

Fresno Regional Workforce Development Board

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Blake Konczal, Executive Director

OPERATIONAL DIRECTIVE

FRWDB OD # 06-12, Revision G

Date Released: March 16, 2022

To: All Fresno Regional Workforce Development Board Providers of Services

From: Blake Konczal, Executive Director

Effective Date: March 16, 2022

Subject: Workforce Innovation and Opportunities Act (WIOA) Title I Programs Complaint Procedure

Applicable Program: All

Revision History: Initial Release – 3/16/12; Rev. B – 6/24/15; Rev C – 2/15/18; Rev. D – 3/12/18; Rev E – 8/26/21; Rev F – 9/23/21

This Revision G updates terminology, titles, and updates forms. Changes in OD are highlighted in yellow.

This OD references OD 02-09, Reasonable Accommodation Request Process.

All questions concerning these processes are to be directed to the Fresno Regional Workforce Development Board (FRWDB) Monitoring Department Manager.

This process requires the use of the following forms:

- Summary Program Complaint Procedure, Form# QUA-039
- Program Complaint Form# QUA-029
- Providers Statement of Alternative Service Delivery Summary Form GEN-004, if needed

At the time of program eligibility at any Workforce Connection, America's Job Center of California (AJCC) location or into the Young Adult System, Service Provider staff are to review the following documents with the participant:

- Summary Program Complaint Procedure (QUA-039);
- Have the participant sign and date the acknowledgement that they have been informed of this procedure; and
- The signed acknowledgment must be uploaded to CalJOBS in the Document (staff) section and labeled accordingly under the "Document Tags" field in CalJOBS.

When a participant requires a reasonable accommodation due to a disability or limited English proficiency, they are to be provided the Summary Complaint Process in a format they understand. See OD 27-09, Reasonable Accommodation Request Process.

To document the provision of the Summary Complaint Process in an alternate format, the Service Provider is to fill out the Agency Statement, GEN-004 The signed form is to be uploaded to the applicant's case file in CalJOBS.

WIOA Title I Programs Complaint Procedures

Reference: California Employment Development Department (EDD) Directive WSD 18-05,
released on September 4, 2018.

I. Overview

- A. Title 20 CFR Section 667.600 requires the FRWDB under Title I of the WIOA to establish and maintain a procedure for receiving and acting upon complaints from participants or other interested parties affected by the local workforce investment system, including One-Stop partners, Service Providers, and the statewide workforce investment programs.
- B. These procedures define the processes to be followed by the FRWDB and its sub-contracted Service Providers in the receipt, hearing, and resolution of non-criminal complaints relating to WIOA Title I funds provided to the State of California by the Department of Labor (DOL).
- C. These procedures are available for use by all individuals and entities, including WIOA participants, FRWDB staff, FRWDB contracted Service Providers, and other interested parties.
- D. FRWDB and its contracted Service Providers must make reasonable efforts to ensure these procedures are understandable to affected participants and individuals – including youth, and those individuals who have limited English-speaking/reading capabilities or any self-disclosed disability.
- E. Complaints must be filed within one year of the alleged violation. All complaints, amendments, and withdrawals must be in writing.
- F. All persons filing complaints shall be free from restraint, coercion, reprisal, or discrimination.
- G. These procedures are promulgated in accordance with WIOA Section 181(c), Title 20 CFR Part 667.600, and Title 29 CFR Section 37.35, as set forth in these procedures, and are to be utilized by the staff of the FRWDB and its contracted Service Provider in processing such complaints.
- H. Any complaints received, via telephone or personal appearance, will be handled as customer satisfaction issues using the Informal Conference process as specified in Section VII, A.

II. DEFINITIONS

- A. Days:
Consecutive calendar days, including weekends and holidays.
- B. Complainant:
Any participant, personally-interested, or personally-affected party alleging a non-criminal violation of the requirements of WIOA. A complainant can be a/an applicant, participant service provider, partner (mandated or not), or contractor of the FRWDB.
- C. Complaint:

A written expression by a/an applicant, participant, sub-grantee, subcontractor, or other interested person, or their duly appointed representative, alleging a violation of the WIOA, applicable statutes and regulations promulgated under the WIOA, and grant and/or contract conditions or provisions or other rules or policies. A complaint must be filed with the FRWDB within 360 days of an alleged violation.

D. Hearing Officer:

The Hearing Officer, who shall preside at a formal hearing on a complaint, is a contractor to the FRWDB. The Hearing Officer will have no connection to, nor prior knowledge of the events or circumstances of the complaint. The Hearing Officer has no input or control of any local FRWDB policy or procedure.

