



Workforce Innovation and Opportunity Act Program

Wagner-Peyser Act

Grievance, Discrimination Complaints, and Appeals Processes

And

Nondiscrimination Complaints and Equal Opportunity

POLICY/PROCEDURES

Policy Number: OS-01-2018-1

New Policy

Policy Revision

Date: January 29, 2018

Subject: Grievance, Discrimination Complaints, and Nondiscrimination Complaints and Equal Opportunity Procedures

A handwritten signature in blue ink that reads "Michele Burns". The signature is written in a cursive style and is positioned above a horizontal line.

Michele Burns
Executive Director
CareerSource Okaloosa Walton

Remarks: This document was revise to consolidate CSOW guidance in a single document; update references to the Workforce Innovation and Opportunity Act and 20 CFR; added additional definitions under Key Concept; and expanded the guidance under Prohibited Discrimination.



Grievance, Discrimination Complaints, and Appeals Processes

And

Nondiscrimination Complaints and Equal Opportunity

OF INTEREST TO

All CareerSource Okaloosa Walton's staff implementing workforce programs under the Workforce Innovation and Opportunities Act (WIOA), Wagner-Peyser (WP) Act, the Trade Adjustment Assistance (TAA) Program, Temporary Assistance for Needy Families (TANF) and Welfare Transition Program (WT), and the Supplemental Nutrition Assistance Program (SNAP)/Food Stamp Employment and Training (FSET).

SUBJECT

Grievance, Discrimination Complaints, and Appeals Processes and Nondiscrimination Complaints and Equal Opportunity Procedures

PURPOSE

To assist CareerSource Okaloosa Walton (CSOW) staff and other One-Stop Partner staff with implementing the Grievance, Discrimination Complaints and Reports of Criminal Fraud and Abuse Procedures; and Nondiscrimination Complaints and Equal Opportunities Procedures in a consistency manner throughout the Region.

Supersedes/Revision:	
Grievance, Discrimination Complaints Procedures	Date: Mar 22, 2015

REFERENCES

1. Subpart F - Grievance Procedures, Complaints, and State Appeals Processes, 20 CFR 683.600 - What local area, State, and direct recipient grievance procedures must be established?
2. 20 CFR 683.285 - Nondiscrimination and Equal Opportunity.
3. Section 504 of the Rehabilitation Act of 1973, as amended.
4. Americans with Disabilities Act of 1990, as amended.
5. Section 188 of The Workforce Innovation & Opportunity Act (WIOA).
6. 29 CFR Title 29, Part 38, Subpart A - General Provisions.
7. Subtitle A, Part 37, Subpart A, Section 37.4 - What definitions apply to this part?

BACKGROUND

20 CFR 683.600 states that each local area, State, outlying area, and direct **recipient** of funds under Title I of WIOA, except for Job Corps, must establish and maintain a procedure for participants and other interested parties to file grievances and complaints alleging violations of the requirements of Title I of WIOA.

20 CFR 683.285 states what a **recipient's** obligations are to ensure nondiscrimination and equal opportunity.

Recipients must comply with the nondiscrimination and equal opportunity provisions of WIOA sec. 188 and its implementing regulations, codified at 29 CFR Part 38. Under that definition, the term "recipients" includes State and Local CareerSource Boards, one-stop operators, service providers, and subrecipients, as well as other types of individuals and entities.

Nondiscrimination and equal opportunity requirements and procedures, including complaint processing and compliance reviews, are governed by the regulations implementing sec. 188 of WIOA, codified at 29 CFR part 38, and are administered and enforced by the Department of Labor Civil Rights Center.

Financial assistance provided under Title I of WIOA may be used to meet a recipient's obligation to provide physical and programmatic accessibility and reasonable accommodation/modification in regard to the WIOA program, as required by sec. 504 of the Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act of 1990, as amended; sec. 188 of WIOA; and the regulations implementing these statutory provisions.

