



INDIANA  
**WORKFORCE**  
DEVELOPMENT

**TO:** State Workforce Innovation Council Chairperson  
Marion County Workforce Investment Board Chairperson and Director  
Regional Workforce Board Chairpersons  
Regional Operators  
Regional Coordinators

**FROM:** Andrew J. Penca *ASP/JP*  
Commissioner, Indiana Department of Workforce Development

**DATE:** August 3, 2007

**SUBJECT:** DWD Policy 2007-10  
Grievance/Complaint Procedures Policy

**Purpose**

To provide the grievance and complaint procedures under Title I of the Workforce Investment Act as outlined in Section 181(c), the procedures for handling complaints of discrimination in accordance with Section 188(a)(2) of the Workforce Investment Act and as outlined in 29 CFR 37.70-37.115, and information on how to access grievance processes under the Wagner-Peyser Act, Trade Adjustment Assistance, and Unemployment Insurance programs.

**Rescission**

- DWD Policy 2004-01 entitled "Workforce Investment Act (WIA) Grievance Procedure Policy," dated June 30, 2004.

**Contents**

In order to provide for a more cohesive policy on handling grievance and complaints and to consolidate all information relevant to complaints from customers served by the various employment and training programs administered by the workforce system, this policy updates and transmits information on a variety of complaint systems including WIA, WIA discrimination complaints, Wagner-Peyser, Trade Adjustment Assistance and Unemployment Insurance. The process for resolution of findings from monitoring and oversight reviews can be found in DWD Policy 2007-03 entitled, "Audit and Monitoring Resolution Appeals Procedures," dated July 9, 2007.

The attachments to this policy include:

- Workforce Investment Act Grievance Procedures
- Affirmative Action/Equal Opportunity Complaint Process, Workforce Investment Act, which are the requirements for the Workforce Investment Act nondiscrimination and equal opportunity complaint policy
- Wagner-Peyser Act (Job Service) Complaint Process. These provide information on how to access the grievance or complaint processes for the Wagner-Peyser Act, Trade Adjustment Assistance, Unemployment Insurance programs and Migrant Seasonal Farm Workers.
- Unemployment Insurance Appeal Rights (Also Applies to Trade Adjustment Assistance Act Appeals)
- [REDACTED]
- [REDACTED]
- The self-attestation form concerning the local grievance/complaint policy – forms may be photocopied.
- [REDACTED]

**Effective Date:** Immediately.

**Review Date:** June 30, 2009

**Ownership:** Career Services

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Equal Opportunity** [REDACTED]  
[REDACTED]  
Equal Opportunity [REDACTED] Officer  
Indiana Department of Workforce Development  
10 N. Senate Avenue  
Indianapolis, IN 46204  
[REDACTED]  
[REDACTED]

**Action**

- Complaints or grievances should be handled according to this policy and be properly documented.
- A copy of the Record of Complaint Information must be kept locally (specific information provided within policy) and a copy given to the complainant. This form will be completed for each complaint or grievance taken at the WorkOne Center, including but not limited to Workforce Investment Act, Wagner-Peyser, and Trade Adjustment Assistance Act funding sources.
- A copy of the Customer Service Record must be sent quarterly (April 5, July 5, October 5, and January 5) to the State Equal Opportunity/Affirmative Action Officer. The form must include referrals to related agencies and grievances or complaints received from customers.

## Workforce Investment Act Grievance Procedures

Section 181(c) of the Workforce Investment Act requires:

“Each State and local area receiving an allotment under this title shall establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this title from participants and other interested or affected parties. Such procedure shall include an opportunity for a hearing and be completed within 60 days after the filing of the grievance or complaint.”