E. Participant:

An individual who has been determined eligible to participate in and who is receiving services under a program authorized by WIOA. Also known as “client” or “customer.”

F. Applicant:

An individual who has applied for services at the local America’s Job Center of California (AJCC) and has completed an application in CalJOBS, but has not yet been enrolled or deemed eligible to receive WIOA services.

G. Service Provider:

A public agency, private nonprofit organization, or private-for-profit entity that delivers educational, training, employment, or supportive services to WIOA participants.

H. Informal Conference:

An initial meeting between the complainant, and an assigned FRWDB staff member, to review the facts and evidence of the complaint in order to determine next appropriate steps. A resolution may be reached as a result of this meeting.

I. Formal Hearing:

A meeting lead by an impartial Hearing Officer where facts, evidence and interviews are presented in order for the Hearing Officer to reach a decision on the complaint.

J. Appeal:

An action taken by either party of the informal conference or the formal hearing to escalate a complaint to the next level for resolution.

III. TO FILE A COMPLAINT

Anyone who feels they have experienced a violation of WIOA regulations as implemented by the FRWDB, any of its Service Providers, contractors, and/or its One-Stop partners, may file a complaint, in writing, to:

Contact the: Fresno Regional Workforce Development Board (FRWDB)
Attention: Monitoring Unit
2125 Kern, Suite 208
Fresno, CA 93721
Phone: 559-490-7100

IV. ACCESS TO PROCEDURES AND TECHNICAL ASSISTANCE

These procedures are available upon the request of any person during normal business hours. FRWDB publishes these procedures for the general public. This document is also available on the

Workforce Connection website at www.workforce-connection.com. This document contains all of the procedural elements to file a program complaint related to the WIOA within Fresno County.

The FRWDB and/or service providers will provide technical assistance to the complainants, including those complaints against the FRWDB. Such technical assistance includes providing instructions on how to file a complaint, providing relevant copies of documents such as the WIOA, regulations, local policy and directives, contracts, etc., and providing clarifications and interpretations of relevant provisions. This requirement shall not be interpreted as requiring the FRWDB to violate rules of confidentiality.

V. GENERAL REQUIREMENTS

Filing a Program Complaint with the Fresno Regional Workforce Development Board

- A. Every applicant accessing services at Workforce Connection is to receive a copy of the Summary Customer Complaint Procedure (Form #QUA-039). The participant is to acknowledge receipt by signing and dating the bottom of the form on page 2. Service Provider staff is to make a copy of the signed form and upload the copy to the applicant's CalJOBS casefile. The original is to be retained by the applicant.
- B. All complaints must be in writing and received by the FRWDB within one year (360 calendar days) of the alleged violation. This time period is not extended for complaints that are re-filed with amendments. The official filing date of the complaint will be the date it is actually received by the FRWDB. A complaint that is not filed within the required time limit will not be considered. The FRWDB will not grant any extensions of time to file a complaint.
- C. The FRWDB Quality Systems Manager will maintain a log containing complaints alleging violations of the WIOA, applicable statutes and regulations as stated under the WIOA, and grant and/or contract conditions or provisions or other rules or policies. The log will include:
 1. Complainant's name, address and contact information
 2. Description of the complaint
 3. Date complaint was filed
 4. Date and disposition of the complaint
- D. The FRWD Monitoring Unit will create and maintain an electronic complaint file for each complaint that will contain documentation pertinent to the complaint and the final determination. These files will be retained for a period of at least three years from the close of the program year in which the complaint was closed.
- E. Completion of the complaint form (form# QUA-029) is mandatory and requires the individual, or an authorized representative of the individual, to provide written information as follows:
 1. Full name, address, and telephone number of the complainant (the person filing the complaint).
 2. Full name, mailing address, and telephone number of the agency and program title complained against.
 3. The date(s) of the alleged violation(s).
 4. A clear and concise statement of the facts constituting the alleged violation (additional pages may be added that are printed or typed).
 5. If known, the provisions of the WIOA, statute, regulations, grant, contract conditions, rule, or policy alleged to have been violated.
 6. The remedy sought by the complainant.
 7. Indicate that you have, or have not, received a copy of the summary procedures (form# QUA-031).

