

CITY OF LOS ANGELES WORKFORCE INNOVATION & OPPORTUNITY ACT (WIOA)

COMPLAINT RESOLUTION PROCEDURES

Revised September 2020

The City of Los Angeles, as a Local Workforce Development Area (LWDA) under the Workforce Innovation & Opportunity Act (WIOA), hereby establishes this WIOA Compliant Resolution Procedure pursuant to Title 20 CFR, Subpart F, §683.600.

References:

- **Section 188 of the Workforce Innovation & Opportunity Act, Final Rule as of January 2017**
- **Americans With Disabilities Act of 1990, Title II, Subpart A, as amended**
- **Age Discrimination Act of 1975, as amended**
- **Section 504 of the Rehabilitation Act of 1973**
- **Title IX of the Education Amendments of 1972**
- **Titles VI and VII of the Civil Rights Act of 1964, as amended**
- **Title 20 Code of Federal Regulations (CFR) Part 683**
- **Title 29 CFR Parts 31, 32, and 38**
- **Title 22 California Code of Regulations (CCR) Division 1, Subdivision 2, Chapter 2, Sections 5050–5070**

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SECTION ONE — INTRODUCTION

The City of Los Angeles, Local Workforce Development Area (LWDA), hereby establishes this Workforce Innovation and Opportunity Act (WIOA) Complaint Resolution Procedure pursuant to Title 20 CFR Section 683.600-683.650, [Subpart F—Grievance Procedures, Complaints, and State Appeals Processes]; and, Title 29 CFR Part 38, [Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act]. The City's Workforce Innovation and Opportunity Act, WIOA, Title I programs are administered by the Workforce Development Division (WDD) of the Economic & Workforce Development Department (EWDD).

POLICIES

The principles and procedures set forth in this WIOA Title I Complaint Resolution Procedure shall be used by all WorkSource and YouthSource Centers, and subcontractors with the City of Los Angeles to resolve complaints which arise in connection with programs operated under the WIOA Title I grant funded programs.

Retaliation Prohibition

No person, organization or agency may discharge, or in any other manner discriminate or retaliate against any person, or deny any person a benefit to which that person is entitled under the provisions of the WIOA Title I regulations because such person has filed any complaint, instituted or caused to be instituted, any such proceeding or investigation, or has provided information or assisted in an investigation.

Confidentiality

The identity of any person who has furnished information relating to, or assisting in, the investigation of a possible violation of the Act shall be confidential to the extent possible, consistent with a fair determination of the issues.

In any case where the alleged violation of the Act or WIOA Title I regulations is also an alleged violation of another law, regulation or agreement, nothing shall preclude an individual or an organization from filing a complaint or grievance under the other law or agreement with respect to the non-WIOA Title I cause of action, as well as filing a complaint under the WIOA Title I in accordance with the procedures described herein.

Time Frames

All time frames specified in these procedures refer to consecutive calendar days including weekends and holidays. *When the time frame stated refers to a receipt of notice mailed certified return receipt requested, the time frame shall commence when the Postal Service first attempts delivery; (i.e., leaves a notice). It is the responsibility of all parties to pick up mail in a timely manner.*

“Complaint” means a written expression by a party alleging a violation of the Act, regulations promulgated under the Act, recipient grants, sub-agreements, or other specific agreements under the Act.

WORKSOURCE/YOUTHSOURCE CENTERS' COMPLAINT REQUIREMENTS

Each of the designated WorkSource/YouthSource Centers has the duty and responsibility to ensure that the WorkSource/YouthSource Agency is in compliance with the provisions

of the WIOA complaint resolution procedure and shall work cooperatively with the City of Los Angeles' designated Equal Opportunity (EO) Compliance Officer to process all complaints filed with their Agency involving WIOA Title I funded participant activities.

Orientation

At Orientation, each participant in the WIOA Title I program will be provided with a copy of the Summary of the WIOA Complaint Resolution Procedure. Each participant will sign a receipt indicating that he or she has received the complaint information and that receipt, along with a copy of the Summary of the Complaint Procedures, shall be maintained in the participant's file. This information shall be provided in other languages and in electronic format upon request.

These procedures will be available for use by all individual entities, including unsubsidized employees in an employment activity operating with WIOA Title I funds, participants in an employment activity operated with WIOA funds, subcontractors of LWDA, entities and individuals that are applicants for WIOA program funding, labor unions, community based organizations, education agencies, private employers and other interested parties.

TYPES OF COMPLAINTS COVERED UNDER WIOA

There are four distinct procedures for filing WIOA complaints. The WIOA Complaint procedures cover the following types of complaints:

- 1. Program Complaint (Noncriminal)**
- 2. Discrimination Complaint**
- 3. Questioned/Disallowed Costs Complaint**
- 4. Fraud, Waste and Abuse [20 CFR Part 683, Subpart B, Administrative Rules, Costs, and Limitations]**

Program complaint issues covered by the WIOA are:

Displacement [§683.270 & §680.840]

A participant in a program or activity authorized under Title I of WIOA must not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation). Where an employment activity would violate a collective bargaining agreement, the regulations provide that the appropriate affected labor organization and employer must provide written concurrence before the employment activity can be undertaken. The employment or assignment of a WIOA participant or the filling of a position is prohibited when the employer has terminated any regular, unsubsidized employee or otherwise reduced its workforce with the intent of filling the vacancy with a WIOA participant. A WIOA participant may not be employed or assigned to a position where the employer has caused an involuntary reduction to less than full time in hours of an employee in the same or substantially equivalent job.

Health and Safety [§683.280]

Health and safety standards established under the Federal and State Law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in programs and activities under Title I of the WIOA.

