



WORKFORCE INNOVATION AND OPPORTUNITY ACT

VIRGINIA WORKFORCE LETTER (VWL) No.16-09 Change 1

TO: Local Workforce Development Boards

FROM: Nicole Overlay
Commissioner, Virginia Works *Nicole Overlay*

SUBJECT: WIOA Program Grievance and Complaint Processing

EFFECTIVE DATE: 2/15/2025

PURPOSE:

To communicate the requirement of grant recipients to establish and maintain procedures providing for the prompt investigation of equitable resolution of grievances and complaints alleging violations of the Workforce Innovation and Opportunity Act of 2014 (WIOA).

REFERENCES:

P.L. 113-128 Workforce Innovation and Opportunity Act of 2014, Section 181(c)
WIOA Final Rule
20 CFR Part 683, Subpart F-Grievance Procedures, Complaints, and State Appeals Processes
20 CFR Part 683, Subpart (d)
29 CFR Part 38, WIOA Section 188 Nondiscrimination and Equal Opportunity Regulations

REVISIONS:

This VWL replaces VWL 16-09. Updates include a process for remanding initial grievances filed directly with the state to the appropriate local area.

DEFINITIONS:

Complainant - an individual, group or agency that files a formal complaint alleging a violation of WIOA or provisions of a related agreement or service.

Direct Recipient - includes any person or government department, agency or establishment that receives WIOA funds through a local area to carry out WIOA programs but does not include an individual who is a beneficiary of such program.

Grievant - a person, group or agency that files a formal grievance alleging a violation of the WIOA or provisions of a related agreement or service.

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

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

Respondent- the individual or entity against whom the grievance or complaint is alleged.

BACKGROUND:

Section 181 (c) of WIOA requires that each State, local workforce development area and direct recipient of WIOA Title I funds must establish and maintain a procedure for individuals to file a grievance or complaint alleging violations of the requirements WIOA Title I. These grievances or complaints may be submitted by participants and other interested parties affected by the local workforce investment system, including one-stop partners and service providers.

This guidance does not address the procedures for processing complaints alleging discrimination under WIOA section 188 and 29 CFR part 38. Such complaints must be handled in accordance with the procedures outlined in that regulatory part and VWL 15-05 Change 1, WIOA Discrimination Complaint Process. Questions about or complaints alleging a violation of the nondiscrimination provisions of WIOA section 188 may be directed or mailed to the designated local area Equal Opportunity (EO) Officer, State WIOA EO Officer or the Director of the Civil Rights Center, U.S. Department of Labor, Room N4123, 200 Constitution Avenue **N.W.**, Washington, D.C., 20210.

This guidance does not address procedures for processing complaints alleging fraud, abuse, or other alleged criminal activity. Such complaints should be directed to the Office of the Inspector General, U.S. Department of Labor.

GUIDANCE:

A. Processing Grievances and Complaints at the Local Level

The Policy developed at the local level must be provided to participants, employer partners, and other interested parties affected by the local workforce development system, including one-stop partners and service providers. Participants must have signed acknowledgement that they have received and reviewed the policy with staff. Additionally, the local area must make reasonable efforts to ensure that affected participants, including persons who have limited English proficiency, can understand the policy. Such efforts must comply with the language requirements of 29 CFR part 38 regarding the provision of services and information in languages other than English. These steps may include oral interpretation and written translation of both hard-copy and electronic materials in non-English languages.

1. Local Level Procedures.

The local policy shall provide:

- a. A process for dealing with grievances and complaints;
- b. An opportunity for informal resolutions to be completed within 60 calendar days of the filing of the grievance or complaint;
- c. A process which 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 to the grievance so provides; and
- d. An opportunity for the grievant or complainant to appeal the local level decision to the Commonwealth of Virginia when:
 - i. No decision is reached within sixty (60) days; or
 - ii. Either party is dissatisfied with the local decision, or no decision has been made.