Each local area, State, and direct recipient of funds under Title I of the Workforce Investment Act must:

- Provide information about the content of the grievance and complaint procedure to participants and other interested parties affected by the local workforce investment system, including WorkOne partners and service providers;
- Require that every entity to which it awards Title I funds must provide the information about grievance and complaint procedures to participants receiving Title I-funded services from such entities; and,
- Make reasonable efforts to assure that the information about grievance and complaint procedures will be understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals. Such efforts must comply with the language requirements of 29 CFR Part 37.35 regarding the provision of services and information in languages other than English. (See DWD Communication 2006-19, dated April 4, 2007, and entitled, “Policy Guidance for Ensuring Access to Services for Persons with Limited English Proficiency.”)

For simplicity, the same system will be used for both statewide and local grievances. Examples of statewide complaints include but are not limited to grievances affecting two or more WorkOne Centers, a Department of Workforce Development policy or procedure, or a statewide initiative. Participants and other interested parties adversely affected by the local workforce investment system need to file grievances locally. Examples include but are not limited to a local board policy or procedure, the type of services received through the Workforce Investment Act, or eligibility determination into the Workforce Investment Act. This grievance process does not apply to discrimination complaints brought under Section 188 of the Workforce Investment Act.

- Grievances must be filed within one year of the alleged violation by certified mail. Statewide complaints must be addressed to Field Operations; Indiana Department of Workforce Development; 10 N. Senate Avenue; Indianapolis, IN 46204.
- Grievances must include names, detailed information, and other pertinent facts concerning the alleged violation.
- For state-level complaints, the Indiana Department of Workforce Development, as staff to the State Workforce Innovation Council, will investigate the alleged violation and provide a hearing with the complainant within 60 working days of the filing of the grievance. The complainant will be notified of the hearing by certified mail.

- For local complaints, a manager or supervisor should ensure that an opportunity is provided for informal resolution of the complaint within 60 days of the filing of the grievance.
- For local complaints, grievances may be appealed to the Indiana Department of Workforce Development when no decision is reached within 60 days or either party is dissatisfied with the local hearing decision.
- Such appeals should be made within ten (10) days of receipt of the adverse decision or within ten (10) days after expiration of the 60-day period with no decision. The appeal should be sent to the Indiana Department of Workforce Development; ATTN: Legal Department; 10 N. Senate Avenue; Indianapolis, IN 46204.
- For all complaints, the Indiana Department of Workforce Development will issue a determination within 60 days of the filing of the grievance.
- Appeals of state-level decisions must be filed within 60 days of the receipt of the decision being appealed. Appeals must be submitted by certified mail, return receipt required, to the Secretary; U. S. Department of Labor; Washington, DC 20210; Attention: ASET. A copy of the appeal must be simultaneously provided to the Region V Administrator; U. S. Department of Labor; Employment and Training Administration; 230 S. Dearborn, 6<sup>th</sup> Floor; Chicago, IL 60604-1505; and the opposing party.
- A final decision on the appeal will be made no later than 120 days after receiving the appeal.
- The form “Record of Complaint Information” (State Form 45153 (R2/6-00 – copy attached)) will be completed by the individual filing the grievance. The completed form will be kept in the individual’s grievance file. This form is completed for all concerns and grievances received at the WorkOne Center. (The Customer Service Record must also be completed.)
- The “Customer Service Record” (State Form 46001 (R2/1-07 - copy attached)) identifying all referrals provided and grievances received by the Regional Operator will be forwarded to the Department of Workforce Development’s Equal Opportunity/Affirmative Action Officer on a quarterly basis – due every April 5, July 5, October 5, and January 5.
- Regional area and/or direct recipients of Title I of the Workforce Investment Act funds grievance procedures must ensure that a self-attestation form regarding the grievance/complaint local policy has been signed by each individual enrolled into Workforce Investment Act services and kept in the individual’s file, and a copy given to the individual. A copy of the form to be signed is attached.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

### **Wagner-Peyser Act (Job Service) Complaint Process**

There are two types of complaints under the Wagner-Peyser Act (Job Service):

- 1) **Complaints against an employer** about the specific job to which the customer was referred by the Wagner-Peyser (Job Service) involving violations of the terms and conditions of the job order or employment-related law (employer-related complaint) or
- 2) **Complaints about Wagner-Peyser (Job Service) actions or omissions** under Wagner-Peyser (Job Service) regulations (agency-related complaints).

