DATE: November 1, 2005

TO: L.A.'s Workforce Development System

FROM: Manny Chavez, Director
       Workforce Development Division

SUBJECT: PY 05-06 DIRECTIVE NO. 06-12
TRANSMITTAL OF LWIA COMPLAINT PROCEDURES
[Supersedes Directive 01-31]

EFFECTIVE DATE
This Directive is effective upon date of issue.

PURPOSE
The purpose of this Directive is the revision of Directive 01-31, dated December 8, 2000, which transmitted the City of Los Angeles Local Workforce Investment Area (LWIA) Complaint Resolution Procedures. These procedures are required by the Workforce Investment Act of 1998, CFR 667.600. This Directive transmits the revised LWIA Complaint Procedures of November 1, 2005, and thereby fully replaces the LWIA Complaint Resolution Procedures dated December 8, 2000.

UPDATE/REVISIONS
Revisions included in the LWIA Complaint Procedures of November 1, 2005 include:
- Updated address, contact numbers of the EO Compliance Unit;
- Revision of timeframes in notification and processing;
- Updated ITA procedures

TECHNICAL ASSISTANCE
Questions about or assistance with the LWIA Complaint Resolution Procedures are to be directed to Eileen Scally, EO Compliance Officer, City of Los Angeles LWIA, at telephone number (213) 744-7277, TTY (213) 744-7290, or e-mail address of escally@cdd.lacity.org.

MC:rdw
Enclosure
CITY OF LOS ANGELES
WORKFORCE INVESTMENT ACT (WIA)

COMPLAINT RESOLUTION PROCEDURES
Revised November, 2005

The City of Los Angeles, as a Local Workforce Investment Area (LWIA) under the Workforce Investment Act (WIA), hereby establishes this WIA Complaint Resolution Procedure pursuant to Title 20 CFR, Subpart F, Section 667.00

References:

- Section 188 of the Workforce Investment Act of 1998
- Americans With Disabilities Act of 1990, Title II, Subpart A
- Age Discrimination Act of 1975, as amended
- Section 504 of the Rehabilitation Act of 1973
- Title IX of the Education Amendments of 1972
- Titles VI and VII of the Civil Rights Act of 1964, as amended
- Title 20 Code of Federal Regulations (CFR) Section 667.275
- Title 29 CFR Parts 31, 32, and 37
- Title 41 CFR Subpart 101-19.6
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SECTION ONE - INTRODUCTION

The City of Los Angeles, Local Workforce Investment Area (LWIA), hereby establishes this Workforce Investment Act (WIA) Complaint Resolution Procedure pursuant to Title 20 CFR, [Subpart F-Grievance Procedures, Complaints, and States Appeal Processes, Section 667.600-667.630]; and, 29 CFR Part 37, [Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act, 1998, Final Rule]. The City's Workforce Investment Act, WIA, Title I programs are administered by the Workforce Development Division (WDD) of the Community Development Department (CDD).

POLICIES:

The principles and procedures set forth in this WIA Title I Complaint Resolution Procedure shall be used by all WorkSource Centers (WSC), Lead Agencies, Satellites, and subcontractors with the City of Los Angeles to resolve complaints which arise in connection with programs operated under the WIA Title I grant funded programs.

No person, organization or agency may discharge, or in any other manner discriminate or retaliate against any person, or deny any person a benefit to which that person is entitled under the provisions of the WIA Title I regulations because such person has filed any complaint, instituted or caused to be instituted, any such proceeding or investigation, or has provided information or assisted in an investigation.

The identity of any person who has furnished information relating to, or assisting in, the investigation of a possible violation of the Act shall be confidential to the extent possible, consistent with a fair determination of the issues.

In any case where the alleged violation of the Act or WIA Title I regulations is also an alleged violation of another law, regulation or agreement, nothing shall preclude an individual or an organization from filing a complaint or grievance under the other law or agreement with respect to the non-WIA Title I cause of action, as well as filing a complaint under the WIA Title I in accordance with the procedures described herein.

All time frames specified in these procedures refer to consecutive calendar days including weekends and holidays. When the time frame stated refers to a receipt of notice mailed certified return receipt requested, the time frame shall commence when the Postal Service first attempts delivery; i.e., leaves a notice. It is the responsibility of all parties to pick up mail in a timely manner.

"Complaint" means a written expression by a party alleging a violation of the Act, regulations promulgated under the Act, recipient grants, sub agreements, or other specific agreements under the Act.

WORKSOURCE CENTERS/LEAD AGENCY REQUIREMENTS:

Each of the designated WorkSource Centers/Lead Agencies shall have the duty and responsibility to ensure that the WorkSource Center/Lead Agency is in compliance with
the provisions of the WIA complaint resolution procedure and shall work cooperatively with the City of Los Angeles designated EO Compliance Officer to process all complaints filed with their agency involving WIA Title I funded participant activities.

At Orientation, each participant in the WIA Title I program will be provided with a copy of the City of Los Angeles’ WIA Title I Complaint Resolution Procedure or the Summary of the WIA Title I Complaint Resolution Procedure. Each participant will sign a receipt indicating that he or she has received the complaint information and that receipt shall be maintained in the participant’s file. This information shall be provided in other languages and in electronic format upon request.

