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Equal Opportunity & Non-Discrimination

Concern and Complaint Processing Questions & Answers (Q&A)

Revised on: 04/12/2019; 05/01/2019; 1/25/21

	Question	Answer
1.	What is the difference between a concern and a complaint?	<p>A concern is any verbal expression of dissatisfaction. A written expression of dissatisfaction may also be processed as a concern except for alleged violations of program or nondiscrimination rules or laws noted in this handbook.</p> <p>Concerns do not require the same formal process as a complaint (i.e., logging, tracking, etc.). Local processes may include additional requirements for processing concerns.</p>
2.	What do I do if I'm not familiar with the program or scope of the concern presented?	<p>Customers can't be expected to know what program they are connected to or who to ask for help. Our goal is to resolve all concerns as easily and quickly as possible. Because WorkSource customers usually don't know what program they are connected to it's important to do your best to assist any customer to defuse situations as early as possible. If necessary, connect the customer with the appropriate partner or do some networking and get back to the customer. Complaint submission is not required to connect the customer with the appropriate contact.</p>
3.	What should I do if a customer indicates they want to file a complaint?	<p>If you haven't already, ask the customer what would resolve the issue and offer assistance. Often times the customer just wants to express a concern or receive assistance, without realizing the implications of submitting a formal complaint. That being said, a customer has the right to due process. If the customer's intent is to file a complaint, see internal Complaint Flow Chart on how to process and document a non-discrimination complaint.</p>
4.	Can a complaint be filed via email?	<p>An email, alone, is not considered a complaint. A complaint must contain sufficient information to initiate fact-finding (see complaint definition) and a physical signature. Without a signature, partners may not have legal authority to attempt a resolution of a complaint. However, an email that includes an attached letter or form, if it contains a physical signature and sufficient information to initiate fact-finding, can be accepted as a complaint. Under those circumstances, both the email trail and the signed copy of the complaint form/letter shall be included in a complaint file.</p>
5.	What is an example of a written concern that is not a complaint?	<p>Here's an example: an email submitted to a legislator expressing dissatisfaction with services is considered a concern <u>if it does not contain an attachment with a physical signature.</u></p>

ATTACHMENT C

		Also, a written expression of dissatisfaction made against a WorkSource partner that administers a program or a process not covered by this handbook may be processed as a concern (and referred as appropriate), even if it contains a physical signature. The complaint processes in this handbook are tied to specific funding sources, and external complaint processes exist to correspond with external funding sources.
6.	Do concerns resolved at the local level need to be logged?	A local area is not required to track customer concerns. However, a local area may choose to document concerns through the use of a log or some other method.
7.	How can a customer file a complaint?	A customer may file a complaint by submitting a locally approved complaint form (Form 8429) that is filled out and signed or by submitting a signed letter with sufficient information to initiate fact-finding. This handbook contains additional information regarding what must be included on a complaint form.
8.	Who has local authority over program complaint jurisdiction?	For WIOA related complaints it would be the WDC Director or appointee (WIOA complaint contact); for Wagner-Peyser and TAA related complaints, it would be the WCDD Regional Director or appointee (Wagner-Peyser or TAA Complaint Contact). For discrimination complaints, it will be the WDC EO officer.
9.	May WDCs develop a local policy and process that applies to all WorkSource sites located in a WDA?	Yes, it is not required for each site to maintain separate policies or procedures. However, local areas may consider appointing more than one program complaint contact (or other representative) to assist with facilitation of the WDA's process even if the WDA is governed by one policy/procedure.
10.	Is a local hearing required to respond to a Wagner-Peyser complaint that is not resolved at the local level?	No. If a complaint is made against ESD and such complaint has not been resolved within 15 working days, the complaint contact shall elevate the complaint to the state following procedures noted in section 1.6.1 of the handbook.
11.	For Wagner-Peyser, what is the difference between a complaint and an apparent violation?	An apparent violation is a violation of employment law made by an employer, where an ESD representative observes, has reason to believe, or is in receipt of information regarding a suspected violation. Apparent violations do not involve a written and signed allegation made by a customer against an employer. Partners should be cautioned that it is <u>not</u> within ESD's role to search out potential employer violations of employment law. However, if violations of employment law become apparent, such situations must be documented and reported to the appropriate complaint contact for processing according to the requirements in section 1.9 of this handbook. Complaint contacts shall evaluate the individual circumstances of the issue presented and determine whether the allegation warrants action.
12.	In section 1.6.2, there is no mention of attempting to resolve complaints. Does that mean that	Yes. Previous Wagner-Peyser and MSFW complaint policies and procedures required that complaint specialists (now known as complaint contacts) attempt to resolve complaints alleging a violation of employment law or a violation of H-2 regulations prior to making a referral to the appropriate enforcement agency. While well intentioned, involvement in such complaints that do not require intervention