Workers' Compensation: To the extent that workers' compensation law applies, workers' compensation must be provided to participants in programs and activities under Title I of the WIOA **on the same basis as the compensation provided to other individuals in similar employment.**

NOTE: In the case of a complaint alleging a violation of health and safety standards by a contractor (employer), the contractor will be required to demonstrate its compliance with State and Federal regulations governing health and safety requirements for that industry [e.g., CAL/OSHA certification].

Wage and Labor Standards [§683.275 & §684.920]

Individuals in On-The-Job training or employed in activities under Title I of the WIOA must be paid at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience and skills. Such rates must be in accordance with applicable law [Fair Labor Standards Act of 1938, Section 6(a)(1) 29 U.S.C. 206(a)(1) or applicable State or local minimum wage law].

Violation of the Act, grant or agreement (including retaliation), [WIOA Section 188(a)]:

- Terms and conditions of WIOA participant employment (On-the-Job Training, Customized Training, Work Experience):

Complaints filed under this section relate only to the terms and conditions of WIOA participant employment. Typical complaints under this section include disputes over wages or working hours, working conditions, employee and/or training evaluations and disciplinary actions, including termination for cause. The responsibility for resolving the complaint rests initially with the employer and/or contractor.

Discrimination Complaints [WIOA Section 188, 29 CFR Part 38]

Appeal of Questioned/Disallowed Costs [See Section Four]

All complaints received by the EO Compliance Unit are documented on a continuous basis and provided to the EWDD Workforce Development System (WDS). This information will be included in the Annual WDS evaluation process and is provided to the Workforce Development Board (WDB) every year. This information, however, will not be utilized by the WDS in the evaluation of WorkSource/YouthSource Centers.

Information to be reported:

- Number of complaints from each WorkSource/YouthSource Center
- Category of complaint: WIOA Complaint, Customer Service Issue, or Other Complaint (non-WIOA)

The collected data is provided to the Workforce Development Division (WDD) by the end of the second week of September on an annual basis.

SECTION TWO — PROGRAM COMPLAINTS: TITLE 20 CFR §683.600 (Subpart F)

These procedures will guide the receipt, hearing and resolution of noncriminal complaints filed at the City of Los Angeles LWDA level for complaints relating to WIOA programs and services.

REFERENCES

- WIOA Section 181
 - Title 20 CFR §683.600
 - Title 29 CFR §38.35
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- Only a complaint which alleges a violation of the WIOA, regulations promulgated under the Act, recipient grants, sub-agreements, or specific agreements under the Act, including terms and conditions of **participant** employment, may be filed.
 - Complaints may be brought by any individual or organization including, but not limited to: WIOA applicants/participants, contractors, collaborators, vendors (ITA's), staff of the LWDA or contractors, applicants for participation or financial assistance, labor unions, community based organizations or any other interested persons.
 - With the exception of complaints alleging fraud or criminal activity, the filing of a noncriminal complaint must be made within one (1) year of the alleged occurrence.
 - A complainant who has not exhausted this procedure may appeal directly to the Governor's Office if the LWDA has not rendered a decision within the 60 days of the filing of the complaint specified in the procedures, if the complainant believes the LWDA's complaint procedure is not in compliance with the WIOA.

FILING OF A WIOA COMPLAINT:

Per WIOA regulations, every complaint must be in writing before the official complaint resolution process will commence. The complaint must be signed and dated. *A written complaint may be submitted via facsimile or scanned and sent as an e-mail attachment.*

The complaint must contain the following information:

- The full name, mailing address and telephone number of the Complainant;
- The full name, mailing address and telephone number of the Respondent;
- A clear and concise statement of the facts and dates describing the alleged violation(s);
- The provisions of the Act, regulations, grant or other agreements under the WIOA believed to have been violated. Complaints against individuals, including staff or participants, must indicate how those individuals did not comply with the WIOA law, regulation, or contract;
- Complaints may be amended to correct technical deficiencies at any time up to the time of the hearing. Complaints may not be amended to add new issues. The one (1) year time period in which a complaint may be filed is not extended for complaints that are re-filed with amendments. Complaints may be withdrawn at any time prior to the issuance of the hearing officer's decision;

- ❑ The remedy to the complaint which would satisfy the Complainant; If the Complainant fails to cooperate or is unavailable, the complaint may be dismissed upon reasonable notice to the last known address of the Complainant;
- ❑ It is the responsibility of both the Complainant and the Respondent to notify the City of Los Angeles' EO Compliance Unit of any change of address.

LEVEL ONE — FILE WITH THE WORKSOURCE/ONESOURCE CENTERS

- The WorkSource Center/YouthSource Center receiving WIOA funds through the Workforce Development Division grant programs agree to adopt the City of Los Angeles' WIOA Complaint Resolution procedures.
- It is the policy of the City of Los Angeles, LWDA, that complaints under WIOA should be resolved at the lowest level possible. Therefore, under the City of Los Angeles' WIOA complaint resolution procedures, complaints filed under the WIOA (with the exception of those complaints involving allegation(s) of discrimination) must first be filed with the designated EO Complaints Officer at the WorkSource/YouthSource Center level.
- The WorkSource/YouthSource Center must notify the City LWDA within 24 hours of the receipt of a written WIOA complaint. The notification should be sent to:

**City of Los Angeles
Economic & Workforce Development Department
1200 West 7th Street, 6th Floor
Los Angeles, CA 90017
Attn: Richard Cheng, EO Compliance Officer**