Complaints may be filed:

- If the complaint deals with an employer, the proper office to handle the complaint is the WorkOne Center serving the area in which the employer is located.
- If the complaint deals with an office of a State agency, the proper office to handle the complaint is the WorkOne Center serving the area in which the alleged violation of the Wagner-Peyser regulations occurred.
- If the agency-related complaint deals with more than one WorkOne Center, with an alleged agency-wide violation, or with Department of Workforce Development at the state-level, the proper office to handle the complaint will be the Legal Department, Department of Workforce Development.

#### **Wagner-Peyser (Job Service) Complaints – Discrimination**

- Complaints alleging unlawful discrimination by race, color, religion, national origin, sex, age or physical or mental status shall be assigned to the Local Equal Opportunity/Affirmative Action Coordinator.
- A complaint must be filed within one year of the alleged occurrence.
- The Local Equal Opportunity/Affirmative Action Coordinator shall refer complaints alleging discrimination by employers to the Equal Employment Opportunity Commission or other appropriate agency.
- The Local Equal Opportunity/Affirmative Action Coordinator shall offer to explain the operation of the Wagner-Peyser (Job Service) complaint system.
- The Local Equal Opportunity/Affirmative Action Coordinator shall require that the complainant put the complaint on the Record of Complaint Information (State Form 45153 (R2/6-00)) prescribed or approved by the Department of Labor. A copy is attached.
- The Local Equal Opportunity/Affirmative Action Coordinator shall offer to assist the complainant in filling out the form and shall do so if the complainant desires such assistance. If the complainant also represents several other complainants, all such complainants shall be named on the Record of Complaint Information.
- The complainant signs the form.
- The identity of the complainant(s) and any persons who furnish information relating to, or assisting in, an investigation of a complaint shall be kept confidential.
- A copy of the completed Record of Complaint Information shall be given to the complainant(s) and the complaint form kept by the Local Equal Opportunity/Affirmative Action Coordinator.
- The complaint should be recorded on the Customer Service Record (State Form 46001 (R2/1-07)).
- The Local Equal Opportunity/Affirmative Action Coordinator will follow up quarterly and shall inform the complainants of the status of the complaint periodically.

- The State Equal Opportunity/Affirmative Action Coordinator shall handle complaints sent to the State alleging unlawful discrimination by race, color, religion, national origin, sex, age, physical or mental status and all other complaints except complaints from migrant seasonal farm workers.
- The State Monitor Advocate shall handle all migrant seasonal farm worker complaints sent to the State.

### **Wagner-Peyser (Job Service) Complaints**

- A complaint must be filed within one year of the alleged occurrence.
- Wagner-Peyser (Job Service)-related complaints may be filed in any WorkOne Center.
- The local manager needs to try to resolve the complaint at the local level.
- The local manager shall explain the operation of the Wagner-Peyser (Job Service) complaint system.
- The local manager shall require that the complainant put the complaint on the Record of Complaint Information (State Form 45153 (R2/6-00)) prescribed or approved by the Department of Labor. A copy is attached.
- The local manager shall offer to assist the complainant in filling out the form and shall do so if the complainant desires such assistance. If the complainant also represents several other complainants, all such complainants shall be named on the Complaint/Referral Form.
- During the initial discussion with the complainant, the local manager receiving the complaint shall:
  - Make every effort to obtain all the information he/she perceives to be necessary to investigate the complaint;
  - Request that the complainant indicate all of the addresses through which he or she might be contacted during the investigation of the complaint;
- The complainant signs the form.
- The identity of the complainant(s) and any persons who furnish information relating to, or assisting in, an investigation of a complaint shall be kept confidential.
- A copy of the completed Record of Complaint Information shall be given to the complainant(s) and the complaint form kept by the local manager.
- The complaint should be recorded on the Customer Service Record (State Form 46001 (R2/1-07)).
- The local manager shall investigate and attempt to resolve the complaint immediately upon receipt. The local manager may request additional information in writing. The complainant has twenty (20) working days to respond to the request for additional information.
- The local manager shall issue a decision in writing to the complainant and respondent within fifteen (15) working days after receipt of the requested information, if requested.