ATTACHMENT C

	all complaints alleging an employment law violation against an employer need to be referred directly to the appropriate agency?	may put ESD at risk as unnecessary involvement may delay appropriate action from authorized agencies. Partners, may however, attempt to resolve customer concerns involving H-2 program violations or employment law violations in alignment with their local policy and procedures.
13.	It seems impractical to require follow-up on ES complaints alleging employment law violations once they have been referred to another agency. Shouldn't the agency handling the referral be responsible for follow-up?	Per 20 CFR 658.416(b)(1), the referring agency "shall follow-up with the enforcement agency monthly regarding MSFW complaints and quarterly regarding non-MSFW complaints, and shall inform the complainant of the status of the complaint periodically." The intent of this section is to ensure ESD is informed whether an employer who filed a job order within the last twelve months violated employment law. If the employer is found to have violated employment law, ESD shall initiate discontinuation of services procedures consistent with 20 CFR 658 Subpart F.
14.	What happens if a complainant moves and we don't receive a confirmation receipt?	When using certified mail, a confirmation receipt is normally returned. If the confirmation receipt is returned that indicates the complainant no longer resides at the address provided, or the certified mail is returned as undeliverable and no other form of contact is available, the receipt or returned mail will be saved in a file as a document that confirms an attempt to make contact was made.
15.	Can only ESD discontinue services or can a Non-ESD entity providing labor exchange services also discontinue services?	Per 20 CFR 658.501(a), "the State agency shall initiate procedures for discontinuation of services to employers." This language places the burden on ESD to initiate discontinuation of services procedures. Depending on the circumstances, non-ESD entities providing labor exchange services may, however, recommend that ESD initiate discontinuation of services.
16.	What specific services could be discontinued according to the Wagner-Peyser complaint process?	Labor exchange services would no longer be provided to the employer in question. Other services may be discontinued if such services are supported by Wagner-Peyser funds.
17.	Where can I find a WorkSource complaint poster that satisfies Wagner-Peyser requirements?	You may print a copy of the <u>WorkSource Complaint Poster</u> for your office. The poster must be printed in color on 11' X 17' card stock paper in order to enhance readability. If you would prefer to request a copy of Washington's ETA-approved WorkSource complaint poster (above), or if you have questions or comments regarding the Initial Customer Complaint Policy, please contact <u>WCDDpolicy@esd.wa.gov</u> .
18.	Why are TAA Complaint &	TAA complaint & eligibility appeals procedures were added to the handbook in order to increase visibility of TAA requirements among partners. In addition, it