**Telephone: (213) 744-9351
Fax: (213) 744-7118
TTY: 711
E-Mail: Richard.Cheng@LACity.Org**

- The City of Los Angeles, LWDA, reserves the right to intervene in the processing of any WIOA complaint at the informal resolution stage in order to assist in resolution, clarify the issues, provide technical assistance, conduct the informal resolution meeting or schedule a hearing before an impartial hearing officer in order to ensure due process and compliance with the 60 day time limit required for resolution pursuant to the WIOA regulations.
- The WorkSource/YouthSource Center has ten (10) days from the receipt of the written complaint to schedule and conduct an informal complaint resolution meeting at the WorkSource/YouthSource Center level.
- After the complaint is accepted, the Complainant will be notified by the WorkSource/YouthSource Center, in writing, of the date, time and place of the informal resolution meeting. At the informal resolution meeting an attempt to resolve the complaint will take place. Respondents must make "good faith" efforts to resolve all complaints prior to scheduling an administrative hearing in the matter.
- Failure on the part of any party in the complaint to exert good faith efforts shall not constitute a basis for dismissing a complaint, nor shall this be considered to be a part of the facts to be judged in the resolution process. The LWDA or sub-grantees

must assure that every complaint not resolved informally is given a formal hearing, regardless of the complainant's apparent merit or lack of merit.

- In the event of an informal resolution of the WIOA complaint at the WorkSource/YouthSource Center level, the WorkSource/YouthSource Center will provide a written settlement agreement to the Complainant which describes the issues, provides the date of the informal resolution meeting, the attendees, and the terms of the agreement which has been reached by the parties as full and complete settlement of the complaint. The written agreement will be signed by the Executive management or their authorized representative and the Complainant. A copy of the signed settlement agreement will be maintained in the Complainant's participant file, in the complaint log of the WorkSource Center and at the LWDA level for audit purposes. A copy of the signed settlement agreement will be faxed to the City LWDA EO Compliance Unit within 24 hours.
- If no resolution is reached, the Complainant will be notified immediately in writing of the impasse and his/her right to request an administrative hearing. The WorkSource/YouthSource Center will also mail a copy of the notice of impasse certified mail return receipt requested. The request for administrative hearing must be made in writing; it may be transmitted by facsimile or e-mail.

Individual Training Account (ITA) Complaint Procedures

A. Denied Training Complaint Procedures

Should a participant be dissatisfied with a denial of request for training, the participant may request a WorkSource/YouthSource Center (WSC/YSC) ITA Panel review. A participant's request for WSC ITA Review Panel must be made within five (5) working days of the notification of the denial of the request for training. The WSC ITA Review Panel will **only** review requested training denial that is determined not to be in a demand occupation, or on issues relating to the assessment process. Denial based on training requests exceeding the maximum limit (\$7,500 and/or 12 months technical training) is reviewed on a case-by-case basis.

The WSC ITA Review Panel will be comprised of staff with decision-making authority and business members with industry-specific knowledge of technical skill sets. The panel should establish a written policy formulating the procedures the panel will follow in reviewing training denials.

The WSC ITA Review Panel must complete its review within five (5) working days of the request for review. The decision of the WSC ITA Review Panel must be made in writing, and be included in the participant's file. The WSC must notify the participant and the City LWDA EO Compliance Unit of a panel denial. The WSC also must notify the participant of the right to request a review by the City LWDA within five (5) days of the notification of denial. The complaint must be in writing, signed and dated; and addressed to the City of Los Angeles Economic & Workforce Development Department at the address provided above.

B. Individual Training Accounts (ITA) Program Complaint Procedures

Participants who have program complaints while attending training must file their complaint with the WorkSource Center's EO Complaints Officer. The WorkSource Center shall maintain procedures for resolving disputes involving ITA participants in accordance with the requirement of the WIOA and City LWDA Complaint Procedures.

The WorkSource Center must forward a copy of a complaint filed with them against an ITA provider school to the City LWDA within 24 hours of the receipt of a written WIOA complaint.

ITA Program Complaints, including claims that the training received at the ITA vendor school was incomplete or deficient, are handled by the WorkSource Center's EO Complaints Officer in accordance with the WIOA Complaint Procedures. The WorkSource Center shall have ten (10) days from the date of the receipt of the written complaint to schedule and conduct an informal resolution meeting with the participant and, if applicable, the ITA training provider in order to resolve the complaint informally. The WorkSource Center will then memorialize in writing the outcome of the informal resolution meeting to resolve the complaint. The WorkSource Center will provide the Complainant with a written copy of the outcome (i.e., settlement agreement, a statement of impasse) within five (5) days of the informal resolution meeting.

ITA complaints alleging discrimination are to be filed with the City of Los Angeles LWDA EO Compliance Unit.

Participants' Terms & Conditions of Employment Complaints (OJT)

Each WorkSource/YouthSource Center is required to establish procedures for resolving complaint matters relating to the terms and conditions of **participant** employment. In addition, third party contractors (OJT/Customized Training) are also required to establish and maintain procedures for resolving disputes involving the terms and conditions of **participant** employment. At a minimum these procedures must include the following:

