

San Joaquin County Employment & Economic Development Department (WorkNet/AJCC) GRIEVANCE AND COMPLAINT PROCEDURES

Workforce Innovation and Opportunity Act (WIOA), 20 Code of Federal Regulations (CFR) Proposed Rules, Section 683.600, requires that recipients of WIOA funds establish and maintain hearing and appeal procedures for handling program related grievances/complaints, except for grievances related to Job Corps. WIOA Proposed Rules 20CFR 683.600 defines the requirements for both the local and State grievance procedures.

San Joaquin County WorkNet/America's Job Center of California (AJCC), in compliance with WIOA federal regulations and State directives, has established a grievance/complaint procedure for the prompt review, impartial consideration and equitable disposition for complaints (administrative and/or Equal Employment Opportunity) presented by a complainant in any WorkNet Center under WIOA §181(c) (1). This does not cover complaints concerning fraud and abuse or alleged discrimination due to participant disabilities.

- At all levels of the grievance/complaint process, complainants have the right to be represented, at their own expense, by a person or persons of their choosing.
- All complainants have the right to technical assistance provided at no cost by WorkNet/AJCC.
- Grievances/complaints must be filed within **one (1) year** of the alleged violation. All grievances/complaints, amendments and withdrawals must be in writing.

I. **Filing the Grievance/Complaint**

Grievances/complaints must be in writing, signed and dated. The date the grievance/complaint is received by WorkNet, its service providers, One-Stop partners or subrecipients, shall be considered the date of filing. The grievance/complaint shall be considered a request for hearing. WorkNet/AJCC shall issue a written decision within sixty (60) days of the filing date.

A. Complaint Information

1. The grievances/complaints must provide the following in the original filing:
 - a. The full name, telephone number and mailing address of the complainant;
 - b. Full name, telephone number and mailing address of the agency and person involved (respondent);
 - c. A statement of allegations in a clear and concise statement of the facts, including dates and any supporting documentation available;
 - d. What the complainant believes are the violation(s) of the Act, regulations, labor standards, grants or agreements, to the best of the complainant's knowledge;
 - e. Grievances/complaints against individuals, including participants or staff shall indicate how those individuals did not comply with the WIOA law, regulation or contract; and
 - f. Remedy sought by the complainant.

B. Timeline for filing original complaint

1. Any absence of the required information shall constitute grounds for dismissal of the grievance/complaint.
2. The written complaint must be made within one (1) year of the alleged occurrence.
3. Complaints alleging discrimination on the basis of a participant's disability must be filed within 180 days of occurrence.
4. A complainant has the right to withdraw their grievance/complaint in writing at any time prior to the formal hearing.
5. Grievances/complaints may be amended to clarify issues, but not to add new allegations.
6. All complaints submitted to WorkNet/AJCC must be mailed to:
Stockton WorkNet Center, Attention: Patricia Virgen, 56 S. Lincoln Street, Stockton, CA 95203.

C. Informal resolution of the complaint

1. WorkNet/AJCC shall notify the complainant and the respondent of the opportunity for an informal resolution.

2. Respondents must make good faith efforts to resolve all grievances/complaints prior to the scheduled hearing. Failure on the part of either party to exert good faith efforts shall not constitute a basis for dismissing a grievance or complaint, nor shall it be considered to be a part of the facts to be judged in the resolution process.
3. WorkNet/AJCC shall ensure that any grievance/complaint not resolved in the informal resolution process, shall be provided a formal hearing, regardless of the merit of the grievance/complaint.
4. When a complaint has been resolved through the informal resolution process, WorkNet/AJCC shall attempt to contact the complainant and have them provide a written withdrawal of the complaint within 10 days of the receipt of the notice of resolution or impasse where a complainant decides not to proceed to an administrative hearing.

D. Hearing process

Complainant may have representation if desired. Both parties shall have the opportunity to examine relevant records and documents, to present written or oral testimony and to call and/or question witnesses. The hearing shall be recorded either mechanically or by a court reporter. If an informal resolution is not possible between the complainant and respondent, WorkNet/AJCC must notify the complainant in writing of the next formal procedural step in the grievance process.

