

Grievance and Complaint Resolution Policy and Procedures



Effective Date: 12/01/2020
Duration: Indefinite

Purpose

The purpose of this guidance is to provide policy and procedures required under WIOA regarding grievances and complaints from participants, sub-recipients, Local Workforce Development Boards and other interested parties. In addition, this policy differentiates complaints as they relate to four (4) separate categories:

- Complaints alleging discrimination or denial of equal opportunity;
- Complaints alleging unjust denial of WIOA services;
- Complaints alleging hostile work environment against employers that are not related to WIOA-funded programs or training; and
- Complaints made by staff within NETLWDA against other NETLWDA staff or a sub-recipient entity.

Definitions

- 1) Complainant: the party that files the grievance.
- 2) Days: consecutive calendar days, including weekends and holidays.
- 3) Grievance: a written complaint filed in accordance with this policy.
- 4) Informal Resolution: an opportunity to resolve complaints informally before they become grievances.
- 5) Interested Parties: includes participants, sub-grantees, subcontractors, sub-recipients, service providers, American Job Center (AJC) One-Stop Partners, providers of training services, and other relevant parties.
- 6) Respondent: the party who argues against the complainant or appellant.
- 7) The Secretary: the acting officer of the U.S. Department of Labor
- 8) Service Providers: recipients or sub-recipients of WIOA Federal financial assistance that are awarded contracts to provide WIOA services under the LWDA or WIOA sub-recipients.
- 9) Unit of General Local Government: for the purpose of this guidance shall include a combination of general local government units
- 10) Hearing Officer: an official who conducts an investigation or administrative hearing as a disinterested, neutral party

I. American Job Center (AJC) and Migrant Seasonal Farm Worker Complaint Log

The following list detail requirements for AJC Complaint Log Submissions:

- Complaint logs must be sent for all comprehensive and affiliate AJCs within a LWDA.
- Complaint logs must be submitted for each quarter, regardless of whether any complaints were filed. Logs that do not reflect a complaint for the quarter must clearly state 'No complaints filed', or similar language, to indicate that the logs were not submitted with incomplete information.
Blank logs will not be accepted.
- Complaint logs must identify the AJC city, reporting period, and reporting quarter. For example: "2020-2021 Q4 Johnson City Complaint Log"
- The complaint log must be cumulative for the fiscal year (October 1 to September 30). The

same form must be used throughout the entire year, and updated as needed. For example, complaints that were indicated to be pending in previous quarters will be updated to reflect action steps or final resolution.

- The log must reflect the correct reporting period (listed below) and contain sufficient detail to identify:
 - Who filed the complaint, who received the complaint,
 - What the complaint alleges,
 - Where the complaint was filed, and
 - When the complaint was filed.
- The Local EO Officer must collect the AJC logs for each LWDA, then send them to Workforce.Board@tn.gov.
- Logs sent directly from AJC Team Leads to the TDLWD Central Office will not be accepted.

Reporting periods and deadlines for complaint log submissions are as follows:

Quarters	Fiscal Year Reporting Periods	Deadlines for Submission
Quarter 1	October 1 to December 31	January 30
Quarter 2	January 1 to March 31	April 30
Quarter 3	April 1 to June 31	July 30
Quarter 4	July 1 to September 31	October 30

II. Local Level Complaint Requirements and Procedures

This policy outlines the local level policies and procedures to address complaints.

A. Discrimination or Denial of Equal Opportunity

WIOA Section 188 prohibits discrimination against individuals in any program or activity that receives financial assistance under Title I of WIOA as well as by the One-Stop Partners listed in WIOA Section 121 (b) that offer programs or activities through the One-Stop/American Job Center system. WIOA Section 188 prohibits discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, or, for beneficiaries, applicants, and participants only, citizenship status or because of an individual's participation in a program or activity that receives financial assistance under Title I of WIOA (29 CFR Part 38).

No person shall, on the grounds of race, color, national origin, or disability, be excluded from, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance from the Department of Labor (29 CFR Part 31.3 and 32.4).

It is against the law for the Northeast TN Local Workforce Development Board (NETLWDB), a recipient of Federal financial assistance, to discriminate on the following basis:

- Against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and
- Against any beneficiary of programs financially assisted under Title I of Workforce Innovation and Opportunity Act of 2014 (WIOA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his/her participation in any WIOA Title I financially assisted program or activity.

The NETLWDB will not discriminate in any of the following areas:

- Deciding who will be admitted, or have access, to any WIOA Title - I financially assisted program or activity;
- Providing opportunities in, or treating any person with regard to, such a program or activity; or
- Making employment decisions in the administration of, or in connection with such a program or activity.