- Written notice, upon enrollment into employment or training programs, of the scope and availability of such procedures. Contractor's complaint procedures shall set forth in a written document and shall stipulate that a complaint will be resolved within 20 days from the date the complaint was filed. A copy of the contractors'/OJT employers' complaint resolution procedure shall be provided to each participant upon his/her enrollment into the program and at the time of placement in the job.
- Written notice, at the time the complaint is filed, of the procedures under which the complaint will be processed.
- Written notice to the City LWDA EO Compliance Unit of the complaint within 24 hours of receipt of the written complaint.
- Written notification of the disposition of the complaint, and the reasons therefore, which shall be issued within 25 days of the filing of the complaint. *If the employer is required to use a certain grievance procedure under a covered collective bargaining agreement, then these procedures should be followed for the handling of the WIOA complaints under this Section.*
- Written notification of the Complainant's right to request a review of the WorkSource Center or third party contractor's decision by the City of Los Angeles Economic & Workforce Development Department. Such requests for review must be filed within five (5) days upon the receipt of the contractor's written decision. The request for review shall include the following information:
 - ❑ The full name, telephone number and mailing address of the party requesting the review;
 - ❑ The name, address and telephone number of the other party;

- ❑ A copy of the written decision issued by the employer and/or WIOA contractor;
- ❑ A statement of why the request for review is being made and/or the section of the decision to be reviewed;
- ❑ A statement of the relief (i.e., remedy) being sought.

Requests for review should be sent to:

**City of Los Angeles
 Economic & Workforce Development Department
 1200 West 7th Street, 6th Floor
 Los Angeles, CA 90017
 Attn: Richard Cheng, EO Compliance Officer**

**Telephone: (213) 744-9351
 Fax: (213) 744-7118
 TTY: 711
 E-Mail: Richard.Cheng@LACity.Org**

LEVEL TWO — REVIEW BY THE CITY OF LOS ANGELES LWDA

If an informal resolution cannot be reached at the WorkSource Center level, the Complainant may request that an administrative hearing be scheduled before an impartial hearing officer. Request for an administrative hearing at the LWDA level should be made within five (5) days of the Complainant's receipt of the written decision at the WSC level that an impasse has been reached in settling the complaint matter. This request can be transmitted by facsimile or e-mail. The request should be sent to the City of Los Angeles' Economic & Workforce Development Department at the address above.

- If time permits and the parties agree, the LWDA may conduct an informal resolution meeting prior to scheduling the hearing.
- Prior to the hearing, the Complainant may amend his/her complaint to correct technical deficiencies but not to add issues. The amendment must be submitted in writing to the City of Los Angeles' EO Compliance Officer at the address given above.
- Prior to the hearing, the Complainant and Respondent are entitled to technical assistance from the City LWDA EO Compliance Unit. However, the City LWDA EO Compliance Unit cannot provide legal advice.
- Prior to the hearing, the Complainant and Respondent are entitled to reasonable discovery requests for production of documents by the date specified in the notice of administrative hearing. In the event of a dispute, the hearing officer shall make the final determination of reasonable request for document production.
- Prior to the hearing, the Complainant and Respondent are entitled to request witnesses by the date specified in the notice of administrative hearing. Please note that the City LWDA does not have subpoena power in these matters. Neither the Complainant nor the Respondent has the right to conduct a deposition of prospective witnesses.
- The recommendation(s) of the hearing officer are reviewed by the General Manager, Economic & Workforce Development Department. The General Manager may adopt or reject, in whole or in part, the findings and/or recommendation(s) of the hearing

officer and will render the Final Determination for the City of Los Angeles Local Workforce Development Area (LWDA) within 60 days of filing of the complaint.

ADMINISTRATIVE HEARING [For Both Program & Discrimination Complaints]

- The administrative hearing will be conducted by an impartial hearing officer who has been appointed by the General Manager, Economic & Workforce Development Department.
- Hearings on any complaint will be conducted within 30 days of the filing of the complaint.
- Within ten (10) days of the hearing, written notice of the date, time and place of the hearing, the manner in which it will be conducted, the issues to be decided and the rights of the parties will be sent to the Complainant and Respondent(s) by Certified Mail/Return Receipt Requested.
- Interested parties may also apply for the notice of hearing by contacting the EO Compliance Office. An interested party is defined as a person or organization potentially affected by the outcome. The notice to other interested parties will include the same information furnished to the Complainant and Respondent and state whether such interested parties may participate in the hearing and, if applicable, the method by which they may request such a hearing.
- Any request to withdraw a complaint *must be in writing* and received prior to the scheduled hearing.
- Requests to reschedule a hearing must also be made in writing and for good cause. Requests must be made at least 72 hours prior to the scheduled hearing. The General Manager, Economic & Workforce Development Department, will make the final decision on such requests. *Should any party fail to appear at the hearing without prior notice, the hearing officer may rule to continue the hearing in their absence.*
- Any party may be represented by an attorney or other representative at his/her own expense. The City LWDA cannot appoint an attorney to represent either party nor can the LWDA provide legal advice to either party. Any party represented by an attorney or other representative shall inform the EO Compliance Unit in advance of the hearing.
- Either party may bring witnesses and documentary evidence.
- Either party may have records or documents relevant to the issues produced by their custodian when such records or documents are kept by either party in the ordinary course of business. The Complainant may also request that the employees and/or participants of the Respondent, who have knowledge of the pertinent facts in the complaint, be available to testify at the hearing. Any requests for records, documents, and/or persons serving as witnesses must be made in writing and must first be submitted to the EO Compliance Unit of the Economic & Workforce Development by the date specified on the notice of administrative hearing. The request must specify which records, documents, and/or individuals are presumed to be relevant to the issue(s) set forth in the complaint.
- The hearing officer will have the discretion to determine issues of relevancy at the time of the hearing. Failure on the part of either party to supply information and/or

make persons available that have been requested may result in sanctions imposed by the hearing officer and/or the City LWDA. If the failure is on the part of the Respondent (e.g., WIOA service provider/contractor) it may be considered a breach of the Respondent's WIOA contractual agreement with the City.

