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UNIFIED COMPLAINT SYSTEM REQUIRED ELEMENTS

Each local area, State, outlying area, and direct recipient of funds under WIOA and Wagner Peyser, must establish and maintain a procedure for participants and other interested parties to file grievances and complaints alleging violations of the WIOA requirements pursuant to these guidelines [20 CFR § 683.600, 20 CFR § 658.400 & 29 CFR Part 38]:

1. The Department of Career Services (DCS) Administrator *must have overall responsibility* for the operation of the Complaint System. At the *Career Center level* the manager *must be responsible* for the operation of the Complaint System (including designation of a Complaint and EEO Officer).
2. *DCS must ensure centralized control procedures are established* for the processing of complaints. The manager of the Career Center office and the DCS Administrator *must ensure* a central complaint log is maintained, listing all complaints taken by the Career Center office or the SWA (DCS), and specifying for each complaint:
 - a. The name of the complainant;
 - b. The name of the respondent (employer or State agency);
 - c. The date the complaint is filed;
 - d. Whether the complaint is by or on behalf of a migrant and seasonal farmworker (MSFW);
 - e. Whether the complaint concerns an employment-related law or the ES regulations; and
 - f. The action taken and whether the complaint has been resolved.

Please refer to Attachment: 03-101-1H: Unified Workforce Investment System Complaint Log

3. ***Written Policy and Procedures*** – Each Local Board shall establish and maintain for its workforce area a unified process for the resolution of formal, written complaints brought forward by customers or other interested parties in relation to WIOA Title I and Wagner-Peyser (WIOA Title III) Job Service activities; or with regard to alleged violation of an individual’s civil rights or acts of discrimination in a manner consistent with the parameters outlined in this policy.

Furthermore, if an area is not establishing separate procedures you must include a statement specifically citing the local area’s adoption of this Unified Workforce Development System Complaint and Appeals Process must be included in the Local Board and One-Stop Career Center Standard Operating Procedures (SOP) manual.

4. ***Designation of Local Complaint Officer/Equal Opportunity Officer and Alternates*** – At a minimum, each Local Workforce Development Board must designate one Complaint Officer (CO) and one Equal Opportunity Officer (EOO) and a back-up for each. Each Comprehensive and Affiliate Career Center must have on-site, trained staff ready to handle the initial complaint process. The CO will be responsible for the handling of complaints pursuant to this issuance. The same individual may be designated as both the CO and the EEO. The name, business address and telephone number of the designated CO and EEO shall be publicized and included in all customer information describing how to file a complaint. The number of local COs and

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EOOs (and back-ups) designated by the Local Board must be guided by the board's need to assure that the process of complaint resolution must begin immediately upon receipt of the complaint without delay and must be conducted within the timeframes required by the nature of the complaint.

5. **Local Customer Notification Process** - Local Boards must assure that *all* Career Center customers are notified of their EO/Complaint rights. Staff must ensure the complainant submits the complaint via the Complaint Form (ETA 8429), a signed letter or e-mail (E-mails are deemed properly filed complaints). If the complainant needs assistance in describing his/her complaint in writing or completing the form assistance will be provided by the CO or other appropriate staff. A written description of the local complaint process (including procedural instruction) must be included in the package of Career Center Seminar materials. While the Career Center Seminar incorporates specific references to the complaint process, providing an advantageous opportunity to satisfy the customer notification requirement, Local Boards must also assure that other appropriate local mechanisms are in place to ensure maximum notification and that individual notification is duly recorded in the MA One-Stop Employment System (MOSES) database as part of the customer record. Local Boards must also ensure that the local notification process assures that complaint procedures are initiated in a timely manner when a customer expresses a desire to file a complaint or requests a copy of the procedures.
6. Require that every partner/sub grantee to which it awards Title I funds be provided information regarding the complaint system.
7. **Public Notice** - All direct recipients of WIOA/Wagner-Peyser (WIOA Title III) funds including Local Boards, One-Stop Career Centers, WIOA Title I Administrators, WIOA Fiscal Agents and WIOA service providers are required to prominently display in public view the official U.S. DOL approved Complaint System poster with local contact information (Attachment M).