Applicants/participants, or other interested parties, who feel that they have received unequal treatment should contact the Northeast Tennessee Workforce Board, Equal Opportunity Officer (EEO). Informal procedures will be initiated to resolve the applicant/participant's complaint. One-on-one assistance is available for individuals with disabilities when necessary. If these procedures do not resolve the issue to the applicant/participant's satisfaction, the Equal Opportunity Officer will advise the applicant/participant of the formal complaint procedures listed below.

If an individual thinks he/she has been subjected to discrimination under WIOA Title I financially assisted program or activity, the individual may file a complaint within 180 days from the date of the alleged violation with either:

Northeast TN Workforce Board
Equal Opportunity Officer
386 Highway 91
Elizabethton, TN 37643
(423) 547-7500

TN Department of Labor & Workforce Development
ATTN: EO Officer
220 French Landing Drive
Nashville, TN 37243
(615) 253-1331

US Department of Labor
Director, Civil Rights Center
200 Constitution Avenue, NW
Room N-4123
Washington, DC 20210
(202) 693-6516

To file a complaint with the NETLWDB Equal Opportunity Officer (EEO):

- a. All complaints must be submitted in writing to the EEO at 386 Highway 91, Elizabethton, TN 37643 within 180 days calendar days of the date of the alleged occurrence
- b. All complaints must be filed using the Employment and Training Administration (ETA) Complaint/Apparent Violation Form
- c. The EEO will provide written acknowledgement of receipt of complaint to complainant.
- d. The EEO will initiate an investigation and hold a formal discussion with the complainant within 15 working days of the receipt of complaint.
- e. The EEO will communicate a written decision to the complainant within 10 working days after completing the investigation.
- f. If a resolution is not obtained at the local level within 60 days of the filing of the complaint, or either party is dissatisfied with the local resolution or hearing, an appeal may be filed with TDLWD.

If the complainant is dissatisfied with the decision or the resolution by the NETLWDB, a complaint may be filed with the Civil Rights Center. An individual must file a Civil Rights Center complaint within 30 days of the date he/she received the Notice of Final Action.

The Northeast TN Workforce Board is an Equal Opportunity Employer/Program. Auxiliary Aides and services are available upon request to individuals with disabilities.

B. Denial of WIOA Services

The LWDB Staff Executive Director, or their designee, must directly oversee the adjudication process for complaints alleging unjust denial of WIOA services that do not allege discrimination or denial of equal opportunity.

The Northeast Tennessee Workforce Board has established the following local complaint and grievance procedures:

- a. All complaints must be submitted to the Executive Director of the Northeast Tennessee Workforce Board (NETLWDB) at: Executive Director, 386 Highway 91, Elizabethton, TN 37643.
- b. All complaints must be filed using the Employment and Training Administration (ETA) Complaint/Apparent Violation Form.
- c. The Executive Director or their designee will provide written acknowledgement of receipt of complaint to complainant.
- d. The Executive Director or their designee will launch an investigation and hold a formal verbal discussion with complainant within fifteen (15) working days of receipt of complaint.
- e. The Executive Director or their designee will communicate a written decision to the complainant within ten (10) working days of the verbal discussion.
- f. Should the complainant not be satisfied, the complainant may file a written appeal, prepared consistent with item b above, with the Board Chairman.
- g. Upon receipt of an appeal, the Chairman will convene an ad hoc committee to review the appeal. The hearing will be limited to the original complaint and the complainant can choose to be represented by another individual, including legal counsel.
- h. The committee will render a written decision to the complainant within five (5) working days of the hearing. If more time is needed to reach a decision, the complainant will be notified in writing of the time by which a decision will be made.
- i. If a resolution is not obtained at the local level within sixty (60) days of the filing of the complaint, or either party is dissatisfied with the local hearing decision, an appeal may be filed with the Tennessee Department of Labor and Workforce Development (TDLWD) at WIOA.complaints@tn.gov. The TDLWD decision may be appealed to the Secretary in the event that a decision has not been reached within sixty (60) days, or a decision has been reached and the party wishes to appeal to the Secretary.
- j. An individual party to a collective bargaining agreement, alleging a labor standards violation, may also submit the grievance to a binding-arbitration procedure.

Documentation must include, but is not limited to:

- Employment and Training Administration (ETA) Compliant/Apparent Violation Form;
- Email correspondence related to the complaint; and,
- Meeting minutes regarding an in-person adjudication between LWDA staff and the complainant, if applicable.

C. Hostile Work Environment, Related to American Job Center Staff

The Executive Director or their designee, must directly oversee the adjudication process for complaints made by LWDA staff against other LWDA staff or a sub-recipient entity.

