



Workforce Innovation and Opportunity Act Policy
Employment System Administration and Policy

Washington envisions a nationally recognized fully integrated One-Stop system with enhanced customer access to program services, improved long-term employment outcomes for job seekers and consistent, high quality services to business customers. In order to achieve this vision, Employment System Administration and Policy sets a common direction and standards for Washington's WorkSource system through the development of WorkSource system policies, information memoranda, and technical assistance.

Policy Number: 5410, Revision 1
To: Washington WorkSource System
Effective Date: May 9, 2016
Subject: Dispute Resolution and Appeals

1. Purpose:

To communicate the requirement that Local Workforce Development Boards (LWDBs) have local WIOA dispute resolution policies and processes and to describe the process by which local WIOA disputes will be handled by the State in the event disputes cannot be resolved at the local level, including procedures to be followed when the State has a conflict of interest.

2. Background:

Disputes by LWDBs regarding contracts, allotments, monitoring and oversight outcomes, and administrative agreements and memoranda involving local and/or system partners may occur. Standardized policies and timely processes for addressing and resolving such disputes is required.

3. Policy:

- a. LWDBs must have local policies and procedures to resolve disputes at the lowest possible level. LWDBs must follow their local policies and procedures and appropriately document local actions and decisions relating to disputes that arise. Only after local policies and procedures have been exhausted can disputes be elevated to the state level.
- b. If the requirements of a local dispute resolution policy and process have been met and the parties to a dispute cannot reach agreement, they may appeal to the Employment Security Department (ESD) Commissioner for resolution. Decisions by the

Commissioner or his/her designee, as the representative of the Governor, will be made in consultation with appropriate local Chief Elected Official(s) and issued within 30 calendar days of receiving appeals.

- c. If the dispute involves ESD, either party to the dispute can request the services of an independent mediator or hearing officer.
 - i. The selection process for the mediator or hearing officer must be concluded within 10 business days and include the following:
 - A. Each party to the dispute will identify one representative.
 - B. From a list of three mediators/hearing officers identified through a mutually-agreed upon source (e.g., local dispute resolution councils, State Department of Enterprise Services, etc.), each representative will eliminate one individual with the remaining individual selected by that process of elimination.
 - C. Both parties to the dispute agree to share the cost of the mediator/hearing officer equally.
 - ii. The mediator or hearing officer will, within 30 calendar days of being retained, deliver a recommendation, in writing, to the ESD Commissioner.
 - iii. The ESD Commissioner has five business days to render a decision by accepting or rejecting the recommendation with the latter limited to three “just cause” allowances:
 - A. Undisclosed conflict of interest on the part of the mediator/hearing officer
 - B. Clear misapplication of the law and/or regulations
 - C. The finding does not fit the record or facts of the case
 - iv. If the ESD Commissioner rejects the mediator/hearing officer recommendation, either party to the dispute and Commissioner’s (rejection) decision can be appealed to the U.S. Department of Labor as described in WIOA Section 181(c).
- d. If one or more of the parties to the dispute is dissatisfied with the ESD Commissioner’s decision, the decision can be appealed to the U.S. Department of Labor as described in WIOA Section 181(c).
- e. Per WIOA Section 121(h) and 20 CFR 678.725-750, local disputes related to funding of one-stop infrastructure costs are exempt from this policy and will instead be addressed through application of the state one-stop funding mechanism determined by the Governor and subject to a state-level appeals process established by the Governor.

4. Definitions:

None.

5. References:

Public Law 113-128, Workforce Innovation and Opportunity Act of 2014, Section 181(c) – Grievance Procedure

6. Supersedes:

None.

7. Website:

<http://wpc.wa.gov/adm/policy>

8. Action:

Local Workforce Development Boards and their contractors, as well as Employment Security Regional Directors, must distribute this policy broadly throughout the system to ensure that WorkSource System staff are familiar with its content and requirements.

9. Attachments:

None.

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