These procedures will be available for use by all individual entities, including unsubsidized employees in an employment activity operating with WIA Title I funds, participants in an employment activity operated with WIA funds, subcontractors of LWIA, entities and individuals that are applicants for WIA program funding, labor unions, community based organizations, education agencies, private employers and other interested parties.

■ TYPES OF COMPLAINTS UNDER WIA:

There are four (4) distinct procedures for filing WIA complaints. The procedures are categorized by the following types of complaints:

A. Program/Non-criminal Complaint
B. Discrimination
C. Questioned/Disallowed Costs Complaint
D. Fraud, Waste and Abuse [667.630, subpart B, Administrative Rules, Costs, and Limitations].

Complaint Issues which are covered under WIA Title I:

■ Displacement [§667.270];

A participant in a program or activity authorized under Title I of WIA must not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation). Where an employment activity would violate a collective bargaining agreement, the regulations provide that the appropriate affected labor organization and employer must provide written concurrence before the employment activity can be undertaken. The employment or assignment of a WIA participant or the filling of a position is prohibited when the employer has terminated any regular, unsubsidized employee or otherwise reduced its workforce with the intent of filling the vacancy with a WIA participant. A WIA participant may not be employed or assigned to a position where the employer has caused an involuntary reduction to less than full time in hours of an employee in the same or substantially equivalent job.
Health and Safety [§667.274];

Health and safety standards established under the Federal and State Law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in programs and activities under Title I of the WIA.

Workers' Compensation: To the extent that workers' compensation law applies, workers' compensation must be provided to participants in programs and activities under Title I of the WIA on the same basis as the compensation provided to other individuals in similar employment.

NOTE: In the case of a complaint alleging a violation of health and safety standards by a contractor (employer), the contractor will be required to demonstrate its compliance with State and Federal regulations governing health and safety requirements for that industry [e.g., CAL/OSHA certification].

Wage and Labor Standards [§667.272];

Individuals in On-The-Job training or employed in activities under Title I of the WIA must be paid at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience and skills. Such rates must be in accordance with applicable law [Fair Labor Standards Act of 1938, Section 6(a) (1) 29 U.S.C. 206(a) (1) or applicable State or local minimum wage law].

Violation of the Act, grant or agreement (including retaliation), [WIA Section 188(a)];

• Terms and conditions of WIA participant employment (On-the-Job Training, Customized Training, Work Experience);

1. Complaints filed under this section relate only to the terms and conditions of WIA participant employment. Typical complaints under this section include disputes over wages or working hours, working conditions, employee and/or training evaluations and disciplinary actions, including termination for cause. The responsibility for resolving the complaint rests initially with the employer and/or contractor.

2. If violations of the WIA, WIA regulations, or other agreements under the ACT are also alleged in the complaint, said portions of the complaint shall be processed accordingly (e.g., Discrimination complaint).

Discrimination Complaints [WIA Section 188, 29 CFR Part 37];
Appeal of Questioned/Disallowed Costs [See Section Four].
BACKGROUND:

These procedures will guide the receipt, hearing and resolution of non criminal complaints filed at the City of Los Angeles LWIA level for complaints relating to WIA programs and services.

- Only a complaint which alleges a violation of the WIA, regulations promulgated under the Act, recipient grants, sub agreements, or specific agreements under the Act, including terms and conditions of participant employment, may be filed.

- Complaints may be brought by any individual or organization including, but not limited to: WIA applicants/participants, contractors, collaborators, vendors (ITA's), staff of the LWIA or contractors, applicants for participation or financial assistance, labor unions, community based organizations or any other interested persons.

- With the exception of complaints alleging fraud or criminal activity, the filing of a non-criminal complaint must be made within one year of the alleged occurrence.

- A complainant who has not exhausted this procedure may appeal directly to the Governor's Office if the LWIA has not rendered a decision within the 60 days of the filing of the complaint specified in the procedures, if the complainant believes the LWIA's complaint procedure is not in compliance with the WIA.

FILING OF A WIA COMPLAINT:

Per WIA regulations, every complaint must be in writing before the official complaint resolution process will commence. The complaint must be signed and dated. A written complaint may be submitted via facsimile; however, complaints transmitted by e-mail will not be accepted. The complaint must contain the following information:

- The full name, mailing address and telephone number of the complainant;
- The full name, telephone number and address of the Respondent;
- A clear and concise statement of the facts and dates describing the alleged violation(s);
- The provisions of the Act, regulations, grant or other agreements under the Act believed to have been violated;
- Complaints may be amended to correct technical deficiencies at any time up to the time of the hearing. Complaints may not be amended to add new issues. The one-year time period in which a complaint may be filed is not extended for complaints that are re-filed with amendments. Complaints may be withdrawn at any time prior to the issuance of the hearing officer's decision;
☐ The remedy to the complaint which would satisfy the Complainant.
☐ If the Complainant fails to cooperate or is unavailable, the complaint may be dismissed upon reasonable notice to the last known address of the Complainant.
☐ It is the responsibility of both the Complainant and the Respondent to notify the City of Los Angeles EO Compliance Unit of any change of address.

