

WIOA COMPLAINT/GRIEVANCE PROCEDURES

A. COMPLAINTS OF VIOLATION(S) OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT

If you are a participant or other interested party affected by the America's Job Center of California System operated by the Sacramento Employment and Training Agency ("SETA"), including a one-stop partner or service provider, and you believe that a violation of the requirements of the Workforce Innovation and Opportunity Act ("WIOA") has occurred, you may file a grievance or complaint with SETA as provided in 20 CFR 683.600, *et seq.* Such grievance or complaint must be filed with SETA within one (1) year of the alleged violation. Participants have the right to receive technical assistance. Such technical assistance includes providing instructions on how to file a grievance or complaint, providing relevant copies of documents such as the WIOA regulations, local policies, contracts, etc., and providing clarifications and interpretations or relevant provisions.

The grievance or complaint must be in writing, signed and dated by the grievant/complainant and shall contain the following information:

1. The full name, telephone number (if any) and mailing address of the grievant/complainant.
2. The full name, telephone number (if any) and mailing address of the respondent (the person or entity against whom the grievance/complaint is made).
3. A statement of the basis for the complaint, including the requirement of the WIOA that the grievant/complainant alleges has been violated.
4. A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.
5. The remedy being sought, which must be consistent with the requirement violated and the facts presented, and may only be one or more of the following remedies:
 - a. A suspension or termination of payments under the WIOA;
 - b. A prohibition of placement of a participant with an employer that has violated any requirement of the WIOA;
 - c. Reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and
 - d. Other appropriate forms of equitable relief.

Upon receipt of any such complaint or grievance, SETA will process the matter consistent with SETA's Complaint Resolution Procedure and will provide for an informal resolution or hearing of the matter within sixty (60) days of the filing of the grievance or complaint. Any grievance or complaint that alleges a labor standards violation may be submitted to binding arbitration between the parties, if a collective bargaining agreement covering the parties to the grievance or complaint so provides.

Any grievance or complaint may be appealed to the State of California, Employment Development Department (or other designated state department) if: (a) no decision is reached within sixty (60) days; or (b) either party is dissatisfied with SETA's determination.

Appeal of Local Level Decisions or Requests for EDD Review

If the Local Area has issued an adverse decision or failed to follow the procedures in this Directive, the complainant may file an appeal with the state. Additionally, if the Local Area has not issued a decision within the 60-day time limit, or if there has been any incident(s) of restraint, coercion, or reprisal at the local level as a result of filing a grievance or complaint, the complainant may file a request for EDD review.

The appeal or request for EDD review must be in writing, signed, and dated by the complainant. The state will attempt to obtain the following information. However, the absence of any of the requested information will not be used as a basis for dismissing the appeal or request for EDD review.

- The full name, telephone number, and mailing address of the complainant and the Local Area's administrative entity.
- A statement of the basis of the appeal or request for EDD review.
- Copies of relevant documents, such as the complaint filed with the Local Area and their decision, if any was received.

Appeals must be filed or postmarked within 10 days from the date on which the complainant received an adverse decision from the Local Area. Requests for EDD review must be filed or postmarked within 15 days from either of the following:

- The date on which a complainant should have received a decision regarding a locally filed complainant, which is defined as five days from the date the decision was due.
- The date on which an instance of restraint, coercion, or reprisal was alleged to have occurred as a result of filing the complaint.

Complainants must submit appeals or requests for EDD review to the following address:

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

B. COMPLAINTS OF DISCRIMINATION

If you believe that you have been discriminated against, you may file a complaint with SETA, consistent with 29 CFR Part 38 and Part 32, Subparts B and C and Appendix A. Complaints alleging discrimination should be filed within one hundred eighty (180) days of the alleged act of discrimination and should be filed with either SETA's Affirmative Action/Equal Employment Opportunity Officer (or his/her designee) or directly with the Director, Civil Rights Center, U. S. Department of Labor.

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

D'et Saurbourne
Deputy Director-Administrative Services
Sacramento Employment & Training Agency
925 Del Paso Blvd.
Sacramento, CA 95815-3512
Phone: (916) 263-3811

If you elect to file your complaint with SETA, you must wait either until SETA issues a written Notice of Final Action or until ninety (90) days have passed (whichever is sooner), before filing with the CRC (see address above). If SETA has not provided you with a written Notice of Final Action within ninety (90) days of the day on which you filed your complaint, you need not wait for such a Notice to be issued, but may file a complaint with the CRC within thirty (30) days of the expiration of the ninety (90) day period (in other words, within one hundred twenty (120) days after the day on which you filed your complaint with SETA). If you are dissatisfied with SETA's resolution of your complaint, you may file with CRC. Such a complaint must be filed within thirty (30) days of the date you received SETA's Notice of Final Action. A form for filing discrimination complaints with CRC is available from SETA's AA/EEO Officer. Complaints containing a variety of allegations, some of which address discrimination and others which do not, shall be bifurcated (divided into two separate parts) with the discrimination allegations forwarded to CRC and the remaining allegations to be heard by SETA.

C. ALTERNATIVE DISPUTE RESOLUTION (ADR)

As a complainant, you will be offered ADR immediately upon receipt of your complaint. The choice whether to use ADR rests with you.

If ADR is chosen, mediation will be provided. Mediation is a voluntary process during which a neutral third party will assist you and SETA to communicate concerns, and to come to an agreement about how to resolve the dispute. The mediator will not make a decision, rule as to who is right or wrong, nor will take sides or advocate for one side or the other. The role of the mediator will be to help with communication so you and SETA can reach an understanding about how to best resolve your differences.

Mediation proceedings and the information shared will be confidential and no information divulged during mediation may be used in court or any legal or administrative proceedings.

If you and SETA do not reach an agreement under ADR, you may file a complaint directly with the Civil Rights Center (CRC), as described in 29 CFR Sections 38.69 through 38.72. Either party to the agreement reached under ADR may file a complaint with the CRC in the event the agreement is breached. In such a circumstance, the following rules will apply:

- The non-breaching party may file a complaint with the CRC within thirty (30) days of the date on which the non-breaching party learns of the alleged breach.
- The CRC must evaluate the circumstances to determine whether the agreement has been breached. If the CRC determines that the agreement has been breached, you may file a complaint with the CRC based upon your original allegation(s), and the CRC will waive the time deadline for filing your complaint.

If you elect not to participate in the ADR process, SETA shall investigate the circumstances underlying the alleged complaint.