2. Filing a Grievance or Complaint

The local area shall provide participants with the name, address, and telephone number of the local official to whom grievances and complaints shall be directed. Examples of who may file a grievance or complaint include the following:

- a. Applicants or registrants for aid, benefits, services or training;
- b. Eligible applicants/registrants;
- c. Participants;
- d. Employers;
- e. Applicants for employment under WIOA;
- f. Services providers; or
- g. Eligible training providers.

Each Grievance or complaint must be filed, in writing, within thirty (30) calendar days of the alleged violation and must contain the following information:

- a. The name, address, and phone number of the person filing the grievance or complaint;

- b. The date of the alleged violation and the date the grievance or complaints was filed;
- c. The identity of the respondent (the individual who is alleged to have committed the violation);
- d. A description of the allegation. This description must include enough detail to allow the reviewer to decide whether the allegations, if true, would violate any of the provisions of WIOA; and
- e. The signature of the person filing the grievance or complaint.

3. 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:

- a. A summary of the allegations submitted
- b. The date, time, and place of the meeting or hearing to be held with the reviewer; (Note: The Local area may provide for an informal resolution of a grievance or complaint which, if provided, shall be completed in a meeting before the hearing date.)
- c. Notice that the grievant or complainant may be represented by an attorney; and
- d. Notice that the grievant or complainant may present witnesses and documentary evidence.

Individuals in grievance investigations are protected from retaliation and are permitted to have translators, interpreters, readers and/or a representative of their choice during the grievance process.

The local area has a maximum of sixty (60) calendar days to conduct an investigation of the allegations and offer a resolution to the complainant. If by the end of sixty (60) days from the date on which the complaint was filed the grant recipient fails to issue a Notice of Final Action, the complainant or grievant may file a complaint directly with the State WIOA Title I Administrative entity (WIOA Title I Administrator).

4. 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. If an informal resolution was provided, the Notice of Final Action must summarize the agreed upon resolution. If no informal resolution was provided, the Notice of Final Action must contain the following information:

- a. The reviewer's decision and the reasons supporting the decision;

- b. A brief description of the investigation process employed to reach the decision;
- c. Notice that, if dissatisfied with the decision, the grievant or complainant may appeal to the Commonwealth of Virginia within thirty (30) business days of receipt of the Notice of Final Action, and;
- d. Notice that the grievant or complainant may seek a remedy authorized by another Federal, State, or local law.

B. Processing of Complaints filed directly with the State, prior to the Local Area

In the case that a complainant files a grievance directly with the WIOA Title I Administrator prior to the local area or before exhausting the process in the preceding section with the local area, the grievant will be informed that they must go through the local grievance process first.

State Actions when an initial grievance or complaint is filed directly with the WIOA Title I Administrator.

- a. The WIOA Program Manager or designee will review the grievance or complaint to determine which local area that the matter pertains to.
- b. The complainant will be informed that they must go through the local grievance and complaint process prior to filing the grievance directly with the state.
- c. The WIOA Program Manager or designee will connect the grievant or complainant directly with an appropriate contact at the local workforce development board to initiate the local grievance process in accordance with this policy and their local policy.

C. Processing Appeals of Local Level Grievance and Complaint Decisions at the State Level

These grievances and complaints may be submitted by participants and other interested parties affected by the local workforce development system, including one-stop partners and service providers to WIOA Title I Administrator.

1. Filing an Appeal

The WIOA Title I Administrator will review:

- a. Appeals of decisions made at the local area level during the grievance and complaint process;
- b. Grievances or complaints alleging a violation of the requirements of the WIOA filed by interested parties who have no recourse to the grievance and complaint procedure of a local area, but who are affected by the Virginia Workforce Programs; and
- c. Grievance or complaints from providers of training services who are denied eligibility by a Local Workforce Development (LWDB), denied eligibility as a