■ LEVEL ONE- FILE WITH THE WORKSOURCE CENTERS/LEAD AGENCIES:

Program Issues Complaint

• The WorkSource Center/Lead Agency receiving WIA funds through the Workforce Development Division grant programs agree to adopt the City of Los Angeles WIA Complaint Resolution procedures.

• It is the policy of the City of Los Angeles LWIA that complaints under WIA should be resolved at the lowest level possible. Therefore, under the City of Los Angeles’ WIA complaint resolution procedures, complaints under WIA (with the exception of those involving discriminations) must first be filed with the designated EO Complaints Officer at the Workforce Development/ Lead Agency level.

• The WorkSource Center/Lead Agency must notify the City LWIA within 24 hours of the receipt of a written WIA complaint. The notification should be sent to:

  City of Los Angeles  
  Community Development Department  
  EO/Compliance Unit  
  1200 West Seventh Street, 4th floor  
  Los Angeles, CA 90017  
  Attn: Eileen Scally, EO/Compliance Officer

  Telephone Number: (213) 744-7277
  FAX Number: (213) 744-7289
  TTY Number: (213) 744-7290
  E-mail: escally@cdd.lacity.org

• The City of Los Angeles LWIA reserves the right to intervene in the processing of any WIA complaint at the informal resolution stage in order to assist in resolution, clarify the issues, provide technical assistance, conduct the informal resolution meeting or schedule a hearing before an impartial hearing officer in order to ensure due process and compliance with the 60 day time limit required for resolution pursuant to the WIA regulations.
• The WorkSource Center/Lead Agency has ten (10) days from the receipt of the written complaint to schedule and conduct an informal complaint resolution meeting at the WorkSource Center/Lead Agency level.

• After the complaint is accepted, the Complainant will be notified by the WorkSource Center/Lead Agency, in writing, of the date, time and place of the informal resolution meeting. At that meeting an attempt to resolve the complaint informally will take place. Respondents must make good faith efforts to resolve all grievance complaints prior to the scheduled hearing.

• Failure on the part of any party in the grievance complaint to exert good faith efforts shall not constitute a basis for dismissing a grievance complaint, nor shall this be considered to be a part of the facts to be judged in the resolution process. The LWIA or sub grantees must assure that every grievance complaint not resolved informally is given a formal hearing, regardless of the grievance complaint's apparent merit or lack of merit.

• In the event of an informal resolution of the WIA complaint at the WorkSource Center/Lead Agency level, the WorkSource Center/Lead Agency will provide a written settlement agreement to the Complainant which describes the issues, provides the date of the informal resolution meeting, the attendees, and the terms of the agreement which has been reached by the parties as full and complete settlement of the complaint. The written agreement will be signed by the Executive management of the agency or their authorized representative and the Complainant. A copy of the signed settlement agreement will be maintained in the Complainant’s participant file, in the complaint log of the lead agency and at the LWIA level for audit purposes. A copy of the signed settlement agreement will faxed to the City LWIA EO Compliance Unit within 24 hours.

• If no resolution is reached, the Complainant will be notified immediately in writing of the impasse and his/her right to request an administrative hearing. The WorkSource Center/Lead Agency will also mail a copy of the notice of impasse certified mail return receipt requested. The request for administrative hearing must be made in writing; it may be transmitted by facsimile or e-mail.

**Individual Training Account (ITA) Complaint Procedures**

- **Denied Training Complaint Procedures**

  Should a participant be dissatisfied with a denial of request for training, the participant may request a WorkSource Center (WSC) ITA Panel review. A participant's request for WSC ITA Review Panel must be made within five (5) working days of the notification of the denial of the request for training.
The WSC ITA Review Panel will only review requested training denial that is determined not to be in a demand occupation, or on issues relating to the assessment process. Not subject for review is denial based on training requests exceeding maximum limits ($5,200 for 12 month non-technical training, $7,500 for 18 months technical training).

The WSC ITA Review Panel will be comprised of staff with decision-making authority and business members with industry-specific knowledge of technical skill sets. The panel should establish a written policy formulating the procedures the panel will follow in reviewing training denials.

The WSC ITA Review Panel must complete its review within five (5) working days of the request for review. The decision of the WSC ITA Review Panel must be made in writing, and be included in the participant’s file. The WSC must notify the participant and the City LWIA EO Compliance Unit of a panel denial. The WSC also must notify the participant of the right to request a review by the City LWIA within five (5) days of the notification of denial. The complaint must be in writing, signed and dated, and addressed to:

City of Los Angeles  
Community Development Department  
EO Compliance Unit  
1200 West Seventh Street, 4th floor  
Los Angeles, CA 90017  
Attn: Eileen Scally, EO/Compliance Officer

Telephone Number: (213) 744-7277  
Fax Number: (213) 744-7289  
TTY/TDD: (213) 744-7290  
E-mail: escally@ccd.lacity.org

- In-Training Program Complaint Procedures

Participants who have program complaints while attending training must file their complaint with the WorkSource Center/Lead Agency EO Complaint Officer. The WorkSource Center/Lead Agency shall maintain procedures for resolving disputes involving ITA participants in accordance with the requirement of the WIA and City LWIA Complaint Procedures. The WorkSource Center/Lead Agency must forward a copy of a complaint filed with them against an ITA provider school to the City LWIA within twenty-four (24) hours of the receipt of a written WIA complaint.