The WIOA, TANF/WT and the FSET programs require the State, the local areas, and direct recipients of program funds to establish and maintain grievance/complaint and hearing/appeal procedures for handling program-related complaints. To simplify procedures, the Department of Economic Opportunity developed grievance/complaint and hearing/appeal procedures that are essentially the same for WIOA, TAA, SNAP/FSET, and TANF/WT workforce programs.

A. KEY CONCEPTS

1. **Grievance.** A grievance is a statement of dissatisfaction which is filed in writing with the CareerSource Okaloosa Walton, with the State of Florida Department of Economic Opportunity (DEO) Office for Civil Rights or the Department of Labor Office of Inspector General, whenever it is believed that an erroneous or inequitable situation exists which substantially affects the interest of the person filing or on whose behalf the filing is made.
2. **Noncompliance** means a failure of a grant applicant or recipient to comply with any of the applicable requirements of the nondiscrimination and equal opportunity provisions of WIOA or this part, CFR 683.285.
3. **Reasonable Accommodation**
 - a. The term “reasonable accommodation” means:
 - (1) Modifications or adjustments to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, training, or employment that the qualified applicant/registrant desires; or
 - (2) Modifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job, or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities. These modifications or adjustments may be made to:
 - (a) The environment where work is performed or aid, benefits, services, or training are given; or
 - (b) The customary manner in which, or circumstances under which, a job is performed or aid, benefits, services, or training are given.
 - (3) Modifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated individuals without disabilities.
 - (4) Reasonable accommodation includes, but is not limited to:
 - (a) Making existing facilities used by applicants, registrants, eligible applicants/registrants, participants, applicants for employment, and

employees readily accessible to and usable by individuals with disabilities;
and

- (b) Restructuring of a job or a service, or of the way in which aid, benefits, or training is/are provided; part-time or modified work or training schedules; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of readers or interpreters; and other similar accommodations for individuals with disabilities.

- (5) To determine the appropriate reasonable accommodation, it may be necessary for the recipient to initiate an informal, interactive process with the qualified individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

- 4. **Recipient** means any entity to which financial assistance under WIOA Title I is extended, either directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIOA Title I-funded program or activity. In instances in which a Governor operates a program or activity, either directly or through a State agency, using discretionary funds apportioned to him or her under WIOA Title I (rather than disbursing the funds to another recipient), the Governor is also a recipient.

In addition, for purposes of this definition, One-Stop partners, as defined in section 121(b) of WIOA, are treated as "recipients," and are subject to the nondiscrimination and equal opportunity requirements of CFR 683.285, to the extent that they participate in the One-Stop delivery system.

POLICY GUIDANCE

B. PROHIBITED DISCRIMINATION

- 1. The CareerSource Okaloosa Walton's Board of Directors requires staff to enroll eligible participants on a first come, first serve basis without regards to their race, color, religion, national origin, disability, pregnancy, sex, or economic status.
- 2. It is against the law for a **recipient** (such as CSOW) of federal financial assistance to discriminate on the following bases:
 - a. Against any individual in the United States on the basis of race, color, religion, sex, national origin, age, disability, marital status, political affiliation or belief; and
 - b. Against any beneficiary of programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States or his/her

participation in any WIOA Title I financially assisted program or activity.

3. In this regard, CSOW staff must not discriminate in any of the following areas:
 - a. Deciding who will be admitted, or have access to any WIOA Title I financially assisted program or activity;
 - b. Deciding who will be admitted, or have access to any other workforce program delivered through the CSOW One-Stop Delivery System, including WIOA, Wagner-Peyser, TAA, SNAP/FSET, and TANF/WT, Ticket-to-Work, etc.
 - c. Providing opportunities in, or treating any person with regard to, such a program or activity; or
 - d. Making employment decisions in the administration of, or in connection with, such a program or activity.

C. PROCEDURE/PROCESS OF FILING A GRIEVANCE

1. The CareerSource Okaloosa Walton has established procedures and guidelines for individuals filing grievances and complaints against a CareerSource program.
2. The CareerSource has adopted a process for dealing with grievances and complaints from participants and other interested parties affected by the local Workforce Investment System. This process allows the opportunity for resolution of the grievances or complaints. In the event the grievance is not resolved by the CareerSource, CSOW will assist the individual/s with filing the grievance to the next level in the process.
3. The CareerSource will make reasonable efforts to assure that the information submitted and provided by an individual filing a grievance or complaint will be understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals as outlined in WIOA and 20 CFR Subpart F, Section 683.600.