8. Indicate if the complainant has a limited understanding of the English language.
 9. Indicate if the complainant will, or will not, need an interpreter at the hearing.
 10. Indicate what language the complainant best understands.
 11. Indicate the type of resolution process to be used.
 12. The complainant's signature and the date.
- F. In the event a complaint is filed electronically (e.g., email), an acknowledgment of receipt must be prepared and sent to the complainant acknowledging receipt of the complaint, with the request that the customer sign the acknowledgement receipt and return the original signed acknowledgement to FRWDB. The original signed acknowledgement must be retained in the complainant's complaint file.
- G. The filing of a complaint is initially handled as a request for an informal conference between the complainant, an assigned FRWDB staff member.
- H. Upon receipt of the complaint, the complainant will be offered an alternative dispute resolution, as listed below:
1. A meeting with an assigned FRWDB staff acting as facilitator, or
 2. Informal Conference with the FRWDB **Monitoring Department Manager**.
- I. FRWDB staff may request verbal information and/or written records from the WIOA Service Provider without the necessity of first obtaining a signed release from the complainant. However, if it is determined that the information and/or records in the possession of the Service Provider was obtained from a One-Stop partner or an agency/entity not funded by the FRWDB, the complainant is required to sign and deliver a completed and signed Release of Information form to FRWDB. The information or records requested must be pertinent to the participant's complaint. The complainant's delay in providing a signed release may delay the resolution proceedings until such time as the necessary information and/or records are obtained by FRWDB.
- J. All complaints, amendments, and withdrawals must be in writing.

VI. GENERAL CONSIDERATIONS

- A. At all stages of the proceedings, each involved party has the right to be represented by an attorney, or a lay representative of their choosing, and at his/her own expense. Complainants are entitled to review and obtain copies of his/her records.
- B. The complainant shall be free from restraint, interference, coercion, discrimination, retaliation, or reprisal in connection with the complaint.
- C. At any time during the process, the complainant may choose to change the resolution process. This change must be communicated in writing.
- D. Complaints filed directly with the state EDD will be sent to the FRWDB for resolution. If the complainant is not satisfied with the resolution, they may file an appeal with the State Review Board. See Section VIII.

VII. FRWDB RESOLUTION PROCESSES

A. Low Level Resolution Process

The Low-Level Resolution Process can be held in person or over the telephone. The conference will be facilitated by an assigned FRWDB staff member.

1. There will be four phases with this resolution.
 - b. Initial Contact – Information-gathering interview between the facilitator and the complainant.
 - c. Investigation – The facilitator will notify the person and/or agency that the complaint has been filed against (respondent), gather information from case files and other appropriate sources, and interview those parties involved.
 - d. Determination – Based on the results of the investigation, the facilitator will review the case with FRWDB Operations management to formalize a final decision.
 - e. Resolution – The facilitator will review the resolution with the person/agency the complaint was filed against, and with the complainant. The resolution will be documented in a letter mailed to the complainant and the respondent within 20 days from the date the complaint was filed with the FRWDB.
2. The complainant will be notified that they can change the resolution process at any time, up until the decision is made.
3. If the complainant or the respondent is not satisfied with the resolution, they can request an informal conference with the FRWDB **Monitoring Department** Manager, within ten (10) days of receipt of the decision letter, or 60 days after the initial filing of the complaint, whichever is last.
4. All documents and notes become part of the complaint file, which must be retained for a minimum of three years from the close of the Program Year that the complaint was filed in.

B. Informal Conference

The informal conference with the **Monitoring Department** Manager must be held within 15 days from the original documented complaint. FRWDB staff will notify the complainant, in writing, of the hearing date, 10 days prior to the date of the hearing, when possible. The **Monitoring Department** Manager will request copies of all documents, notes, etc. from the Low-Level Resolution Process, if used. FRWDB staff shall send copies of the meeting notice to all parties and their representatives, if any.

1. The notice of the conference shall contain the following:
 - (a) The date of the notice, name of the complainant, and the name of the party against whom the complaint is filed.
 - (b) The date, time, and place of the hearing.
 - (c) A statement of the alleged violation(s). These statements must accurately reflect the content of the complaint as submitted by the complainant, however, clarifying notes may be added to assure that the complaint is addressed accurately, and the name, address, and telephone number of the hearing officer.
2. The conference will be conducted in an informal manner. Certain basic procedures will be observed:
 - (a) The **Monitoring Department** Manager may make such rulings, regarding the production of evidence and the conduct of the conference that may be reasonable and necessary to enable a fair, equitable, and orderly administration of the conference.
 - (b) The conference will be electronically recorded by FRWDB staff. Any party may request a written transcript of the formal conference, or may arrange at his/her own expense, the services of a Certified Shorthand Reporter, or bring his/her own recording equipment. FRWDB will not provide any written transcript to a third party.
 - (c) The **Monitoring Department** Manager may, at the request of either party or on his/her own initiative, exclude witnesses (including the respondents) who are

parties in interest, so those witnesses cannot hear the testimony of the parties or any other witnesses.