- provider of on-the-job training or customized training by a one-stop operator or whose eligibility is terminated, or otherwise adversely affected, by a LWDB;
- d. Each direct grievance or complaint must be filed in writing within thirty (30) calendar days of the alleged violation. Each appeal must be filed, in writing, within thirty (30) calendar days from the date on which the Notice of Final Action is received. All grievances, complaints, and appeals must contain the following information:
- i. The name, address, and phone number of the person filing the appeal;
 - ii. The identity of the respondent;
 - iii. A description of the allegation. This description must include enough detail to allow the reviewer to decide whether the allegations, if true, would violate any provisions of the WIOA;
 - iv. Pertinent dates, including the date on which the grievance or complaint was filed at the local 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);
 - v. If applicable, citations to the provisions of WIOA, the regulations, etc. which are believed to have been violated;
 - vi. A statement disclosing other steps pursued at any level regarding the grievance or complaint in question;
 - vii. A copy of the local Notice of Final Action, if such was rendered; and
 - viii. The signature of the person filing the appeal.

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

2. Methods of Resolution/Disposition of Complaints

Upon receipt of the written grievance, complaint, or request for appeal and all of the pertinent information outlined above, the reviewer for the WIOA Title I Administrator will provide the grievant or complainant, and respondent with a written acknowledgement. This correspondence shall be sent within five (5) business days and includes both a summary of the allegations submitted and an offer to resolve the issues informally before rendering a decision based on the written records. Finally, the acknowledgement will include a notice that the reviewer will make their decision based on a review of the documentary evidence presented.

If the parties to the grievance or complaint decline the opportunity to resolve the issue informally, the reviewer will accept, reject, or modify the decision from the local area based on a review of the evidence. The reviewer may also remand the grievance or complaint to the

local level for further investigation. In any case, the reviewer has a maximum of sixty (60) calendar days to review the allegations and offer a resolution.

Individuals in grievance investigations are protected from retaliation and are permitted to have translators, interpreters, readers, and/or a representative of their choice during the grievance process.

3. 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. 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:

- a. The reviewer's decision and the reasons supporting the decision;
- b. A brief description of the investigation process used to reach the decision;
- c. Notice that, if dissatisfied with the decision, the grievant or complainant may appeal to the Secretary of the United States Department of Labor within thirty (30) business days of receipt of the Notice of Final Action, and;
- d. Notice that the grievant or complainant may seek a remedy authorized under another Federal, State, or local law.

D. Remedies that may be Imposed at the Local and State Level

According to WIOA Section 181 (c)(3) remedies that may be imposed under this section for a violation of any requirement of this title shall be limited to:

1. Suspension or termination of payments under this title;
2. The prohibition of placement of a participant with an employer that has violated any requirement under this title;
3. Where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of the relevant terms, conditions, and privileges of employment; and
4. Where appropriate, other equitable relief.

E. Record Keeping Requirements

Records regarding grievance and complaints must be maintained by all recipients for at least three years from the date of resolution of the grievance or complaint.

1. All records must include the following:
 - a. The name and address of the grievant or complainant;
 - b. A description of the grievance or complaint;
 - c. The date the grievance or complaint was filed;
 - d. The disposition (final action);
 - e. The date of the disposition of the grievance or complaint; and

- f. Any other pertinent information.
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- 2. To the maximum extent possible, the identity of any person who has furnished information relating to, or assisting in, an investigation of possible violation of the WIOA shall be kept confidential. The information may only be used for purposes of:
 - a. Record-keeping and reporting;
 - b. Determining the extent to which an entity is operating WIOA funded programs or activities in a nondiscriminatory manner; or
 - c. Other uses authorized by the nondiscrimination and equal opportunity provisions of WIOA.

ACTION REQUIRED:

Review the updated policy and make any necessary changes to applicable local policies and procedures.

INQUIRIES:

Please submit inquiries regarding this VWL to:

Virginia Works

WIOA Title I Administrator

2221 Edward Holland Drive,

Suite 500

Richmond, VA 23230

LWDBinquiries@viriniaworks.gov