- The hearing will be conducted in an informal manner with strict rules of evidence not being applicable. Both parties have the right to present written and/or oral testimony and arguments; the right to call and question witnesses in support of their position; the right to examine records and documents relevant to the issues; and the right to be represented. The hearing will be recorded electronically.

FINAL DETERMINATION

No later than 60 days after the filing of the *program* complaint or 90 days after the filing of a *discrimination* complaint, the General Manager, Economic & Workforce Development Department, will notify the Complainant and Respondent in writing of the recommendation(s) of the hearing officer and the "Final Determination" of the Economic & Workforce Development Department. The written decision will contain the following information:

- The name(s) of the parties involved;
- A statement of the alleged violation(s) and the issues related to the alleged violations;
- A statement of the facts;
- The hearing officer's recommended decision and the reasons for the decision;
- The General Manager's review of the hearing officer's recommendation(s) and the Final Determination at the LWDA level;
- A statement of corrective action or remedies for violations, if any, to be taken; and,
- Notice of the right of either party to request a review of the decision by the State Review Panel within ten (10) days of the receipt of the decision.

Appeal of Decision/Final Determination of a Program Complaint

If the Complainant does not receive a decision at the LWDA level within 60 days of the filing of the complaint, or receives an adverse decision, the complainant has the right to file an appeal with the State. The Complainant may request a State hearing by submitting a written notice of appeal to:

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

LEVEL THREE – STATE APPEAL PROCESS FOR PROGRAM COMPLAINTS

- The State Review Panel (SRP) will review appeals of decisions issued at the LWDA level. The SRP will not conduct any evidentiary hearings, but will review the record established by the LWDA and issue a decision on the basis of the information contained therein.

- A request for a State review of the LWDA's decision must be filed in writing and mailed to the Compliance Review Division (CRD) within ten (10) days of the receipt of the decision by the appealing party. The request for review should contain the following information:
 - Full name, telephone number, and mailing address of the Complainant;
 - Full name, telephone number, and mailing address of the Respondent;
 - A copy of the local hearing officer's decision;
 - A copy of the Final Determination issued by the LWDA;
 - A brief statement of the reasons a State review is being requested. The statement must specify the errors of fact and/or statutory and regulatory interpretations that are alleged to have been made by the hearing officer/LWDA. If appropriate, the statement must identify the elements of the hearing officer's decision to be reviewed; and,
 - A statement of the remedy sought by the appellant. If not provided elsewhere in the appeal, the appellant must provide a statement setting forth the arguments presented to the local hearing officer that the appellant considers to support the appropriateness of the remedy he or she is seeking.

On receipt of the Complainant's appeal of the adverse decision, the State shall provide for an independent review by SRP. The CRD will notify the parties concerned and the LWDA administrative entity or sub grantee by first class mail of the request for the State review of the local hearing officer's decision. The SRP's decision will be final and issued to both the Complainant and the respondent by first class mail.

STATE GRIEVANCE COMPLAINT PROCEDURES FOR PROGRAM COMPLAINTS

- If no decision has been issued at the LWDA or sub grantee-level within the 60 day time limit, a Complainant may file a complaint with the State.
- A request for an initial State hearing must be filed within 15 days, or if mailed, postmarked within 15 days of one of the following dates:
 - The date on which the LWDA or sub grantee should have issued a decision regarding a locally filed grievance complaint.
 - The date after the filing of complaint when an instance of restraint, coercion, reprisals, or discrimination was alleged to have occurred as a result of filing the complaint.
- *A request for a State hearing relating to allegedly deficient LWDA and sub grantee complaint procedures, and to allegations of improper actions as a consequence of a grievance complaint, should be filed immediately.*

Requests for State hearings shall be filed in writing to the Compliance Review Division (CRD), at the address listed below and must include the following information:

- Full name, telephone number, and mailing address of the Complainant;
- Full name, telephone number and mailing address of the LWDA or sub grantee;
- A statement of the basis of the request;
- Copies of the relevant documents, such as the grievance complaint filed at the LWDA or sub grantee:

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

On receipt of the request for State hearing, if an evidentiary hearing was held at the LWDA level, the State shall request the record of the hearing from the LWDA and shall review the record without scheduling an additional hearing. If an evidentiary hearing was not held at the LWDA level, the State shall instruct the LWDA to hold a hearing within 30 days of receipt of the appeal or request for EDD review.

LEVEL FOUR – FEDERAL APPEAL PROCESS FOR PROGRAM COMPLAINTS

- If the State Review Panel (SRP) has issued an adverse decision regarding a grievance or complaint, or has not issued a decision within 60 days of receipt of a local level appeal, request for EDD review, or grievance or complaint, the complainant may file an appeal with the Secretary. This appeal process applies to grievances and complaints that originated at the local or state level.
- Appeals of an adverse decision must be filed within 60 days of receipt of the adverse decision from the SRP. In cases where the SRP did not issue a decision, the complainant must file an appeal within 120 days of either of the following:
 - The date on which the complainant filed the appeal of a local level decision or request for EDD review with the state.
 - The date on which the complainant filed the grievance or complaint with the state.
- All appeals to the Secretary must be sent to the DOL National Office via certified mail with return receipts requested. Copies of the appeal must simultaneously be provided to the DOL Employment and Training Administration (ETA) Regional Administrator and the respondent. Mailing addresses for the DOL National Office and ETA Regional Administrator are included below:

DOL National Office:

Secretary of Labor
Attn: Assistant Secretary of ETA
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

ETA Regional Administrator:

Office of Regional Administrator
U.S. Department of Labor
P.O. Box 193767
San Francisco, CA 94119-3767

- Grievances or complaints filed directly with the Secretary that were not previously filed with the Local Area and/or state will be remanded to the Local Area or state, as appropriate.
- The Secretary shall issue a final determination no later than 120 days after receiving the appeal.