All direct recipients of WIOA/Wagner-Peyser funds must also prominently display the "Equal Opportunity is the Law" Poster in English and Spanish (Attachments 1M1 and M2).

- a. When a complainant is an *English Language Learner (ELL / LEP)*, all written correspondence with the complainant *must include a translation into the complainant's native language*.
8. DCS and Career Centers *must ensure* information pertaining to the use of the Complaint System is publicized, which *must include*, but is not limited to, *the prominent display of an Employment and Training Administration (ETA)-approved Complaint System poster in each Career Center*.

See Policy Issuance 100 DCS 10.100.1 - Required Posters for Display in One-Stop Career Centers

9. Each Career Center *must ensure* there is appropriate staff available during regular office hours to take complaints.
10. **Acknowledgement** – Once you receive or accept for processing a formal (signed) complaint, you must acknowledge receipt of the complaint. When mailing letters to complainants, always

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send them “return receipt requested”. Acknowledgments may be sent via email, if an email address has been provided by the complainant as this will be deemed an electronic signature.

11. Complaints may be accepted at any Career Center, Career Center partner, by the Department of Career Services (DCS), or elsewhere by an outreach worker.
12. All complaints filed through the local Career Center office must be handled by a trained Complaint Officer.
13. **Appeals** – Every complainant must be provided the opportunity to appeal any local adverse decision to the State.
14. DCS *must ensure* that any action taken by the Complaint Officer (CO), is fully documented containing:
 - a. all relevant information,
 - b. a notation of the type of each complaint
 - c. a copy of the original complaint form
 - d. a copy of any Career Center/partner-related reports
 - e. any relevant correspondence
 - f. a list of actions taken
 - g. a record of pertinent telephone calls and
 - h. all correspondence relating to the issue.
15. A complainant may designate an individual to act as his/her representative throughout the filing and processing of a complaint.

FOLLOW-UP ON UNRESOLVED COMPLAINTS

- A. **Non MSFW:** When a complaint is elevated or referred to DCS, the local Complaint Officer, must inform the complainant of the status of the complaint when an inquiry is made.
- B. **MSFW-Related:** When a complaint is elevated or referred to DCS, the local Complaint Officer, *must follow-up* monthly regarding MSFW complaints, and *must inform* the complainant of the status of the complaint. *No follow-up with the complainant is required for non-MSFW complaints.*

COMPLAINT LOGS

Each Local Board must establish procedures for its area for the use and maintenance of the Unified Workforce System Complaint Log (Attachment F) consistent with guidance provided, herein.

1. Within **1 month** after the end of the calendar quarter, the Workforce Development Board must transmit an electronic copy of the **quarterly** Complaint System log for each Career Center site, including, any affiliated sites to DCSUnifiedComplaint@MassMail.State.MA.US.

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- ✓ The Complaint Log must clearly identify each individual complaint.
- ✓ Each complaint must have a unique identification number. Copies of those Complaint Log pages that clearly indicate all newly filed and all resolved complaints for the calendar quarter must be promptly submitted (through e-mail) to the State Monitor Advocate following the end of each quarter.
- ✓ The Complaint Log is available in, and is to be completed and maintained in an Excel format.
- ✓ Local area Complaint Logs will be maintained on an annual basis consistent with the *state fiscal year* (July 1 – June 30). Each annual complaint log will be kept for a period of 3 years following the end of the fiscal year for which the log was kept.
- ✓ The State Complaint Officer will compile and maintain a statewide Complaint Log from the submitted local Complaint Logs.

Instructions for completing the Complaint Log are included in Attachment F1.

CONFIDENTIALITY

The identity of the complainant(s) and any persons who furnish information relating to, or assisting in, an investigation of a complaint must be kept confidential to the maximum extent possible, consistent with applicable law and a fair determination of the complaint.