Documentation must include, but is not limited to:

- Employment and Training Administration (ETA) Compliant/Apparent Violation Form;
- Email correspondence related to the complaint; and,
- Meeting minutes regarding an in-person adjudication between LWDA staff and the

complainant, if applicable.

D. Hostile Work Environment, Unrelated to American Job Center Staff

The One-Stop Operator (OSO) Director must ensure complaints alleging a hostile work environment or other unfair treatment by an employer are appropriately forwarded to either the Labor Standards Unit or the Tennessee Occupational Safety and Health Administration (TOSHA).

I. Complaints to the Labor Standards Unit:

- Request inspections of child-labor and non-smoker protection
- Processes claims for unpaid wages
- Investigate if there are allegations of unlawful hiring practices related to illegal aliens and whether workers are lawfully authorized to work

More information can be accessed at:

<https://www.tn.gov/workforce/employers/safety-health/regulations-compliance/regulations--compliance-redirect/labor-standards-unit.html>

II. Complaints to TOSHA:

- Request inspections if concerned with the possible existence of safety and health hazards

More information can be accessed at:

<https://www.tn.gov/workforce/employees/safety-health/tosha-redirect/file-a-safety-complaint.html>

The OSO Director must assist the complainant to file a complaint with the aforementioned organizations, to include follow up with the customer. This process must be reflected in the AJC Complaint Log and documentation must be maintained at the AJC.

Documentation must include, but is not limited to:

- Employment and Training Administration (ETA) Compliant/Apparent Violation Form;
- Email correspondence related to the complaint; and,
- Meeting minutes regarding an in-person adjudication between LWDA staff and the complainant, if applicable.

III. State-Level Complaint Procedures

A. State-Level Staff Roles and Required Documentation Regarding Discrimination and Denial of Equal Opportunity:

In order to monitor discrimination, equal opportunity, and denial of WIOA service complaints, the State will use the following steps:

1. Program Integrity staff will collect AJC complaint log submissions on a quarterly basis to oversee when submission have been made, how resolution has progressed, and whether complaints were resolved according to regulations mandated by WIOA.
2. Program Integrity staff will monitor complaints to ensure that they do not exceed a sixty (60) calendar day limit without continued follow-up by appropriate LWDA staff.
3. Program Integrity staff will remand complaints to the local level when there is insufficient documentation to demonstrate that an opportunity for an informal hearing was offered. Complaints returned to the local level will receive continued follow-up to ensure either resolution or proper escalation.
4. If the complaint has exceeded the sixty (60) calendar day resolution period, or if either

party is dissatisfied with the local level decision and wishes to file an appeal, Program Integrity staff will request documentation to demonstrate how the complaint has been handled on the local level. Staff will compare the provided documentation to the local grievance and complaint policy to determine whether the process was carried out according to local regulations.

5. The State EO Officer will investigate allegations of discrimination and denial of equal opportunity if all aforementioned procedures are exhausted, or an appeal has been requested. A decision will be made by the State EO Officer within sixty (60) calendar days of when documentation was received. The decision will be shared with the LWDB, LWDB Staff Executive Director, and the Local EO Officer.
6. The State EO Officer will provide an opportunity for a federal-level appeal concerning discrimination and denial of equal opportunity allegations when:
 - No decision has been made within sixty (60) calendar days; or
 - Either party is dissatisfied with the state decision.

B. State-Level Staff Roles and Required Documentation Regarding Denial of WIOA Services or Complaints Submitted by American Job Center Staff:

In order to monitor discrimination, denial of equal opportunity, and denial of WIOA service complaints, the State will use the following steps:

1. Program Integrity staff will collect AJC complaint log submissions on a quarterly basis to oversee when submission have been made, how resolution has progressed, and whether complaints were resolved according to regulations mandated by WIOA.
2. Program Integrity staff will monitor complaints to ensure that they do not exceed a 60-day limit without continued follow-up by appropriate LWDA staff.
3. Program Integrity staff will remand complaints to the local-level when there is insufficient documentation to demonstrate that an opportunity for an informal hearing was offered. Complaints returned to the local-level will receive continued follow-up to ensure either resolution or proper escalation.
4. If the complaint has exceeded the sixty (60) calendar day resolution period, or if either party is dissatisfied with the local-level decision and wishes to file an appeal, Program Integrity staff will request documentation to demonstrate how the complaint has been handled on the local-level. Staff will compare the provided documentation to the local grievance and complaint policy to determine whether the process was carried out according to local regulations.
5. The TDLWD Workforce Services Director of Program Integrity, or their designee, will investigate allegations of unjust denial of WIOA services and internal complaints made by LWDA staff against other staff or a sub-recipient entity in the event that all aforementioned procedures are exhausted, or an appeal has been requested. In cases that allege discrimination or denial of Equal Opportunity, the TDLWD HR Director will lead the investigation. A decision will be made by the Program Integrity Director within sixty (60) calendar days of when documentation was received. The decision will be shared with the LWDB, LWDB Staff Executive Director, and the Local EO Officer.
6. Decisions made by the Workforce Services Program Integrity Director will be considered final and will not subject to appeal.

