was provided, the Notice of Final Action will summarize the resolution agreed upon. If no informal resolution was provided, the Notice of Final Action will contain the following information:

1. The reviewer's decision and the reason supporting the decision;
2. A notice that, if dissatisfied with the decision, the grievant or complainant may appeal to the Commonwealth of Virginia, within 10 days of the Notice of Final Action from the BCWDB;
3. Notice that copies of appeals submitted to the WIOA Program Administrator, Virginia Community College System, 300 Arboretum Pl #200, Richmond, VA 23236, must be sent to the reviewer at BCWDB, PO Box 1117/487 Main Street, Warsaw, VA 22572; and
4. A notice that the grievant or complainant may seek a remedy authorized under another Federal, State or local law.

### *Record Keeping Requirements*

Records regarding grievances and complaints must be maintained for at least three years from the dated of final resolution. All records must include the following:

1. The name and address of the grievant or complainant;
2. A description of the grievance or complaint;
3. The date the grievance or complaint was filed;
4. The disposition (final action);
5. The date of disposition of the grievance or complaint; and
6. Any other pertinent information

To the maximum extent possible, the identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation of the WIOA shall be kept confidential. The information may only be used for purposes of:

1. Record keeping and reporting;
2. Determining the extent to which an entity is operating its WIOA funded programs or activities in a nondiscriminatory manner; or
3. Other use authorized by the nondiscrimination and equal opportunity provisions of WIOA.