REMEDIES

- Remedies that may be imposed for a violation of any requirement under WIOA Title I shall be limited to the following:
 - Suspension or termination of payments under WIOA Title I.
 - Prohibition of placement of a participant with an employer that has violated any requirement under WIOA Title I.
 - Reinstatement of an employee, where applicable, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment.
 - Other equitable relief, where appropriate.
- 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.

SECTION THREE — DISCRIMINATION COMPLAINTS

RESOLUTION OF WIOA COMPLAINTS ALLEGING DISCRIMINATION ON THE BASIS OF RACE, COLOR, RELIGION, SEX (INCLUDING PREGNANCY, CHILDBIRTH AND RELATED MEDICAL CONDITIONS, SEX STEREOTYPING, TRANSGENDER STATUS, AND GENDER IDENTITY), NATIONAL ORIGIN (INCLUDING LIMITED ENGLISH PROFICIENCY), AGE, DISABILITY, POLITICAL AFFILIATION OR BELIEF, RETALIATION, PARTICIPATION IN A WIOA PROGRAM, AND CITIZENSHIP, WHERE APPROPRIATE.

The City of Los Angeles, Local Workforce Development Area (LWDA) has assured the U.S. Department of Labor (DOL) and the State of California Employment Development Department (EDD) that no one enrolled in the City's WIOA program will be discriminated against because of race, color, religion, sex (including pregnancy, childbirth and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including Limited English Proficiency), age, disability, political affiliation or belief, retaliation, participation in a WIOA program, and citizenship, where appropriate. This means that:

- No benefits may be denied a WIOA participant because of race, color, religion, sex (including pregnancy, childbirth and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including Limited English Proficiency), age, disability, political affiliation or belief, retaliation, participation in a WIOA program, and citizenship, where appropriate while being registered, interviewed, counseled, tested, or while working, engaged in a work activity or attending class as part of the program;
- WIOA participants must be provided with the same opportunities to use all the facilities available in the program as any other participants;
- Fair employment practices shall be provided to all employees with regard to recruitment, selection, assignment, transfer, promotion, training, compensation, benefits and termination regardless of race, color, religion, sex (including pregnancy, childbirth and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including Limited English Proficiency), age, disability, political affiliation or belief, retaliation, participation in a WIOA program, and citizenship, where appropriate;
- In addition, sexual harassment is against the law. Acts of sexual harassment are grounds for a discrimination complaint based under Title VII of the Civil Rights Act of 1994;
- A discrimination complaint may be filed within 180 days of the alleged discrimination, either with the City of Los Angeles, Local Workforce Development Area (LWDA) grant recipient, or with the Department of Labor, Civil Rights Center (CRC).

PROCEDURES FOR DISCRIMINATION COMPLAINTS FILED WITH THE CITY OF LOS ANGELES LWDA

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 the WIOA regulations may file a written complaint or a representative may file the complaint on his or her behalf. Complaints filed with the City LWDA should be mailed directly to:

**City of Los Angeles
Economic & Workforce Development Department
1200 West 7th Street, 6th Floor
Los Angeles, CA 90017
Attn: Richard Cheng, EO Compliance Officer**

**Telephone: (213) 744-9351
Fax: (213) 744-7118
TTY: 711
E-Mail: Richard.Cheng@LACity.Org**

Complaints should be filed in writing and shall:

- Be signed and dated by the Complainant or his/her representative;
- Contain the Complainant's name, address, telephone or other means of contacting him/her;
- Identify the Respondent; and,
- Describe the Complainant's allegation in sufficient detail to allow the LWDA EO staff to determine whether: (1) LWDA or CRC has jurisdiction over the complaint; (2) the complaint was filed timely (i.e., within 180 days of the occurrence); and (3) the complaint has apparent merit, (i.e., whether the allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of the WIOA);
- Each Complainant and Respondent has the right to be represented by an attorney or other individual of his or her own choice;
- Complaints may be submitted by facsimile but not by e-mail.*

The EO Compliance Officer will issue a written acknowledgement of receipt by the LWDA of the complaint alleging discrimination by a WIOA Title I recipient. The notice will include the Complainant's right to representation in the complaint process. A copy of the complaint will be forwarded to the Equal Employment Opportunity Office, Employment Development Department.

Alternative Dispute Resolution (ADR)

The Complainant will be offered ADR immediately upon receipt of the discrimination complaint. *The choice of whether to use ADR rests with the Complainant.* The preferred form of ADR is mediation.

Mediation is a voluntary process during which a neutral third party assists both parties (Complainant and Respondent) in communicating their concerns and come to an agreement to resolve a dispute. The mediator does not make decisions, rule as to who is right or wrong, nor take sides or advocate for one side or the other. The role of the

mediator is to help with communication so that the parties can reach an understanding about how to resolve their differences.

As the law allows, mediation proceedings and the information shared are confidential and no information divulged during this mediation may be used in court or any legal or administrative proceedings.

If the parties do not reach an agreement under ADR, the Complainant may file directly with the Civil Rights Center (CRC) as described below. A party to any agreement reached under ADR may file a complaint with the CRC in the event the agreement is breached. In such circumstances, the following rules apply:

The non-breaching party may file a complaint with the CRC within 30 days of the date on which the non-breaching party learns of the alleged breach.

The CRC will evaluate the circumstances to determine whether the agreement has been breached. If the CRC determines that the agreement has been breached the Complainant may file a complaint with the CRC based upon his or her original allegation(s), and the CRC will waive the time deadline for filing such a complaint.