3. Decision:
The FRWDB **Monitoring Department** Manager shall issue a decision no later than 20 days after the date the complaint was filed, and shall mail copies to all parties and their representatives, if any. The Notice of Final Determination shall contain the following:
 - (a) The names of the parties,
 - (b) A statement of the alleged violation(s) and issue(s) related to the alleged violation(s),
 - (c) A statement of facts,
 - (d) The decision of the FRWDB HR Deputy Director and the reason for the decision,
 - (e) A statement of corrective action or remedies for violations, if any, to be taken,
 - (f) A notice of the right of either party to appeal the decision to a local formal hearing within 10 days of the receipt of the decision or 60 days after the date the complaint was filed, whichever is later.
4. All documents, notes, transcripts and recordings become part of the complaint file, which must be retained for a minimum of three years from the close of the Program Year that the complaint was filed in.

C. Formal Hearing

The formal hearing with the impartial Hearing Officer, and appropriate other parties, must be held within 30 days from the original documented request for a formal hearing of the complaint with FRWDB. The Hearing Officer will notify the complainant, in writing, of the hearing date, 10 days prior to the date of the hearing, unless there has been written consent of the parties to shorten the number of days for notice of the hearing. The Hearing Officer will request all documents and recordings from the informal conference and Low-Level Resolution Process (if applicable). The Hearing Officer shall send copies of the meeting notice by certified, return-receipt mail to all parties and their representatives, if any.

1. The notice of hearing shall contain the following:
 - (a) The date of the notice, name of the complainant, and the name of the party against whom the complaint is filed;
 - (b) The date, time, and place of the hearing;
 - (c) A statement of the alleged violation(s). These statements must accurately reflect the content of the complaint as submitted by the complainant, however, clarifying notes may be added to assure that the complaint is addressed accurately, and the name, address, and telephone number of the Hearing Officer.
2. The hearing will be conducted in an informal manner. Certain basic procedures will be observed:
 - (a) The Hearing Officer may make such rulings, regarding the production of evidence and the conduct of the conference that may be reasonable and necessary to enable a fair, equitable, and orderly administration of the conference.
 - (b) The conference will be electronically recorded by FRWDB staff. Any party may request a written transcript of the formal conference, or may arrange at his/her own expense, the services of a Certified Shorthand Reporter, or bring his/her own recording equipment. FRWDB will not provide any written transcript to a third party.
 - (c) The Hearing Officer may, at the request of either party or on his/her own initiative, exclude witnesses (including the respondents) who are parties in interest, so those witnesses cannot hear the testimony of the parties or any other witnesses.
 - (d) Each party shall have the right to call the other party as a witness.

- (e) The complainant shall present its case first, and the respondent shall have the right of cross-examination.
- (f) After the complainant has concluded the presentation of its case, the respondent shall present its case or defense, and the complainant shall have the right of cross-examination.
- (g) After the respondent has concluded the presentation of its case, the complainant shall be given an opportunity to respond to any evidence presented by the respondent that the complainant did not have an adequate opportunity to address during the respondent's presentation.
- (h) At the conclusion of the presentation of evidence, each party shall have the opportunity to make a closing statement.
- (i) In order to ensure all relevant and material evidence has been presented, the Hearing Officer may, at his/her discretion, question any party's witness.

3. Decision:

The Hearing Officer shall issue a decision no later than 60 days after the date the complaint was filed, and shall mail copies by certified, return-receipt mail to all parties and their representatives, if any. The Notice of Final Action shall contain the following:

- (a) The names of the parties.
- (c) A statement of the alleged violation(s) and issue(s) related to the alleged violation(s).
- (c) A statement of facts.
- (d) The decision of the hearing officer and the reason for the decision.
- (e) A statement of corrective action or remedies for violations, if any, to be taken.
- (f) A notice of the right of either party to appeal the decision to the State Review Panel within 10 days of the receipt of the decision or 60 days after the date the complaint was filed, whichever is later.

4. All documents, notes, transcripts and recordings become part of the complaint file, which must be retained for a minimum of three years from the close of the Program Year that the complaint was filed in.