D. FILING GRIEVANCE/COMPLAINT AT THE LOCAL LEVEL

1. Any participant or other interested party adversely affected by a decision or action by the local workforce system, including decisions by CareerSource partners and service providers, has the right to file a grievance/complaint with CareerSource Okaloosa Walton Board of Directors.
2. Under WIOA, TAA, WT/TANF, and SNAP/FSET, CareerSource partners, service providers, participants, and other interested parties affected by the local Workforce/CareerSource System have the right to file a grievance/complaint.

3. Except for complaints which allege fraud or criminal activity or discrimination complaints, grievances shall be filed in writing with the CareerSource Okaloosa Walton. Individuals that elect to file a grievance with the CareerSource Okaloosa Walton's Board shall contact the CareerSource Okaloosa Walton's Administration office for assistance with filing the grievance.
4. The written grievance should be addressed to:

CAREERSOURCE OKALOOSA WALTON
Executive Director
109 8th Avenue
Shalimar, Florida 32579
Telephone: (850)651-2315

E. HEARING PROCEDURES AND ORDERS

1. These procedures include the method for attempting to resolve issues within sixty (60) calendar days of the formal receipt of a grievance/complaint. The Equal Opportunity Officer may assist any person in resolving a grievance/complaint informally if the issue can be resolved to the satisfaction of both parties prior to the grievance/complaint being formalized. In this case, the Equal Opportunity Officer shall write a report stipulating the agreement and shall place a copy of the agreement in the complainant's file. The specifics are:
 - a. An impartial body shall be selected to hear the grievance; this body shall consist of the CareerSource Okaloosa Walton Chairperson (or his/her designee); the CareerSource Okaloosa Walton Executive Director; and a person appointed by the complainant.
 - b. The Equal Opportunity Officer shall schedule the hearing to be held within fifteen (15) calendar days from the receipt of complaint/grievance.
 - c. The Equal Opportunity Officer shall notify the grievant/complainant by certified mail, return receipt, at a minimum of 15 calendar days prior to the hearing; and, ensure that notices of the hearing are sent to all interested parties, including the complainant, respondent, attorneys, witnesses, and the applicable Office of Civil Rights (OCR). The notices shall clearly state:
 - (1) The date, time, and place of the hearing;
 - (2) The pertinent sections of the WIOA, TAA, WT/TANF, and FSET, or any other federal regulations involved;

- (3) Affected parties may present witnesses or documentary evidence at the hearing;
 - (4) Affected parties may be represented at the hearing by an attorney or other representative; and
 - (5) The parties will receive the CAREERSOURCE decision within 60 calendar days from receipt of the grievance or complaint.
- d. Individuals with a disability needing special accommodations shall call the Equal Opportunity Officer at (850) 651-2315 at a minimum of five (5) working days prior to the hearing and indicate what special accommodations are needed in order to participate in the hearing.
 - e. Any unnecessary technicalities shall be avoided.
 - f. To ensure that the rights of the parties are safeguarded, the following elements will be included in the hearing procedures:
 - (1) The right of all parties at their own expense to be represented by a lawyer or other representative of their choosing or to be self-represented.
 - (2) The right of all parties to present their views to the hearing board, either orally or in writing.
 - g. The hearing shall be conducted in such a manner to allow the impartial body to question all parties on any relevant questions regarding pertinent issues to the grievance filed.
 - h. The impartial body shall attempt to negotiate a settlement between the parties at any time prior to the conclusion of the hearing.
 - i. The impartial body shall make a recommended decision no later than sixty (60) calendar days after a grievance/complaint has been filed. The impartial body shall forward to all interested parties within seven (7) calendar days of the hearing its recommended conclusion.
 - j. The decision shall be written in clear, simple, non-technical language and should include the following information:
 - (1) A statement that a hearing was held in which the involved parties, their representatives, and their witnesses were given an opportunity to present oral and/or written evidence in support of their position.
 - (2) A clear and concise statement of the issues.
 - (3) The findings of fact, based upon the entire record as disclosed at the hearing