- A Wagner-Peyser (Job Service) complaint is resolved when:
  - The complainant indicates satisfaction with the outcome; or
  - The complainant chooses not to elevate the complaint to the next level of review; or
  - The complainant or the complainant's authorized representative fails to respond within twenty (20) working days or in cases where the complainant is a migrant seasonal farm worker, forty (40) working days of a written request by the appropriate local or State office; or
  - The complainant exhausts the final level of review; or
  - A final determination has been made by the enforcement agency to which the complaint was referred.
- If either party is dissatisfied with the decision, either party may appeal the decision to the Department of Workforce Development, Legal Department, within twenty (20) working days from the date of receipt of the determination.
- The Legal Department shall issue a decision in writing to the complainant and the respondent within thirty (30) working days after receipt of the complaint at the Legal Department to resolve the complaint.
- The determination must be sent by certified mail and include pertinent information as required by the Regulations.
- If either party is dissatisfied with the determination, either party may request a hearing with an Indiana Administrative Law Judge (ALJ). Such request must be made in writing within twenty (20) working days from the certified date of receipt of the notification.
- Upon the issuance of a determination by the ALJ, either party may appeal the decision to the Regional Administrator of the U.S. Department of Labor.

#### **All Other Non-Job Service Complaints**

- The local manager refers the complainant to the appropriate enforcement agency, another public agency, an attorney, a consumer advocate and/or other appropriate assistance.
- The local manager records the referral of the complainant and the agency to which the complainant was referred on the complaint log.
- The local manager shall inform the complainant in writing of the referral.
- The local manager shall follow-up with the enforcement agency quarterly and shall inform the complainant of the status of the complaint periodically.
- If the enforcement agency makes a final determination that the employer violated an employment related law, the Department of Workforce Development shall initiate procedures for discontinuation of services immediately and notify the complainant and the employer of this action.
- If further action is required by the WorkOne Center after the determination, including but not limited to discontinuing services with an employer, the Legal Department will assist the WorkOne Center.

### **Complaints from Migrant Seasonal Farm Workers**

All complaints from migrant seasonal farm workers must be referred to the State Monitor Advocate. Additionally, such complaints must be noted on the Customer Service Record (State Form 46001 (R2/1-07)). Wagner-Peyser (Job Service) complaints must be referred to the State Monitor Advocate within five days.

### **Customer Service Record**

A Customer Service Record (State Form 46001 (R2/1-07)) is maintained, listing all complaints received, and specifying for each complaint:

- The name of the complainant;
- The name of the respondent (employer or state agency);
- The date the complaint is filed;
- Whether the complaint is by or on behalf of a Migrant Seasonal Farm Worker;
- Whether the complaint is Wagner-Peyser-related;
  - Whether it is employer-related or agency-related;
- If the complaint is non-Wagner-Peyser related, the referral of the complainant and the agency to which the complainant was referred; and
- The action taken, including for Wagner-Peyser-related complaints, whether the complaint has been resolved.
- Complaint log, containing complaint from Migrant Seasonal Farm Worker, sent within one month after the end of each calendar quarter to the Department of Workforce Development; Equal Opportunity/Affirmative Action Coordinator.

**Unemployment Insurance Appeal Rights**  
**(Also Applies to Trade Adjustment Assistance Act Appeals)**

Either an employer or a claimant may file an appeal of an adjudicator's Determination of Eligibility by requesting a hearing before an Administrative Law Judge. You can file an appeal with Unemployment Insurance Appeals by mail, fax, or in person.