ITA Program Complaints, including claims that the training received at the ITA vendor school was incomplete or deficient, are handled by the WorkSource Center/Lead Agency EO Complaint Officer in accordance with the WIA Complaint Procedures. The WorkSource Center/Lead Agency shall, within ten (10) days of receipt of the written complaint, schedule and conduct an informal resolution meeting with the participant and ITA training provider in order to resolve the complaint informally. The WorkSource Center/Lead Agency will then memorialize the outcome of the complaint in writing and
provide the Complainant with a written copy of the outcome (i.e., settlement agreement, a statement of impasse) within five (5) days of the informal resolution meeting.

ITA complaints alleging discrimination are to be filed with the City of Los Angeles LWIA EO Compliance Unit. The EO Compliance Unit will conduct an investigation into the allegations and file a report with all parties. The Complainant will have the option of participating in an informal resolution meeting or proceeding directly to an administrative hearing.

**Participants’ Terms and Conditions of Employment Complaints**

Each WorkSource Center/Lead Agency is required to establish procedures for resolving complaint matters relating to the terms and conditions of participant employment. In addition, third party contractors (OJT/Customized Training) are also required to establish and maintain procedures for resolving disputes involving the terms and conditions of employment. At a minimum these procedures must include the following:

- **Written notice, upon enrollment into employment or training programs, of the scope and availability of such procedures.** Contractor's complaint procedures shall set forth in a written document and shall stipulate that a complaint will be resolved within **twenty (20) days** from the date the complaint was filed. A copy of the contractors'/OJT employers' complaint resolution procedure shall be provided to each participant upon his/her enrollment into the program and at the time of placement in the job.

- **Written notice, at the time the complaint is filed, of the procedures under which the complaint will be processed.**

- **Written notice to the City LWIA EO Compliance Unit of the complaint within 24 hours of receipt of the written complaint.**

- **Written notification of the disposition of the complaint, and the reasons therefore, which shall be issued within twenty-five (25) days of the filing of the complaint.** If the employer is required to use a certain grievance procedure under a covered collective bargaining agreement, then these procedures should be followed for the handling of the WIA complaints under this Section.

- **Written notification of the Complainant’s right to request a review of the WorkSource Center or third party contractor’s decision by the City of Los Angeles Community Development Department.** Such requests for review must be filed within **five (5) days** upon the receipt of the contractor's written decision. The request for review shall include the following information:
  - The full name, telephone number and mailing address of the party requesting the review;
  - The name, address and telephone number of the other party;
  - A copy of the written decision issued by the employer and/or WIA contractor;
A statement of why the request for review is being made and/or the section of the decision to be reviewed;

- A statement of the relief (i.e., remedy) being sought.

Requests for review should be sent to:

City of Los Angeles
Community Development Department
EO/Compliance Unit
1200 West Seventh Street, 4th floor
Los Angeles, CA 90017
Attn: Eileen Scally, EO/Compliance Officer

Telephone Number: (213) 744-7277
FAX Number: (213) 744-7289
TTY Number: (213) 744-7290
E-mail: escally@cdd.lacity.org

LEVEL TWO - REVIEW BY THE LWIA:

Request for administrative hearing before an impartial Hearing Officer

- If an informal resolution cannot be reached at the WorkSource Center/Lead Agency level, the Complainant may request that an administrative hearing be scheduled before an impartial hearing officer. Request for an administrative hearing at the LWIA level should be made within five (5) days of the Complainant’s receipt of the written decision at the lead agency/contractor level that an impasse has been reached in settling the complaint matter. This request can be transmitted by facsimile or e-mail.

The request should be sent to:

City of Los Angeles
Community Development Department
EO/Compliance Unit
1200 West Seventh Street, 4th floor
Los Angeles, CA 90017
Attn: Eileen Scally, EO/Compliance Officer

Telephone Number: (213) 744-7277
FAX Number: (213) 744-7289
TTY Number: (213) 744-7290
E-mail: escally@cdd.lacity.org

- If time permits and the parties agree, the LWIA may conduct an informal resolution meeting prior to scheduling the hearing.
• Prior to the hearing, the Complainant may amend his/her complaint to correct technical deficiencies but not to add issues. The amendment must be submitted in writing to the City of Los Angeles EO/Compliance Officer at the address given above.

• Prior to the hearing, the Complainant and Respondent are entitled to technical assistance from the City LWIA EO Compliance Unit. However, the City LWIA EO Compliance Unit cannot give legal advice.

• Prior to the hearing, the Complainant and Respondent are entitled to reasonable discovery requests for production of documents by the date specified in the notice of administrative hearing. In the event of a dispute, the hearing officer shall make the final determination of reasonable request for document production.

• Prior to the hearing, the Complainant and Respondent are entitled to request witnesses by the date specified in the notice of administrative hearing. Please note that the City LWIA does not have subpoena power in these matters. Neither the Complainant nor the Respondent has the right to conduct a deposition of prospective witnesses.