C. State-Level Staff Roles and Documentation Regarding Hostile Work Environment or Employer-Related Complaints:

Program Integrity staff will not investigate complaints alleging unfair work practices or those made against an employer unless the complaint is directly related to WIOA-funded activities. Such complaints will be directed to the following entities:

- A. Complaints to the Labor Standards Unit:
 - Request inspections of child-labor and non-smoker protection
 - Processes claims for unpaid wages
 - Investigate if there are allegations of unlawful hiring practices related to illegal aliens and whether workers are lawfully authorized to work.
- B. Complaints to TOSHA:
 - Request inspections if concerned with the possible existence of safety and health hazards.

IV. Federal-Level Complaint Procedures:

- The Secretary investigates allegations arising through the grievance procedures when:
 - A decision on a grievance or complaint under 20 CFR 683.600(d) has not been reached within sixty (60) calendar days of receipt of the grievance or complaint or within sixty (60) calendar days of receipt of the request for appeal of a local level grievance and either party appeals to the Secretary; or
 - A decision on a grievance or complaint under 20 CFR 683.600(d) has been reached and the party wishes to appeal to the Secretary.
 - The Secretary must make a final decision on an appeal under paragraph (1) of this section no later than 120 calendar days after receiving the appeal.
 - Appeals made under paragraph (1)(ii) of this section must be filed within sixty (60) calendar days of the receipt of the decision being appealed. Appeals made under paragraph (1)(i) of this section must be filed within one-hundred twenty (120) calendar days of the filing of the grievance with the State, or the filing of the appeal of a local grievance with the State. All appeals must be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, 200 Constitution Ave. NW. Washington, DC 20210, Attention: ASET. A copy of the appeal must be simultaneously provided to the appropriate ETA Regional Administrator and the opposing party.
- Except for complaints arising under WIOA Section 184(f) or WIOA Section 188, grievances or complaints made directly to the Secretary will be referred to the appropriate State or local area for resolution in accordance with this section, unless the Department notifies the parties that the Department of Labor will investigate the grievance under the procedures at 20 CFR 683.430.

V. Reporting Fraud, Waste, and Abuse:

Information and complaints involving criminal fraud, abuse, or other criminal activity must be reported immediately in one of three ways:

- A. Tennessee Comptroller of Treasury:
Contact the Fraud, Waste and Abuse Hotline at 1 (800) 232-5454.
- B. Office of Investigations, Region 3
Send an Incident Report to:
Atlanta Regional Office
Office of Investigations: United States Department of Labor
61 Forsyth Street Southwest
Room 6T1
Atlanta, GA 30303
- C. Office of Investigations:
Send an Incident Report to:
Inspector General

Office of Investigations (OIG) Room 55514
U.S. Department of Labor
200 Constitution Avenue, Northwest
Washington, DC 20210

D. Employment and Training Administration:

Simultaneously provide a copy of the Office of Investigations Incident Report to:
<https://www.oig.dol.gov/contact.htm> or call 1 (800) 347-3756.

CONTACT: Questions concerning the above may be addressed to Kathy Pierce, Executive Director of the NETLWDB at kpierce@ab-t.org.

This policy will remain in effect until amended, modified, or set aside by the Northeast Tennessee Local Workforce Development Board.

APPROVED:

A handwritten signature in black ink that reads "James Osborne". The signature is written in a cursive style with a large, looped initial "J".

James Osborne
NETLWDB Chair



For Official Use Only **Complaint/Apparent Violation Form¹**

Complaint/Apparent Violation No.		Date Received
Part I. Contact Information²		Respondent's Information³
1. Name of Complainant/(Last, First, Middle Initial) ⁴		4. Name of Person, Company, or Agency the Complaint is Made Against
2a. Permanent Address (No., St., City, State, ZIP Code)		5. Name of Employer (if different from Part I #4 above) /One-Stop Office
b. Temporary Address (if Appropriate)		6. Address of Employer/One-Stop Office
3a. Permanent Telephone () - () - ()	b. Temporary Telephone () - () - ()	7. Telephone Number of Employer/One-Stop Office () - () - ()
8a. Description of Complaint or Apparent Violation (If additional space is needed, use separate sheet(s) of paper and attach to this form)		

8b. I hereby give authorization to: _____ to act on my behalf regarding this complaint.
Phone #: _____ Address: _____

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

9. Signature of Complainant ⁵	10. Date Signed / /
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¹ For information regarding complaints that are covered through the Employment Service and Employment-Related Law Complaint System see 20 CFR 658 Subpart E.