VIII. APPEAL PROCESS

Low Level Resolution Process

If a complainant does not receive a decision from the FRWDB Monitoring Unit within 10 days of the filing of the complaint, or does not agree with the decision, the complainant has the right to request an Informal Conference with the FRWDB.

The complainant may request an informal conference by submitting written notice of appeal to:

Fresno Regional Workforce Development Board
Attention: **Monitoring Department** Manager
2125 Kern Street, Suite 208
Fresno, CA 93721

The request for appeal must include the reason for the appeal and the remedy the complainant is seeking.

The Informal Conference will be scheduled within 10 days of receipt of the notice of appeal.

The Quality System Manager will request all documents related to the Low-Level Resolution Process.

The appeal will follow the same process as documented in Section 7 B, above.

Informal Conference

If a complainant does not receive a decision from the **Monitoring Department** Manager within 20 days of the filing of the complaint, or does not agree with the decision, the complainant has the right to request a Formal Hearing with the impartial Hearing Officer.

The complainant may request a formal hearing by submitting written notice of appeal to:

Fresno Regional Workforce Development Board
Attention: Executive Director
2125 Kern Street, Suite 208
Fresno, CA 93721

The request for appeal must include the reason for the appeal and the remedy the complainant is seeking.

Formal Hearing

The formal hearing will be scheduled within 10 days of receipt of the notice of appeal.

The Hearing Officer will request all documents related to the Informal Conference.

The appeal will follow the same process as documented in Section 7 C, above.

State Level Appeals Process

If a complainant does not receive a decision from the **local** Hearing Officer within 60 days of the filing of the complaint, or does not agree with the decision, the complainant has the right to file an appeal with the state.

The complainant may request a state hearing by submitting written notice of appeal to:

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

- A. The request for an EDD appeal shall be filed within 10 days from the date on which the complainant received FRWDB's resolution (decision), or 5 days after a resolution should have been received; or the date on which an instance of restraint, coercion or reprisal was alleged to have occurred as a result of filing the complaint.
- D. The request for appeal shall have the following information:
 1. Full name, address, and telephone number of the complainant
 2. Full name, mailing address, and telephone number of the FRWDB
 3. A statement of the basis for the appeal
 4. Copies of relevant documentation, such as the complaint filed with FRWDB and their decision
- E. If a formal hearing was held by the FRWDB, EDD shall request the record of the hearing from them and shall review the record, without scheduling an additional hearing. If a formal hearing was not held, EDD will instruct FRWDB to schedule a formal hearing within 30 days of receipt of the appeal. If the FRWDB does not schedule a formal hearing within the timeframe specified, EDD will schedule a formal hearing with a hearing officer. If a state hearing is

conducted, it will be conducted as outlined in Workforce Investment Act Directive (WSD) 08-04, Section III, C and D.

- F. The Chief of the Compliance Review Division (CRD) will notify all concerned parties and the FRWDB by first class, certified, return-receipt mail of the following information, at least 10 days prior to the scheduled hearing:
1. The date of the notice, name of the complainant and the name of the party against whom the complaint is filed
 2. The date, time and place of the hearing before a hearing officer
 3. A statement of allegations – this statement shall accurately reflect the content of the complaint as submitted by the complainant
 4. The name, address and telephone number of the contact person issuing the notice
- E. The State Review Panel shall review the record established by the FRWDB, and shall issue a decision on the basis of the information contained in the record. The State Review Panel may accept, reject or modify the decision of the FRWDB and shall issue a written decision within 60 days of receipt by EDD of the request for appeal.

Federal Level Appeals Process

- A. If the state does not issue a decision within 60 days, the complainant can file an appeal to the United States Secretary of Labor. The appeal must be filed with the Secretary of Labor no later than 120 days of the filing of the appeal with the state. The request for appeal must be submitted by certified mail, return receipt to:

Secretary of Labor
Attn: Assistant Secretary of ETA
US Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

A copy of the appeal must be simultaneously provided to the:

Office of the Regional Administrator - Region 6
U.S. Department of Labor
PO Box 193767
San Francisco, CA 94119-3767

and to the opposing party.

- B. The Secretary shall issue a final determination no later than 120 days after receiving the appeal.**

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.

Forms:

QUA-039, Summary Program Complaint Process Acknowledgement (prints on legal size paper)
QUA- 029, Program Complaint Form
GEN-004, Providers Statement of Alternative Service Delivery