• The recommendation(s) of the hearing officer will be reviewed by the General Manager, Community Development Department. The General Manager may adopt or reject, in whole or in part, the findings and/or recommendation(s) of the hearing officer and will render the Final Determination for the City of Los Angeles Local Workforce Investment Area (LWIA) within sixty (60) days of filing of the complaint.

■ CONDUCT OF HEARINGS [for both Program and Discrimination Complaints]

• The hearing will be conducted by an impartial hearing officer appointed by the General Manager, Community Development Department.

• Written notice of the date, time and place of the hearing, the manner in which it will be conducted, the issues to be decided and the rights of the parties will be sent to the Complainant and Respondent(s) by Certified Mail/Return Receipt Requested. Other interested parties may also apply for notice by contacting the EO/Compliance Office. [For the purposes of this procedure, such other interested party is defined as a person or organization potentially affected by the outcome. The notice to other interested parties will include the same information furnished to the Complainant and Respondent and state whether such interested parties may participate in the hearing and, if applicable, the method by which they may request such a hearing.]
• Any request to withdraw a complaint must be in writing and received prior to the scheduled hearing.

• **Requests to reschedule a hearing must also be made in writing and for good cause.** The General Manager, Community Development Department, will make the final decision on such requests subject to acceptance of all parties of an extension of the 30-day requirement on scheduling a hearing and the 60-day requirement to have a final decision. Requests must be made at least **seventy-two (72) hours** prior to the scheduled hearing. Should any party fail to appear at the hearing without prior notice, the hearing officer may rule to continue the hearing in their absence.

• Any party may be represented by an attorney or other representative at his/her own expense. The City LWIA cannot appoint an attorney to represent either party nor can the LWIA provide legal advice to either party. Any party represented by an attorney or other representative shall inform the EO Compliance Unit in advance of the hearing.

• Either party may bring witnesses and documentary evidence.

• Either party may have records or documents relevant to the issues produced by their custodian when such records or documents are kept by either party in the ordinary course of business. The Complainant may also request that the employees and/or participants of the Respondent who have knowledge of the pertinent facts in the complaint be available to testify at the hearing. Any requests for records, documents, and/or persons serving as witnesses must be made in writing and must first be submitted to the EO/Compliance Unit of the Community Development by the date specified on the notice of administrative hearing. The request must specify which records, documents, and/or individuals are presumed to be relevant to the issue(s) set forth in the complaint. The hearing officer will have the discretion to determine issues of relevancy at the time of the hearing. Failure on the part of either party to supply information and/or make persons available that have been requested may result in sanctions imposed by the hearing officer and/or the City LWIA. If the failure is on the part of the Respondent (e.g., WIA service provider/contractor) it may be considered a breach of the Respondent’s WIA contractual agreement with the City.

• The hearing will be conducted in an informal manner with strict rules of evidence not being applicable. Both parties have the right to present written and/or oral testimony and arguments; the right to call and question witnesses in support of their position; the right to examine records and documents relevant to the issues; and the right to be represented. The hearing will be recorded electronically.
**DECISION**

**Program Complaints**

Not later than **sixty (60) calendar days** after the filing of the program complaint, the General Manager, Community Development Department, will notify the Complainant and Respondent in writing of the recommendation(s) of the hearing officer and the Final Determination of the Community Development Department. The written decision will contain the following information:

- The names of the parties involved;
- A statement of the alleged violation(s) and the issues related to the alleged violations;
- A statement of the facts;
- The hearing officer’s recommended decision and the reasons for the decision;
- The General Manager’s review of the hearing officer’s recommendation(s) and the Final Determination at the LWIA level;
- A statement of corrective action or remedies for violations, if any, to be taken; and,
- Notice of the right of either party to request, within **ten (10) days** of the receipt of the decision, a review of the decision by the State Review Panel (SRP).

**Discrimination Complaint**

Not later than **ninety (90) days** after filing a discrimination complaint with Community Development Department, the Final Determination will be mailed to the Complainant and Respondent. It will contain the information as described above, with the exception that the Complainant has the right to file a complaint with the Department of Labor Civil Rights Center (see page 16).

**LEVEL THREE - APPEAL PROCESS for program complaints:**

- The State Review Panel (SRP) will review appeals of decisions issued at the LWIA level. The SRP will not conduct any evidentiary hearings, but will review the record established by the LWIA and issue a decision on the basis of the information contained therein.
- A request for a State review of the LWIA’s decision must be filed in writing and mailed to the Compliance Review Division (CRD) within **ten (10) days** of the receipt of the decision by the appealing party. The request for review should contain the following information:

  ☐ Full name, telephone number, and mailing address of the Complainant;
☐ Full name, telephone number, and mailing address of the Respondent;
☐ A copy of the local hearing officer’s decision;
☐ A copy of the Final Determination issued by the LWIA;
☐ A brief statement of the reasons a State review is being requested. The statement must specify the errors of fact and/or statutory and regulatory interpretations that are alleged to have been made by the hearing officer/LWIA. If appropriate, the statement must identify the elements of the hearing officer’s decision to be reviewed; and,
☐ A statement of the remedy sought by the appellant. If not provided elsewhere in the appeal, the appellant must provide a statement setting forth the arguments presented to the local hearing officer that the appellant considers to support the appropriateness of the remedy he or she is seeking.