ATTACHMENT C

	Eligibility Appeal Procedures included in the handbook?	made sense to centralize the location of TAA complaint procedures and appeal procedures to make partners aware that there are specific procedures for each.
19.	Why is the term “grievance” not defined or noted in the WIOA complaint procedures?	The term “grievance,” while noted in WIOA regulations is not defined. In addition, a review of WIOA complaint procedures from other states indicated that the word “grievance” is often used interchangeably with the word “complaint”. To reduce possible confusion, WCDD decided to eliminate the use of the word “grievance” until guidance is received from DOL offering a definition that is different from the word complaint.
20.	For WIOA complaints, can a complaint contact serve as an impartial hearing officer?	A complaint contact may serve as an impartial hearing officer only if s/he is not directly connected to the allegations or potentially affected by the results of the determination(s). The impartial hearing officer must be in a position to render an impartial decision in order to avoid the appearance of unfairness. Local procedures could establish the WDC, or representative of the WDC, as a hearing officer (if s/he is not directly connected or potentially affected by the determination).
21.	Where can I find guidance on how to prepare for or how to conduct a hearing on a WIOA complaint?	The Washington State Office of Administrative Hearings (OAH) serves as an independent state agency that conducts impartial administrative hearings. OAH’s website at < http://www.oah.wa.gov/hearings.shtml > offers instruction on how to schedule and prepare for a hearing. For WIOA complaints, OAH may serve as an impartial hearing officer. Ohio’s policy manual also provides several helpful examples, including a hearing notice and hearing determination outline. Refer to pages 33-36: https://jfs.ohio.gov/owd/WorkforceProf/Docs/WIOAComplaintProceduresManual.pdf
22.	Can program complaints and discrimination complaints all be maintained in one log?	No, program and discrimination complaints must be logged separately. As noted in sections 1.15, 2.12, 3.9 and 4.10, example complaint logs are attached to this handbook and meet the requirements for program and EO complaints.
23.	Where do I obtain EO Notices in other languages?	Here is the link where you can obtain EO Notices in other languages: https://www.dol.gov/oasam/programs/crc/EOPosters.htm
24.	If a customer declines an interpreter, do you ask customer if they still want services or just document?	Explain that the interpreter is for you to translate the information you are providing to them, to ensure they understand it.

ATTACHMENT C

25.	How do we determine if an animal is a service animal?	<p>A service animal must be a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability such as including a physical, sensory, psychiatric, intellectual, or other mental disability.</p> <p>Service animals can be professionally trained or trained by the handler themselves. A service animal handler does not need to provide certification for his or her service animal. The work or tasks performed by a service animal must be directly related to the individual's disability. If a service animal's trained purpose is not apparent, a place of public accommodation can ask the following questions:</p> <ul style="list-style-type: none">• Do you need the animal because of a disability?• What work or task has it been trained to perform? <p>Do not ask for a demonstration of the animal's training Do not ask for proof that it is a service animal</p> <p>NOTE: Emotional support, comfort, and therapy animals are not service animals under the ADA. They provide comfort, but they're not trained to do a task related to a disability.</p>
26.	What is the most updated EO Tagline	<p style="text-align: center;">Equal Opportunity is the Law</p> <p>WorkSource is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. WA Relay 711.</p>
27.	Is there a document in place that a customer can sign after denying translation services (for documentation purposes)?	No, there is no document in place that a customer can sign after denying translation services. However, staff must enter a case note in the customer's Management Information System (MIS) documenting that translation services were offered, and customer declined. Staff should continue to offer translation services if the customer returns.
28.	What defines a qualified bilingual staff at a One-Stop Center?	As of today, we do not have a process in place for certifying or qualifying staff who are bilingual. To consider a bilingual staff to be qualified to provide translation services, they need to fluently read, write and speak in both languages, and have a good understanding of terminology to explain it to the customer.

ATTACHMENT C

29.	Can a staff who speaks American Sign Language (ASL) provide ongoing services to deaf and hard of hearing customers, just the way a bilingual staff provide services to Limited English Proficient (LEP) customers?	Yes, keep in mind that ASL is an accommodation rather than language service, so there is more of a need to focus on the customer and staff should not be pulled away when providing WorkSource services.
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If you have any questions regarding the concern and complaint processing, please email your questions to cgarcia@bf-wdc.org and they will be added to this Q&A Document.

ATTACHMENT C