II. **Notice of Hearings**

In the event a decision cannot be reached through the informal resolution process, WorkNet/AJCC shall:

- A. Conduct a hearing by an impartial independent hearing officer within thirty (30) days of the filing a grievance/complaint.
- B. Notify the complainant and respondent of the "Notice of Hearing" not less than ten (10) days prior to the date of the hearing by certified mail (return receipt requested). The time of the hearing may be earlier if mutually agreed to by both parties.
- C. The following information shall be included in the written Notice of Hearing;
 1. Grievances/complaint case number, name of complainant, name of respondent, date of grievance/complaint;
 2. Date, time and location of the hearing before an impartial hearing officer and an opportunity to present evidence; and
 3. A statement of the alleged violation(s). These statements must accurately reflect the content of the grievance or complaint as submitted by the complainant. However, clarifying notes may be added to assure that the grievance or complaint is addressed accurately.
- D. A request for a five (5) day postponement may be granted either party upon a showing of good cause to the Hearing Officer, provided the hearing is still conducted within thirty (30) days of the filing of the grievance/complaint.

III. **Rules of the Hearing**

- A. Shall be held in an informal manner;
- B. The presentation of both written and oral testimony will be allowed;
- C. Both parties may present witnesses and the right to cross-examine the witness; and
- D. Both parties have the right to examine all relevant records and documents submitted.
- E. The hearing will be recorded electronically or by a court reporter.

IV. **Decision**

- A. The decision shall be made not later than sixty (60) days after the filing date (Note: Time spent in informal resolution efforts may not extend this time limit) and must include:
 1. The names of the parties involved;
 2. A statement of the alleged violation and any related issues;
 3. A statement of facts;
 4. The decision on the issue and the reasons for the decision;

5. Description of the corrective action, if necessary to comply with the decision; and
6. Notification that an adverse decision may be appealed by the complainant to the State Review Panel; and
7. Notice of the right to file a complaint with the ORC Regional Office pursuant to §144(c) of Public Law 97-300, within ten (10) days of the receipt of the decision when any party disagrees with the decision.

- B. The decision shall be delivered to all parties by first class mail.
- C. If the decision is not issued within sixty (60) calendar days of the date of the filing of the complaint, or if either party is dissatisfied with the local hearing decision, either party has the right to file an appeal with the State.

A State hearing may be requested by submitting a written notice of appeal to:
Chief, Compliance Review Office, MIC 22-M, Employment Development Department, PO Box 826880,
Sacramento, CA 94280-0001

- D. If the State Review Panel has issued an adverse decision regarding a grievance or complaint, or has not issued a decision within 60 days of receipt of a local level appeal, request for EDD review, or grievance or complaint, the complainant may file an appeal with the Secretary.

This appeal process applies to grievances and complaints that originated at the local or state level. Appeals of an adverse decision must be filed within 60 days of receipt of the adverse decision from the State Review Panel. In cases where the State Review Panel did not issue a decision, the complainant must file an appeal within 120 days of either of the following:

1. The date on which the complainant filed the appeal of a local level decision or request for EDD review with the state.
2. The date on which the complainant filed the grievance or complaint with the state.

All appeals to the Secretary must be sent to the DOL National Office via certified mail with return receipts requested. Copies of the appeal must simultaneously be provided to the DOL Employment and Training Administration (ETA) Regional Administrator and the respondent. Mailing addresses for the DOL National Office and ETA Regional Administrator are included below:

DOL National Office Secretary of Labor
Attn: Assistant Secretary of ETA
U.S. Department of Labor
200 Constitution Avenue, NW Washington, DC 20210

ETA Regional Administrator Office of Regional Administrator
U.S. Department of Labor
P.O. Box 193767 San Francisco, CA 94119-3767

3. Grievances or complaints filed directly with the Secretary that were not previously filed with the Local Area and/or state will be remanded to the Local Area or state, as appropriate. The Secretary shall issue a final determination no later than 120 days after receiving the appeal.

NO INDIVIDUAL SHALL BE DENIED SERVICE OR OTHERWISE INCUR RETALIATION BECAUSE OF HIM/HER EXERCISING HIS/HER RIGHT UNDER THE LAW TO FILE A COMPLAINT OR GRIEVANCE.

Signature

Date

SAN JOAQUIN COUNTY IS AN EQUAL OPPORTUNITY EMPLOYER/PROGRAM Auxiliary aids and services available upon request to individuals with disabilities. TDD or Relay Service users please call 1-800-735-2929 for assistance.