RETALIATION

DCS, WDB, OSCCs and sub-recipients must ensure that no person, organization or agency may discharge or in any manner retaliate against any person or WIOA entity because that person/entity has filed a complaint, instituted any proceeding related to the WIOA Title I and Wagner-Peyser Regulations, testified or is about to testify in a proceeding or investigation, or has provided information or otherwise assisted in an investigation.

VIOLATIONS OF LABOR STANDARDS (Section 181(b)(5))

EMPLOYMENT CONDITIONS.—Individuals in on-the-job training or individuals employed in programs and activities under this title shall be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

An individual alleging a labor standards violation (terms and conditions of employment) may submit the complaint or grievance through the local complaint/grievance system or through a binding arbitration procedure, if a collective bargaining agreement covering the parties so provides.

Binding Arbitration: As an alternative to the Complaint/Grievance resolution process, a person alleging a violation of Section 181(b)(5) may submit the grievance to a binding arbitration procedure, if a collective bargaining agreement exist. However, binding arbitration decisions can't be appealed to the Secretary, and the remedies available to the grievant are limited to those set forth in WIOA.

RECORDKEEPING REQUIREMENTS AND FILE SYSTEM

- A. The Department of Career Services (DCS), the Workforce Development Boards (WDBs), One-Stop Career Centers (OSCCs) and sub-recipients must:

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1. Maintain separate hard copy/electronic folder for all complaints/grievances and each apparent violation received.
2. Include in each folder(hard copy/electronic) the following:
 - ✓ Original Complaint Referral Form, ETA 8429, signed letter or e-mail;
 - ✓ Original notes taken at the time the complaint was taken/received;
 - ✓ Any correspondence received or sent to/from complainant or interested party;
 - ✓ Subsequent telephone conversations and follow-up notes on miscellaneous items such as news articles, check stubs, work assignment sheets, eligibility documentation, copies of agreements, MOUs, contracts, etc.;
 - ✓ Telephone call logs/notes regarding a complaint. Logs/notes must include the name of the person contacted, the telephone number, the date and the details of the call.

B. Identify each hard/electronic file by the:

1. Complainant's name;
2. The Complaint Number assigned (last two digits of Program Year + quarter number + consecutive 3 digit ID number), beginning on July 1st (i.e.: 16 – 01 - 001 PY, first quarter, first complaint).
Quarter numbers will change but sequential numbers continue until the end of the Program Year.
 - a) The quarter numbers are as follows:
 - ✓ July - September (1st Quarter)
 - ✓ October - December (2nd Quarter)
 - ✓ January - March (3rd Quarter)
 - ✓ April - June (4th Quarter)

C. File the folders numerically by Program Year; July 1 - June 30.

D. Ensure that hard copy files are kept secure and electronic files password protected, since they are confidential

E. Complaint files **must only** contain information related to the issues under consideration.

F. Recordkeeping Requirements:

1. Complaints, complaint logs, apparent violations, and all documentation related to the informal resolution of any complaint or apparent violation (including hearing/appeal records) must be preserved for a minimum of three (3) years from date of last action and then destroy.

IMPORTANT: All records of complaints/apparent violations not resolved by DCS, WDB, OSCCs or appropriate enforcement agency **must** be preserved until resolution.

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2. Electronic Records:

1. All electronic records related to complaints/apparent violations/hearings must satisfy DCS requirements, WDBs/OSCCs must ensure that their electronic recordkeeping system:
 - a. Have reasonable controls to ensure the integrity, accuracy, authenticity, and reliability of the records kept in electronic format;
 - b. Is capable of retaining, preserving, retrieving, and reproducing the electronic records;
 - c. Can readily convert paper originals stored in electronic format back into legible and readable paper copies; and
 - d. Have adequate records management practices in place.

3. Best Practices

1. Properly labeling electronically maintained records;
2. Providing secure and encrypted storage of electronic data;
3. Creating back-up electronic file copies to be kept onsite or offsite;
4. Regular evaluations of the system to ensure it works properly and that data is maintained up to date;
5. Retaining paper copies of records that cannot be accurately or completely transferred to the electronic recordkeeping system.