[REDACTED]

- [REDACTED]

To file your appeal by mail or fax:

- [REDACTED]
- State the reason(s) you disagree with the Determination of Eligibility;
- Sign your name and indicate whether you are the employer or claimant; and
- Mail or fax the appeal to the address or fax number on the Notice of Appeal within ten (10) days of the mail date listed on the Determination of Eligibility.

To file in person:

- Go to a WorkOne office within ten (10) days of the mail date listed on the Determination of Eligibility;
  - Bring the Determination of Eligibility with you;
- [REDACTED]
- [REDACTED]

Attending the hearing:

- If you appealed the decision, you must attend the hearing. If you do not attend the hearing, your appeal will be dismissed.
- If your appeal is dismissed, you may request a reinstatement within seven (7) days from the mail date of the dismissal. You must show good cause for non-attendance at, or lateness to, the hearing, and submit your request in writing.
- If your case is reinstated, you will receive a new Notice of Hearing when your case is rescheduled.
- No case may be reinstated more than once.

Requesting a continuance:

- If you are unable to attend the hearing, you may request a continuance by sending a written request to the Administrative Law Judge by fax or mail no later than three (3) days before the scheduled hearing
- You must also state the reason for your request, send a copy of your request to the other party, and note on your request that you notified the other party of your request.
- The Administrative Law Judge will grant or deny the request for continuance and notify the parties of his or her decision.

Preparing for the hearing:

- Both parties will be notified by mail of the date and time of the hearing.
- Review the Notice of Hearing for the issue to be decided by the Administrative Law Judge.
- You may bring witnesses to appear at the hearing at the discretion of the Administrative Law Judge.
- You may bring copies of any documents that may help explain your side of the story.
- The Administrative Law Judge may only consider evidence and testimony that is presented during the hearing.
- Either party may be represented by an attorney, but it is not necessary.
- Burden of proof at the hearing: The issue listed on the Notice of Hearing determines which party has the burden of proof during the hearing.
- If the issue listed is voluntary quit, the claimant must prove that his or her reason for voluntarily quitting was for good cause and work-related.
- If the issue listed is discharge, the employer must prove that the claimant was discharged for just cause.
- If the issue listed is ability and availability for work, the claimant must prove he or she is able, available, and actively seeking full-time work.

Appealing the decision of the Administrative Law Judge:

- Both parties will receive a copy of the decision of the Administrative Law Judge by mail.
- If you disagree with the decision of the Administrative Law Judge, you may appeal the decision to the Unemployment Insurance Review Board.
- [REDACTED]
- Your appeal must be in writing and contain the following information: case number, claimant's social security number, and an explanation of the reason for your appeal.
- If you have additional information or documents that were not available at the time of the Administrative Law Judge hearing, you may send a request to submit the additional evidence and the documents with your letter of appeal.
- [REDACTED]





Acknowledgement of Receipt of Complaint Procedures

I hereby acknowledge that I have received a copy of the Grievance and Complaint Procedures, which include instructions for filing Workforce Investment Act (WIA) Program, Discrimination and Employment Service complaints associated with my application for and participation in the programs and activities available through all funding sources. I understand that I must follow these procedures or my complaint will be returned to me with the instructions for proper completion.

---

Applicant Signature

---

Date





[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

TO THE CLAIMANT: If the Legal Result of Case states otherwise than [REDACTED] d.

[REDACTED]

If you have any questions concerning this decision, please refer to [REDACTED]

III. Appeals will not accept arguments if [REDACTED]

1) Indicate the [REDACTED]

2) State the specific [REDACTED]

4) State the specific reason(s) why you believe that the [REDACTED]

[REDACTED]

[REDACTED]

I disagree with the determination and request that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sign Language  Spanish  Other, specify

[REDACTED]

[REDACTED] nt  
[REDACTED] er

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]