CONCILIATION

If the Complainant elects not to participate in the ADR process, the EO Officer will investigate the circumstances underlying the complainant. At any point in the investigation of the complaint, the Complainant, the Respondent, or the EO Officer may request that the parties attempt conciliation. The EO Officer shall facilitate such conciliation efforts.

Conciliation is a process whereby the parties to a dispute agree to utilize the services of a conciliator, who then meets with the parties separately in an attempt to resolve their differences. Conciliation differs from mediation in that the goal is to conciliate, most of the time by seeking concessions.

If the conciliator is successful in negotiating and understanding between the parties, said understanding will be committed to writing and signed by the parties. The “agreement” then becomes a legally binding contract and falls under contract law.

The LWDA has 90 days to issue a Notice of Final Action.

For complaints filed with the City LWDA, an investigation of the complaint shall be conducted and a written report shall be prepared and sent to the Complainant and the Respondent, and an attempt to resolve the complaint informally shall take place within 30 days of the filing of the complaint.

- A notice of administrative hearing shall be issued within ten (10) days of the request for hearing. A notice of Final Determination shall be issued within 90 days of the filing of the complaint. The “Notice of Final Determination” shall include notification of the right to file a complaint with the Department of Labor, Civil Rights Center (CRC).

- If the Complainant is dissatisfied with the resolution of the complaint, they may file a complaint with CRC within 30 days of the date that the Complainant received notice of the LWDA's proposed resolution. If the Complainant has not received notice of resolution within 90 days of filing, the Complainant may file the complaint with the CRC.
- If the Complainant wishes to file a complaint with CRC, the Complainant must wait until the LWDA issues a decision or until 90 days have passed since the filing of the original complaint with the LWDA.

Discrimination Complaints filed with the Center of Civil Rights (CRC):

A complaint filed pursuant to this part must be filed within 180 days of the alleged discrimination. The CRC, for good cause shown, may extend the filing time. In order to receive an extension, the Complainant must be notified by the LWDA that a waiver letter is to be filed with CRC. The waiver letter should include the reason the 180 day time period elapsed.

This time period for filing is for the administrative convenience of the CRC and does not create a defense for the Respondent. Complaints filed with the Civil Rights Center should be mailed directly to:

**Director
Civil Rights Center (CRC)
U.S. Department of Labor
200 Constitution Avenue N.W., Room N-4123
Washington, D.C. 20210.**

- Complaints should be filed, in writing, and shall:
 - Be signed by the Complainant or his or her representative;
 - Contain the Complainant's name, address, or other means of contacting him or her;
 - Identify the Respondent;
 - Describe the Complainant's allegation in sufficient detail to allow the CRC to determine whether: (1) the CRC or the LWDA, has jurisdiction over the complaint; (2) the complaint was filed timely (i.e., within 180 days of the alleged occurrence); and, (3) the complaint has apparent merit, (i.e., whether the allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions).
 - Both the Complainant and the Respondent have the right to be represented, at their own expense, by an attorney of other individual of their own choice.

Actions by CRC:

- The CRC determines acceptance of a complaint filed pursuant to Title 29 CFR Section 38.72. When CRC accepts a complaint for investigation it shall:
- Notify the LWDA or sub grantee and the Complainant of the acceptance of the complaint for investigation; and,

- Advise the LWDA or sub grantee and Complainant on the issues over which the CRC has accepted jurisdiction;
- The LWDA, sub grantee, the Complainant, or a representative may contact the CRC for information regarding the complaint filed.
- When the complaint contains insufficient information, the CRC will seek the needed information from the Complainant. If the Complainant is unavailable after reasonable means have been used to locate him or her, or the information is not furnished within 15 days of the receipt of such request, the complaint file may be closed without prejudice upon notice sent to the Complainant's last known address.
- The CRC may issue a subpoena to the Complainant to appear and give testimony and/or produce documentary evidence, before a designated representative, relating to the complaint being investigated. Issuing a subpoena can be done anywhere in the United States, at any designated time or place.
- Where the CRC lacks jurisdiction over a complaint, the CRC shall:
 - Advise the Complainant, indicating why the complaint is not covered by the nondiscrimination and equal opportunity provisions outlined in WIOA or Title 29 CFR Part 38; and
 - Refer the Complainant to the appropriate federal, state, or local authority when possible.
- The CRC will contact the Complainant when a claim is not to be investigated and explain the basis for that determination.
- The CRC will refer complaints governed by the Age Discrimination Act of 1975 to mediation as specified in Title 45 CFR Section 90.43(c)(3).
- If the Complainant alleges more than one kind of complaint, "joint complaint," (e.g., individual employment discrimination, age discrimination, equal pay discrimination, etc.), the CRC shall refer such joint complaint to the Equal Employment Opportunity Commission (EEOC) for investigation and conciliation procedures for joint complaints at Title 29 CFR Part 1691. The CRC will advise the Complainant, the LWDA, and the subgrantee of the referral.
- At the conclusion of the investigation, the CRC shall issue an Initial Determination. The Initial Determination shall notify the Complainant and the LWDA, or subgrantee, in writing of:
 - Specific findings of the investigation;
 - Proposed corrective or remedial action and the time by which the corrective or remedial action must be completed;
 - Whether it will be necessary for the LWDA or subgrantee to enter into a written agreement and;
 - The opportunity to participate in voluntary compliance negotiations.
- Where no cause determination is made, the Complainant and the LWDA or sub grantee shall be notified in writing. Such determination represents the final agency action of the Department.