□ The Complainant may file a request with the State by submitting a written request to:

Employment Development Department
Compliance Review Division, (CRD)
P.O. Box 826880, MIC-22M
Sacramento, CA 94280-0001
Attn: Hao Lam, Division Chief

□ On receipt of the Complainant’s appeal of the adverse decision, the State shall provide for an independent review by SRP. The CRD will notify the parties concerned and the LWIA administrative entity or sub grantee by first class mail of the request for the State review of the local hearing officer’s decision. The SRP’s decision will be final and issued to both the Complainant and the respondent by first class mail.

□ STATE COMPLAINT PROCEDURES

• If no decision has been issued at the LWIA or sub grantee-level within the sixty (60) day time limit, a Complainant may file a complaint with the State.

• A request for an initial State hearing must be filed within fifteen (15) days, or if mailed, postmarked within fifteen (15) days of one of the following dates:
  ☐ The date on which the LWIA or sub grantee should have issued a decision regarding a locally filed complaint.
  ☐ The date after the filing of a complaint when an instance of restraint, coercion, reprisals, or discrimination was alleged to have occurred as a result of filing the complaint.

• A request for a State hearing relating to allegedly deficient LWIA and sub grantee complaint procedures, and to allegations of improper actions as a consequence of a complaint, should be filed immediately.
Requests for State hearings shall be filed in writing to the Compliance Review Division (CRD), at the address listed below and must include the following information:

- Full name, telephone number, and mailing address of the Complainant;
- Full name, telephone number and mailing address of the LWIA or sub grantee;
- A statement of the basis of the request;
- Copies of the relevant documents, such as the grievance complaint filed at the LWIA or sub grantee.

Employment Development Department
Compliance Review Division, (CRD)
P.O. Box 826880, MIC-22M
Sacramento, CA 94280-0001
Attn: Hao Lam, Division Chief

- On receipt of the request for State hearing, if an evidentiary hearing was held at the LWIA level, the State shall request the record of the hearing from the LWIA and shall review the record without scheduling an additional hearing. If an evidentiary hearing was not held at the LWIA level, the State shall instruct the LWIA to hold a hearing within thirty (30) days of receipt of the appeal or request for EDD review.

SECTION THREE - DISCRIMINATION COMPLAINTS

RESOLUTION OF COMPLAINTS ALLEGING DISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, AGE, SEX (INCLUDING SEXUAL HARASSMENT, SEXUAL ORIENTATION), RELIGION, DISABILITY, POLITICAL AFFILIATION OR BELIEF, RETALIATION, PARTICIPATION IN A WIA PROGRAM, AND CITIZENSHIP, WHERE APPROPRIATE.

POLICIES:
The City of Los Angeles, Local Workforce Investment Area (LWIA) has assured the U.S. Department of Labor DOL and the State of California Employment Development Department (EDD) that no one enrolled in the City’s WIA program will be discriminated against because of race, creed, color, national origin, age, sex (including sexual harassment), sexual orientation, disability, citizenship, participation in a WIA program, or political affiliation or belief. This means that:

- No benefits may be denied a WIA participant because of race, creed, color, national origin, sex, sexual orientation, age, disability, citizenship, participation in a WIA program, or political affiliation or belief while being
registered, interviewed, counseled, tested, or while working, engaged in a work activity or attending class as part of the program;

- WIA participants must be provided with the same opportunities to use all the facilities available in the program as any other participants;

- Fair employment practices shall be provided to all employees with regard to recruitment, selection, assignment, transfer, promotion, training, compensation, benefits and termination regardless of race, creed, color, national origin, sex, sexual orientation, age, citizenship, disability or political affiliation or belief;

- In addition, sexual harassment is against the law. Acts of sexual harassment are grounds for a discrimination complaint based under Title VII of the Civil Rights Act of 1994.

- A discrimination complaint may be filed within 180 days of the alleged discrimination, either with the City of Los Angeles, Local Workforce Investment Area (LWIA) grant recipient, or with the Department of Labor, Civil Rights Center (CRC).

**PROCEDURES FOR DISCRIMINATION COMPLAINTS FILED WITH THE CITY OF LOS ANGELES LWIA:**

Any person who believes that he or she or any specific class of individuals has been, or is being, subjected to discrimination prohibited by the nondiscrimination and equal opportunity provisions of the WIA regulations may file a written complaint or a representative may file the complaint on his or her behalf.

**Complaints filed with the City LWIA should be mailed directly to:**

City of Los Angeles  
Community Development Department  
EO/Compliance Unit  
1200 West Seventh Street, 4th floor  
Los Angeles, CA 90017  
Attn: Eileen Scally, EO/Compliance Officer

Telephone Number: (213) 744-7277  
FAX Number: (213) 744-7289  
TTY Number: (213) 744-7290  
E-mail: escally@cdd.lacity.org

- Complaints should be filed in writing and shall:
  - Be signed and dated by the Complainant or his/her representative;
  - Contain the Complainant's name, address, telephone or other means of contacting him/her;
Identify the Respondent; and,

Describe the Complainant’s allegation in sufficient detail to allow the LWIA EO staff to determine whether: (1) LWIA or CRC has jurisdiction over the complaint; (2) the complaint was filed timely (i.e., within 180 days of the occurrence); and (3) the complaint has apparent merit, i.e., whether the allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of the WIA.