- (4) The opinion and reasons for the decision, based on material presented and on the applicable section of the Act or regulations.
 - (5) The recommendation of the impartial body, based on the findings of fact, conclusion of law, and the evidence adduced at the hearing.
- k. Each interested party shall be furnished a copy of the recommended decision.
 - l. The entire hearing shall be recorded electronically, on tape; any party requesting a copy of the transcription shall pay all costs incurred in furnishing the copy.
 - m. Where possible, the identity of any person who has furnished information relating to, or who has assisted in an investigation of a possible violation of the Act will be held in confidence.

F. PROCESS FOR FILING AN APPEAL OF CAREERSOURCE OKALOOSA WALTON DECISION OR LACK OF ACTION

1. If the CareerSource Okaloosa Walton has:
 - a. Conducted a hearing but the grievant/complainant is dissatisfied with or has been adversely affected by the Hearing Officer's decision;
 - b. A hearing was not conducted within sixty (60) calendar days from receipt of the grievance/complaint; or
 - c. Conducted the hearing but has not issued a decision within the mandated sixty (60) calendar day timeframe, then the grievant/complainant may file an appeal with the Department of Economic Opportunity (DEO).
2. The appeal should be concise (if possible, not to exceed five pages which does not include exhibits and attachments) and shall be sent by certified mail, return receipt to the DEO Office of General Counsel, Caldwell Building – Suite 150, 107 East Madison Street, Tallahassee, Florida 32399-4128.
3. The appeal request shall state the facts, laws, procedures, etc. that the grievant/complainant believes to be relevant for review. The appeal must be filed with DEO within thirty (30) calendar days of receipt of the CareerSource Okaloosa Walton Hearing Officer's decision or within thirty (30) calendar days after the required 60 calendar day timeframe for the CareerSource Okaloosa Walton to act has elapsed.
4. The request shall include the grievant/complainant's address where official notices will be mailed.

5. The state can remand the grievance/complaint back to the CareerSource Okaloosa Walton to hold a hearing or impose other remedies to resolve the grievance/complaint.

G. REPORTING CRIMINAL FRAUD AND ABUSE, DISCRIMINATION, HEALTH AND SAFETY, AND EMPLOYMENT COMPLAINTS/VIOLATIONS

1. Criminal fraud and abuse, discrimination, health and safety, and employment, complaints that violate federal laws, regulations, and directives are handled differently than the program related complaints/grievances handled by local and state hearing and appeal procedures.

a. Reporting Criminal Fraud and Abuse

- (1) 20 CFR Section 683.620 describes the process for reporting complaints and/or reports of criminal fraud and abuse. Complaints/reports must be reported immediately to the USDOL Office of Inspector General, Office of Investigations, Room S5514, 200 Constitution Avenue NW, Washington, D.C. 20210.
- (2) The complaint or report can also be mailed to the USDOL South East Regional Inspector General for Investigations, Office of Investigations, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Suite 6T1, Atlanta, Georgia 30303 with a copy simultaneously provided to the Employment and Training Administration.
- (3) Reports or complaints alleging criminal fraud and abuse may also be reported through USDOL's Hotline at 1-800-347-3756.

b. Reporting WIOA, WT/(TANF), SNAP/FSET, and Wagner-Peyser Discrimination Complaints

- (1) **20 CFR Subpart F, Section 683** requires that recipients of WIOA funds comply with federal nondiscrimination and other applicable equal opportunity laws. (See WIOA Section 188 and 29 CFR part 37.)
- (2) Guidance, found at **20 CFR Subpart A, Section 652.8 j (1)**, prohibits discrimination against applicants for or recipients of Wagner-Peyser program services.
- (3) Under Wagner-Peyser, discrimination complaints may be filed directly with a local-office equal opportunity representative, when such has been designated and trained, with the state agency having administrative responsibility for Wagner-Peyser programs, or with the Civil Rights Center, U.S. Department of Labor.
- (4) Under the SNAP/FSET program, individuals who believe that they have been subject to discrimination may file a written complaint with the United States Department of Agriculture, U.S. Department of Agriculture, Director, Office of

Adjudication, 1400 Independence Avenue, SW, Washington, DC 20250-9410
 (Reference: 7 CFR part 15).