² If the Complaint/Apparent Violation Form is used to submit an Apparent Violation, the name of the Complainant is not necessary and may remain anonymous. Parts 2a and 2b also do not need to be filled out if the form is used for an Apparent Violation.

³ For definition of "Respondent" see 20 CFR 651.10.

⁴ Pursuant to 658.400(d), "A complainant may designate an individual to act as his/her representative." If the complainant has a designated representative, the name and contact information of the designated representative must be provided in 8b.

⁵ No signature is required at Part 9 if this form is submitted as an Apparent Violation. If the form is submitted as a complaint and a designated representative is acting on behalf of the complainant, the designated representative must sign here.

Part II. For Official Use Only

<p>1. Migrant or Seasonal Farmworker? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <hr/> <p>2. Complaint or Apparent Violation Employment Service Related ("X" Appropriate Box(es)) <input type="checkbox"/> Complaint against the Employer <input type="checkbox"/> Apparent violation involving the Employer <input type="checkbox"/> Complaint against the Local Employment Service Office <input type="checkbox"/> Apparent violation involving the Employment Service Office</p> <p>2a. Job Order No. if available: _____</p> <p>3. Complaint or Apparent Violation Employment-Related Law: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>4. Issue(s) involved in Complaint or Apparent Violation ("X" Appropriate Box(es)):</p> <table style="width: 100%; border: none;"> <tr> <td><input type="checkbox"/> Wage Related</td> <td><input type="checkbox"/> Housing</td> </tr> <tr> <td><input type="checkbox"/> Child Labor</td> <td><input type="checkbox"/> Pesticides</td> </tr> <tr> <td><input type="checkbox"/> Health/Safety</td> <td><input type="checkbox"/> Discrimination</td> </tr> <tr> <td><input type="checkbox"/> Transportation</td> <td><input type="checkbox"/> Trafficking</td> </tr> <tr> <td colspan="2"><input type="checkbox"/> Sexual harassment/coercion/assault</td> </tr> <tr> <td colspan="2"><input type="checkbox"/> Other (Specify) _____</td> </tr> </table>	<input type="checkbox"/> Wage Related	<input type="checkbox"/> Housing	<input type="checkbox"/> Child Labor	<input type="checkbox"/> Pesticides	<input type="checkbox"/> Health/Safety	<input type="checkbox"/> Discrimination	<input type="checkbox"/> Transportation	<input type="checkbox"/> Trafficking	<input type="checkbox"/> Sexual harassment/coercion/assault		<input type="checkbox"/> Other (Specify) _____		<p>5. If employer is an H-2A/Criteria Employer, is the complainant a: ("X" Appropriate Box):</p> <p><input type="checkbox"/> U.S. Worker <input type="checkbox"/> H-2A Worker</p>
<input type="checkbox"/> Wage Related	<input type="checkbox"/> Housing													
<input type="checkbox"/> Child Labor	<input type="checkbox"/> Pesticides													
<input type="checkbox"/> Health/Safety	<input type="checkbox"/> Discrimination													
<input type="checkbox"/> Transportation	<input type="checkbox"/> Trafficking													
<input type="checkbox"/> Sexual harassment/coercion/assault														
<input type="checkbox"/> Other (Specify) _____														

<p>6a. Referrals To Other Agencies ("X" Appropriate Box(es)) <input type="checkbox"/> WHD. U.S. DOL. <input type="checkbox"/> OSHA U.S. D.O.L. <input type="checkbox"/> EEOC <input type="checkbox"/> Other _____</p>	<p>7. Address of Referral Agency (No., St., City, State, ZIP Code and Telephone No.) _____ _____ (____)____-____</p>
<p>6b. Next Follow-up Date if complainant is an MSFW ____/____/____</p>	
<p>8. Actions Taken on Complaint/Apparent Violation (If additional space is needed for multiple actions taken, use a separate paper):</p> <p>Action Taken By: _____ On: _____ (First and Last Name) (Date)</p> <p>Action Taken: _____ _____ _____</p>	
<p>9. Complaint resolved at the local level <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," explain" _____</p>	