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Complaints may be submitted by facsimile but not by e-mail.

• For complaints filed with the City LWIA, an investigation of the complaint shall be conducted and a written report shall be prepared and sent to the Complainant and the Respondent, and an attempt to resolve the complaint informally shall take place within thirty (30) days of the filing of the complaint.

• After the issuance of the report of investigation, the choice to use Alternative Dispute Resolution (ADR) procedures rests with the Complainant.

• A party to any agreement reached under ADR may file a complaint with CRC in the event the agreement is breached. In such circumstance, the following rules apply:
  • The non-breaching party may file a complaint with CRC within thirty (30) days of the date on which the non-breaching party learns of the alleged breach;
  • The CRC will evaluate the circumstances to determine whether the agreement has been breached. If the CRC determines that the agreement has been breached, the Complainant may file a complaint with the CRC based upon his/her original allegation(s) and the CRC will waive the time deadline for filing such a complaint.

• If the parties do not reach an agreement under ADR, the Complainant may file directly with CRC.
• If an informal resolution cannot be reached, the Complainant may request an administrative hearing. The request for administrative hearing shall be made within **five (5) days** of the informal resolution meeting.

• A notice of administrative hearing shall be issued within **ten (10) days** of the request for hearing. A notice of Final Determination shall be issued within **ninety (90) days** of the filing of the complaint. The Notice of Final Determination shall include notification of the right to file a complaint with the Department of Labor, Civil Rights Center (CRC).

• If the Complainant is dissatisfied with the resolution of the complaint, they may file a complaint with CRC within **thirty (30) days** of the date that the Complainant received notice of the LWIA’s proposed resolution. If the Complainant has not received notice of resolution within 90 days of filing, the Complainant may file the complaint with the CRC.

• If the Complainant wishes to file a complaint with CRC, the Complainant must wait until the LWIA issues a decision or until **ninety (90) days** have passed since the filing of the original complaint with the LWIA.

**Discrimination Complaints filed with the Center of Civil Rights (CRC):**

- A complaint filed pursuant to this part must be filed within **180 days** of the alleged discrimination. The CRC, for good cause shown, may extend the filing time. In order to receive an extension, the Complainant must be notified by the LWIA that a waiver letter is to be filed with CRC. The waiver letter should include the reason the **180-day time period** elapsed. [This time period for filing is for the administrative convenience of the CRC and does not create a defense for the Respondent].

- Complaints filed with the Civil Rights Center (CRC), should be mailed directly to:

  Director  
  Civil Rights Center (CRC)  
  U.S. Department of Labor  
  200 Constitution Avenue N.W., Room N-4123  
  Washington, D.C. 20210.

• Complaints should be filed and in writing and shall:
  
  - Be signed by the Complainant or his or her representative;
  - Contain the Complainant’s name, address, or other means of contacting him or her;
  - Identify the Respondent;
Describe the Complainant's allegation in sufficient detail to allow the CRC to determine whether: (1) the CRC or the LWIA, has jurisdiction over the complaint; (2) the complaint was filed timely (i.e., within 180 days of the alleged occurrence); and, (3) the complaint has apparent merit, (i.e., whether the allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions).

Both the Complainant and the Respondent have the right to be represented, at their own expense, by an attorney of other individual of their own choice.

**Actions by CRC:**

- The CRC determines acceptance of a complaint filed pursuant to Title 29 CFR Section 37.30. When CRC accepts a complaint for investigation it shall:
  - Notify the LWIA or sub grantee and the Complainant of the acceptance of the complaint for investigation; and,
  - Advise the LWIA or sub grantee and Complainant on the issues over which the CRC has accepted jurisdiction;
  - The LWIA, sub grantee, the Complainant, or a representative may contact the CRC for information regarding the complaint filed.
  - When the complaint contains insufficient information, the CRC will seek the needed information from the Complainant. If the Complainant is unavailable after reasonable means have been used to locate him or her, or the information is not furnished within **fifteen (15) days** of the receipt of such request, the complaint file may be closed without prejudice upon notice sent to the Complainant's last known address.
  - The CRC may issue a subpoena to the Complainant to appear and give testimony and/or produce documentary evidence, before a designated representative, relating to the complaint being investigated. Issuing a subpoena can be done anywhere in the United States, at any designated time or place.
  - Where the CRC lacks jurisdiction over a complaint, the CRC shall:
    - Advise the Complainant, indicating why the complaint is not covered by the nondiscrimination and equal opportunity provisions outlined in WIA or Title 29 CFR Section 34.43; and
    - Refer the Complainant to the appropriate federal, state, or local authority when possible.
• The CRC will contact the Complainant when a claim is not to be investigated and explain the basis for that determination.

• The CRC will refer complaints governed by the Age Discrimination Act of 1975 to mediation as specified in Title 45 CFR Section 90.43(c)(3).