Corrective Actions/Sanctions for Discrimination

Letter of Findings, Notice to Show Cause, or Initial Determination issued pursuant to Title 29 CFR Sections 38.87; shall include the steps and the specific time period it will take the

LWDA or subgrantee to achieve voluntary compliance. (See Section 38.90 for corrective action steps.) **Monetary corrective action may not be paid from federal funds.**

The “Final Determination” will be mailed to the Complainant and Respondent. The “Final Determination” will contain the information as described above, with the exception that the Complainant has the right to file a complaint with the Department of Labor Civil Rights Center (refer to Alternative Dispute Resolution section).

SECTION FOUR — QUESTIONED / DISALLOWED COSTS COMPLAINTS

INITIAL DETERMINATION:

The contractor will be notified in writing by letter of the Initial Determination based on the audit review by the Workforce Development Division (WDD), or Audit Section Financial Management Division (FMD), as appropriate. The Initial Determination letter will include:

- A list of all questioned costs;
- Whether the costs are allowed or disallowed, including the reasons with appropriate citations for such actions;
- Acceptance or rejection of any corrective action taken to date, including correction on administrative findings;
- Possible sanctions; and,
- The opportunity for an informal resolution of no more than 60 days from the date of the Initial Determination.

INFORMAL RESOLUTION

- The contractor will have ten (10) days in which to request an informal resolution of the audit issues. The request must be in writing to the EO Compliance Unit.
- During the informal resolution, the contractor may provide documentation to support allow ability of costs and proposed action of administrative findings. Negotiations of repayments may be initiated at this time.

FINAL DETERMINATION:

- The FMD will issue a Final Determination. The Final Determination will include:
 - Reference to the Initial Determination;
 - Summation of the informal resolution meeting, if held;
 - Decisions regarding the disallowed costs listing each disallowed cost and noting the reason for each disallowance;
 - Questioned costs that have been allowed by the LWDA and the reason for the allowance;
 - Demand for payment of the disallowed costs;
 - Description of the debt collection process and other sanctions that may be imposed if payment is not received;
 - Rights to a hearing;
 - Status of each administrative finding.
- The contractor will have 21 days after the Final Determination is issued to submit a written request for hearing with the EO Compliance Unit, EWDD. *If there is no appeal request, the Department's Final Determination shall be submitted to the Mayor for consideration by the Economic Development Committee (EDC) of the City of Los Angeles City Council.*
- The contractor will receive written notice of the scheduled hearing at least ten (10) days before the hearing. The ten (10) day notice may be shortened with the written

consent of both parties. The contractor may withdraw the hearing request; the withdrawal request must be submitted in writing.

- The hearing officer's report, which will be completed within 20 days after the conclusion of the hearing, and any other reports or documentation, will be submitted to the Mayor for transmittal to the EDC. The EO Compliance Unit, EWDD, will notify the contractor of the date of the EDC meeting and provide the contractor with a copy of the Department's report to the Mayor on the hearing officer's findings and recommendations.
- For appeal of costs over \$500,000, the hearing officer's report, which will be completed within 20 days after the conclusion of the hearing and any other reports or documentation, will be submitted to the Mayor for transmittal to the EDC. EO Compliance Unit, EWDD will notify the contractor of the date of the EDC meeting and provide the contractor with a copy of the Department's report to the Mayor, on the hearing officer's findings and recommendations.
- The EDC will review the matter and may allow testimony by the parties in accordance with its rules and procedures.
- The recommendation of the EDC will be sent to the City Council and Mayor for final consideration. The contractor will be notified in writing of the final decision of the City Council and Mayor. The written notification will include the items listed in Section C and shall be given 60 days from the date of the receipt of the contractor's request for appeal.
- In the event costs in addition to those recommended for disallowance by EWDD are disallowed by the Mayor and Council, the opportunity for a hearing concerning the additional disallowed cost matter will be at the Mayor, and Council level.
- If the contractor does not appeal the final finding of the Local Workforce Development Area (LWDA), the contractor shall agree to a repayment plan within 30 days of the final decision of the City Council, and Mayor, or program funds may be discontinued.

**SECTION FIVE — FRAUD & PROGRAM ABUSE COMPLAINTS (TITLE
20 CFR 683.620)**

The reporting requirements for Fraud and Program Abuse require that “information and complaints involving criminal, fraud, waste, abuse or other criminal activities shall be reported through the Department’s Incident Reporting System, directly and immediately to the Department of Labor, Office of Inspector General, with a copy provided simultaneously to the Employment Development Department.” WIOA contractors are required, therefore, to establish internal management procedures which insure that the City of Los Angeles LWDA is *notified immediately* of any discovery of possible fraud, program abuse, or criminal activities.

Types of fraud include, but are not limited to: embezzlement, forgery, theft, falsification of records and claims regarding trainees (e.g., knowingly enrolling ineligible participants); misapplication of funds (e.g., intentional service to ineligible participants, violation of contact procedures); gross mismanagement (e.g., un-auditable records, unsupported costs, inaccurate fiscal and/or program reports and payroll deductions not made to the Internal Revenue Service of the State of California Franchise Board).

The LWDA is not permitted to release information concerning an ongoing investigation except with the consent of the investigation agency/authority. Notification of any such discovery should be made within **24 hours to:**

**City of Los Angeles
Economic & Workforce Development Department
1200 West 7th Street, 6th Floor
Los Angeles, CA 90017
Attn: Richard Cheng, EO Compliance Officer**

**Telephone: (213) 744-9351
Fax: (213) 744-7118
TTY: 711
E-Mail: Richard.Cheng@LACity.Org**