H. INTIMIDATION AND RETALIATION PROHIBITED

CareerSource Okaloosa Walton shall not discharge, intimidate, retaliate, threaten, coerce or discriminate against any person because such person has filed a complaint or grievance. The same prohibition applies to people who have furnished information, assisted or participated in any manner in an investigation, review, hearing or any other activity related to administration of, or exercise of authority under, or privilege secured by 29 CFR Part 34.

Under Florida law, CareerSource center customers may also choose to file employment complaints with the Florida Commission on Human Relations. (See Section 760.06, Florida Statutes.) Contact the following entities for discrimination, employment, health and safety, or Florida Law violations/complaints:	
CareerSource Okaloosa Walton Local Equal Opportunity Officer 109 8 th Avenue Shalimar, Florida 32579	Department of Economic Opportunity Office for Civil Rights 107 East Madison Street, MSC 150 Tallahassee, FL 32399-4129 (P): 850.921.3205 / (F): 850.921.3122
Florida Commission on Human Relations Florida Law Violations 4075 Esplanade Way, Room 110 Tallahassee, Florida 32399 (850) 488-7082 1-800-342-8170 (voice and TTY)	U. S. Department of Labor Director, Civil Rights Center Room N4123 200 Constitution Avenue, NW, Washington, D. C. 20210
U.S. Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530-0001 Department Comment Line: 202-353-1555 Department of Justice Main Switchboard: 202-514-2000 TTY/ASCI/TDD: 800-877-8339 (or Federal IP Relay Service (link is external))	U. S. Department of Labor Occupational Safety and Health Administration (OSHA) Safety and Health Violations 200 Constitution Avenue, NW Washington, D.C. 20210
U.S. Department of Agriculture, Director, Office of Adjudication 1400 Independence Avenue, SW Washington, DC 20250-9410	Centralized Case Management Operations U.S. Department of Health and Human Services 200 Independence Avenue, S.W. Room 509F HHH Bldg. Washington, D.C. 20201
U. S. Department of Labor Office of Inspector General, Office of Investigations 200 Constitution Avenue, NW Room S-5014 Washington, D. C. 20210.	U. S. Equal Employment Opportunity Commission (EEOC) Employment Complaints Mobile Local Office. 63 South Royal Street Suite 504 Mobile, AL 36602 1-800-669-4000 251-690-2581 (Fax) 1-800-669-6820 (TTY) 844-234-5122 (ASL Video Phone)
U.S. Department of Education Office for Civil Rights Lyndon Baines Johnson Depart of Education Building 400 Maryland Avenue, SW Washington, DC 20202-1100 Telephone: 800-421-3481 FAX: 202-453-6012; TDD: 800-877-8339	

I. CONFIDENTIALITY

All data collected as a result of this policy is for official use only, and should only be used in conducting official business. Refer to the Workforce Boards Policy on confidentiality for additional information.

J. SUGGESTIONS FOR CHANGES OR WAIVERS

1. Submit request for changes or waivers to this policy to CareerSource Okaloosa Walton, 109 8th Avenue, Shalimar, Florida 32579, ATTN: Executive Director or Chief Operating Officer. Request may also be e-mailed to policy@careersourceow.com.
2. Request for **changes** must include the suggested change and an explanation of how the change will improve the process.
3. Request for **waivers** must include names, effective dates, case notes relating to the waiver, dollar amounts, etc.; and any other documentation to support the request.

K. ACTION REQUIRED

CareerSource Okaloosa Walton's Career Center staff will implement this policy upon receipt.