



## Ohio Administrative Code

### Rule 5101:9-2-03 Workforce Innovation and Opportunity Act (WIOA): programmatic complaints.

Effective: October 1, 2016

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(A) Definitions as used in this rule.

(1) "Beneficiaries" means applicants, registrants, participants, recipients, subrecipients, service providers, labor unions, joint labor management committees, and community-based organizations for services, assistance, and other benefits administered by local workforce development areas.

(2) "Service provider" refers to entities and individuals providing services directly to WIOA participants, such as approved educational institutions and those providing skill training to WIOA participants/applicants. Service provider does not include an unsuccessful bidder on a contract to provide software or other services directly to the local workforce development area, as these types of contract disputes are subject to government procurement requirements and the contract protest process.

(3) "Local workforce development area" has the same meaning as "local area", which is defined in WIOA section 3(32) as a local workforce development area designated under WIOA section 106.

(4) "Local workforce development area contractor" means any governmental or non-governmental entity that receives funds from the local workforce development area, whether directly or indirectly, to provide WIOA-funded services, assistance, or benefits to individuals or that performs duties or activities for the local workforce development area pursuant to a contract, grant, or other agreement.

(5) "Days", wherever used in this rule, shall mean calendar days, unless otherwise expressly stated.

(6) "Informal conference" means a meeting facilitated by the local workforce development area, during which the facts and circumstances attending a complaint are examined, in an effort to informally resolve the complaint.

(7) "Local hearing" means a quasi-judicial forum convened and presided over by the local agency



hearing officer.

(B) Requirement for local and state grievance procedures.

(1) The local workforce development area is responsible for:

(a) Developing a complaint procedure to ensure that the local workforce development area and its contractors comply with this rule and all applicable WIOA-related laws, rules, and regulations; and

(b) Providing notice to workforce participants, service providers and other beneficiaries of the right to file a programmatic complaint with the local workforce development area.

(c) Assisting the complainant in drafting and filing complaints, upon request and whenever needed, through the local workforce development area's equal opportunity officer.

(d) Follow through with the Ohio department of job and family services, office of workforce development's (OWD's) final decision, including corrective actions and due dates, as instructed in the decision.

(2) OWD is responsible for reviewing all appeals of programmatic complaints.

(C) Programmatic complaints.

(1) A beneficiary who wishes to file a programmatic complaint alleging any violation of WIOA, other than discrimination, shall first file the complaint with the local workforce development area. All such complaints shall be filed within three hundred sixty-five days of the date of the incident or violation that caused the dispute.

(2) A programmatic complaint is deemed filed when the local workforce development area receives a written statement with sufficient details to identify the parties and to describe generally the alleged action(s), practice(s), or violation(s) that led to the filing of the complaint.

(3) Programmatic complaints shall be investigated first by the local workforce development area. If a



satisfactory resolution is not reached through the informal conference, the complainant shall be offered the opportunity for a local hearing. The investigation, opportunity for informal resolution and, if requested, local hearing and hearing decision, shall all be completed within sixty days of the date of the filing of the complaint.

(4) Any programmatic complaint that is filed with the state before it is first filed with the local area and afforded a full opportunity for resolution through the local complaint process, shall be remanded by the state to the appropriate local workforce development area for investigation, informal resolution and, when necessary, local hearing.

(D) Appeals.

(1) First level appeal to OWD.

(a) Whichever party, whether the complainant or the respondent, is adversely affected by the local workforce development area's decision regarding a programmatic complaint, may file an appeal with OWD. Appeals must be filed within ten days from the date of receipt of the local workforce development area hearing decision. The appeal must set forth the specific reasons why an appeal is being filed and the relevant portion or portions of the local workforce development area hearing decision that form the basis of the appeal. In the event of an appeal to OWD, the local workforce development area shall forward the hearing decision, complaint, and all records related to the hearing and complaint to OWD within five business days of the notification of the appeal. The local workforce development area may make a written request to OWD for an extension of time to produce the record, and such request may be granted at the sole discretion of OWD upon good cause shown.

(b) OWD shall conduct a review of the findings of the local workforce development area. OWD shall only reverse the local workforce development area hearing decision if the local workforce development area's findings are found to be arbitrary and not supported by the evidence or the law. The complainant and respondent shall be advised of the results of the appeal, not later than sixty days after the receipt of the appeal.

(2) Second level appeal to U.S. department of labor.



Whichever party is adversely affected by OWD's decision, whether the complainant or the respondent, may appeal to the department of labor, as described in section 181(c) of WIOA. The appellant shall file the appeal request with the "U.S. Department of Labor Secretary" by certified mail, return receipt requested. The appellant shall also send a copy of the appeal by U.S. mail to the:

- (a) "Employment and Training Regional Administrator," and
  - (b) "Ohio Department of Job and Family Services, Office of Workforce Development."
- (E) Remedial action.

A local workforce development area or local workforce development area contractor found to be in violation of this rule shall be notified in writing by OWD within thirty days of the date of completion of the investigation or review. Any action taken by ODJFS to bring the local workforce development area into compliance with this rule shall be done pursuant to section 5101.241 of the Revised Code or other applicable federal or state laws. Examples of remedial action include, but are not limited to, corrective action plans or the withholding of funds. The local workforce development area is responsible for ensuring that its contractors are in compliance with this rule. ODJFS may take action against the local workforce development area for any compliance violations on the part of the local area's contractors.

(F) To the extent a local workforce development area chooses to participate in the comprehensive case management and employment program (CCMEP) and any provision in this rule conflicts with rule 5101:6-10-01 of the Administrative Code, the provisions in rule 5101:6-10-01 of the Administrative Code shall govern, unless the CCMEP youth participant receives an Ohio works first (OWF) sanction termination notice as described in rule 5101:1-3-15 of the Administrative Code. In the event a CCMEP youth participant receives an OWF sanction termination notice, and disagrees with the proposed action, the youth may request a state hearing in accordance with rule 5101:6-3-01 of the Administrative Code.