

Mass Workforce Issuance

100 DCS 03.101.1

☒ Policy ☐ Information

To: Chief Elected Officials
Workforce Development Board Chairs
Workforce Development Board Directors
Title I Administrators
Career Center Directors
Title I Fiscal Officers
DCS Operations Managers

cc: WIOA State Partners

From: Alice Sweeney, Director
Department of Career Services

Date: September 21, 2016

Subject: Unified Workforce Development System Complaint and Appeals Process

Purpose: To revise guidance to Local Workforce Development Boards (Local Boards), One-Stop Career Center (OSCC) Operators, Fiscal Agents, Title I Administrators, local workforce partners and service providers regarding the policies and procedures for the local workforce system to process complaints brought by customers and/or other interested parties related to services/activities covered by the Workforce Innovation and Opportunity Act (WIOA).

As part of the Unified Workforce Development System Complaint Process, the purpose of this policy is twofold:

- (1) to provide guidance specific to alleged violations (by action or omission) related to services funded under Title I of WIOA and the Wagner-Peyser Act, as Amended; and
- (2) to delineate procedures for initiating resolution of appeals, and for complaints related to other federal or state statutory requirements, including Equal Opportunity (EO) complaints.

Background: Requirements related to the establishment and administration of complaint procedures related to services/activities funded under Title I of the WIOA are promulgated at 20 CFR, Ch. V, § 683.600 – 683.650. Requirements related to

services/activities funded under the Wagner-Peyser Act, as Amended (Title III of the Workforce Investment Act) are separately promulgated at 20 CFR Ch. V, § 658.400 - § 658.419; 20 CFR § 500 – 504 (Discontinuation of Services to Employers). Both sets of regulations require the establishment of a local process to handle complaints brought forward by consumers of the respective program's services. The processes for handling complaints as described in the two sets of regulations, however, employ two distinct sets of time frames within which actions are to be taken and/or completed.

In order to further promote the ideal of a seamless One-Stop Career Center system as envisioned by WIOA, the Commonwealth has developed a model for a unified complaint system that covers the requirements of both WIOA and Wagner-Peyser. The model streamlines state and local processes (including procedures pertaining to the appeal of local determinations to the State level and, if necessary, beyond) into a single, unified complaint system.

Policy:

Consistent with the regulations promulgated at 20 CFR § 658.290 and 20 CFR 683.600 – 683.650 and also at 20 CFR Ch. V, § 658.400 - § 658.419, describing complaint system requirements for all direct recipients of WIOA Title I funds (excluding Job Corps) and Wagner-Peyser funds (Title III), all local workforce area entities and WIOA service providers including all Workforce Boards, One-Stop Career Centers, Fiscal Agents and service providers must establish and maintain a formal unified process for the submission and resolution of complaints and appeals initiated by either customers or other interested parties that is consistent with the guidance described, herein and detailed in Attachment A.

** **NOTE:** Direct recipients may include State Agencies, State and Local Workforce Development Boards, One-Stop Career Center operators, Career Center partners, local WIOA administrative entities, their service providers, including eligible training providers and entities providing non-WIOA funds or resources to meet matching requirements or other conditions under WIOA.*

Formal complaints may be submitted in accordance with this policy by an individual or group of individuals, an employer or group of employers, a staff person or persons or an interested third party acting on behalf of an individual, group of individuals, an employer or group of employers.

Under this policy each Local Board must assure that the WIOA entities (including the Local Board, the One-Stop Career Center(s), the Title I Administrator and the Fiscal Agent) and local partners and service providers designate an appropriate number of Complaint Officers (CO) and Equal Opportunity Officers (EOO) whose responsibility it is to conduct the initial review of relevant complaints and to determine the correct jurisdiction and adjudication path to be followed to reach a resolution. The designated CO(s) and EOO(s) can draw upon the expertise of program staff knowledgeable of the rules and regulations of the specific program(s) under which the complaint has been initiated as long as the perception of any conflict of interest has not been

identified.

The state manager at each OSCC must be responsible for the operation of the Complaint System and have a designated and trained Complaint and EO officer.

Complaint and EO Officers must:

- be readily available to receive a complaint from a customer and/or interested party
- ensure that during the time of the filing of the complaint or thereafter that the perception of any conflict of interest has not been identified. If a conflict has been identified then the officer must reclude themselves immediately

Each Career Center must identify a back-up staff person for both the Complaint and EO officer.

Any provisions contained in WIOA, the Wagner-Peyser Act, as amended, their regulations, or other applicable laws and regulations shall apply even if not explicitly stated in this policy. Neither shall any part of this policy be construed to contradict current Federal requirements.

Action

Required:

This policy is in effect for all direct recipients of WIOA Title I and Wagner-Peyser (WIOA Title III) funds provided through the Executive Office of Labor and Workforce Development, any of its subdivisions, or the Commonwealth Corporation for each Massachusetts Workforce Development Area.

Each LWDB should review its current OSCC's complaint resolution policies and procedures for consistency with both WIOA regulations and the guidance provided herein, including the procedural guidance outlined in Attachment A. Each LWDB should also assure that all local staff persons are knowledgeable of the content of this policy and related Attachments.

Effective:

Effective immediately for all Workforce Innovation and Opportunity Act funds provided directly through the Executive Office of Labor and Workforce Development (EOLWD); the Department of Career Services (DCS) or the Commonwealth Corporation.

References:

20 CFR 679.290, 20 CFR 683.630, 20 CFR 683.640, 20 CFR Ch. V, § 658.400; §658.426; §658.500 - §658.504; 29 CFR § 37.54; 29 CFR § 37.76 - § 37.79, Training and Employment Guidance Letter 37-14.

Inquiries:

Please direct all questions to PolicyQA@detma.org. Also, indicate Issuance number and description.

Attachments:

- A. Unified Complaint System Procedures
- A1. Unified Workforce Investment System Complaint Process Flow Chart
- A2. Complaint Type and Jurisdiction Desk Guide
- A3. Unified Workforce Investment System Complaint Referral Record

- A4. Unified Workforce Investment System Complaint Referral Record Form instructions
- B. Required Elements of Local Complaint System
- C. Complaints Covered – Not Covered Under this Policy
- D. Apparent Violations Under the Unified Complaint Process
- E. Local Area Complaint Process and Timeframes
- E1. Sample Informal Resolution Flow Chart
- F. Local Equal Opportunity Complaints Process and Timeframes
- G. Appeals and Hearing Process
- G1. Sample Local Notice of Hearing
- G2. Sample Local Office Hearing Determination
- G3. Sample Hearing Script-Oath-Opening Statement
- H. Unified Workforce Investment System Complaint Log
- H1. Unified Workforce Investment System Complaint Log instructions
- I. Complaint Form 2014a with Instructions – English**
- J. Complaint Form 2014a with Instructions – Spanish**
- K. Unified Workforce Investment System Complaint Process Handout /English***
- L. Unified Workforce Investment System Complaint Process Handout /Spanish***
- M. Complaint System Poster (English/Spanish)
- N. “Equal Opportunity is the Law” Poster – English
- O. “Equal Opportunity is the Law” Poster – Spanish
- P. Training Provider Appeal Form
- Q. Federal Contractor Statutes and Complaint Contact Information
- R. Definitions
- S. Training and Employment Guidance Letter 37-14
- T. Key to Changes Regarding Attachments

** Complaint Information Form DL 1-2014a USDOL Directorate of Civil Rights (Federal) which includes the Notice About Investigatory Uses of Personal Information (Federal) (English & Spanish versions)

*** “You Have the Right to File a Complaint” brochure (English & Spanish versions)