• If the Complainant alleges more than one kind of complaint, "joint complaint" (e.g., individual employment discrimination, age discrimination, equal pay discrimination, etc.), the CRC shall refer such joint complaint to the Equal Employment Opportunity Commission (EEOC) for investigation and conciliation procedures for joint complaints at Title 29 CFR Part 1691. The CRC will advise the Complainant, the LWIA, and the sub grantee of the referral.

• At the conclusion of the investigation, the CRC shall issue an Initial Determination. The Initial Determination shall notify the Complainant and the LWIA, or sub grantee, in writing of:
  □ Specific findings of the investigation;
  □ Proposed corrective or remedial action and the time by which the corrective or remedial action must be completed;
  □ Whether it will be necessary for the LWIA or sub grantee to enter into a written agreement and;
  □ The opportunity to participate in voluntary compliance negotiations.

• Where no cause determination is made, the Complainant and the LWIA or sub grantee shall be notified in writing. Such determination represents the final agency action of the Department.

Corrective Actions/Sanctions for Discrimination

Letter of Findings, Notice to Show Cause, or Initial Determination issued pursuant to Title 29 CFR Sections 34.40, 34.41 or 34.43, respectively, shall include the steps and the specific time period it will take the LWIA or sub grantee to achieve voluntary compliance. (See Section 34.44 for corrective action steps.)

• **Monetary corrective action may not be paid from federal funds.**

• Any person who believes that he or she or any specific class of individuals has been, or is being, subjected to discrimination prohibited by the nondiscrimination and equal opportunity provisions of the WIA regulations may file a written complaint or a representative may file the complaint on his or her behalf.
SECTION FOUR - QUESTIONED/DISALLOWED COSTS COMPLAINTS

■ INITIAL DETERMINATION:

■ The contractor will be notified in writing by letter of the Initial Determination based on the audit review by the Workforce Development Division (WDD), or Audit Section Financial Management Division, (FMD), as appropriate. The Initial Determination letter will include:

- A list of all questioned costs;
- Whether the costs are allowed or disallowed, including the reasons with appropriate citations for such actions;
- Acceptance or rejection of any corrective action taken to date, including correction on administrative findings;
- Possible sanctions; and,
- The opportunity for an informal resolution of no more than sixty (60) days from the date of the Initial Determination.

■ INFORMAL RESOLUTION:

- The contractor will have ten (10) days in which to request an informal resolution of the audit issues. The request must be in writing to the EO/Compliance Unit.

- During the informal resolution, the auditee may provide documentation to support allow ability of costs and proposed action of administrative findings. Negotiations of repayments may be initiated at this time.

■ FINAL DETERMINATION:

- The FMD will issue a Final Determination. The Final Determination will include:
  - Reference to the Initial Determination;
  - Summation of the informal resolution meeting, if held;
  - Decisions regarding the disallowed costs listing each disallowed cost and noting the reason for each disallowance;
  - Questioned costs that have been allowed by the LWIA and the reason for the allowance;
  - Demand for payment of the disallowed costs;
  - Description of the debt collection process and other sanctions that may be imposed if payment is not received;
  - Rights to a hearing;
  - Status of each administrative finding.
• The auditee/contractor will have **twenty-one (21) calendar days** after the Final Determination is issued to submit a written request for hearing with the EO/Compliance Unit, CDD. **If there is no appeal request, the Department's final Determination shall be submitted to the Mayor for consideration by the Community and Economic Development Committee (CEDC) of the City of Los Angeles City Council.**

• The auditee will receive written notice of the scheduled hearing at least **ten (10) calendar days** before the hearing. The **ten (10)-day** notice may be shortened with the written consent of both parties. The auditee may withdraw the hearing request; the withdrawal request must be submitted in writing.

• The hearing officer's report, which should be completed within **twenty (20) days** after the conclusion of the hearing, and any other reports or documentation, will be submitted to the Mayor for transmittal to the CEDC. EO/Compliance Unit, CDD, will notify the contractor of the date of the CEDC meeting and provide the contractor with a copy of the Department's report to the Mayor on the hearing officer's findings and recommendations.

• **NOTE:** Per the WIB LEO (Workforce Investment Board - Local Elected Officials) Agreement, the hearing at the LWIA level and the issuance of the Final Determination is the final level for appeal of disallowed costs up to $500,000.

• For appeal of costs over $500,000, the hearing officer's report, which should be completed within 20 days after the conclusion of the hearing and any other reports or documentation, will be submitted to the Mayor for transmittal to the CEDC. EO Compliance Unit, CDD will notify the contractor of the date of the CEDC meeting and provide the contractor with a copy of the Department's report to the Mayor, on the hearing officer’s findings and recommendations.

• The CEDC will review the matter and may allow testimony by the parties in accordance with its rules and procedures.

• The recommendation of the CEDC will be sent to the City Council and Mayor for final consideration. The contractor will be notified in writing of the final decision of the City Council and Mayor. The written notification will include the items listed in Section C. and shall be given 60 days from the date of the receipt of the contractor's request for appeal.

• In the event costs in addition to those recommended for disallowance by CDD are disallowed by the Mayor and Council, the opportunity for a hearing concerning the additional disallowed cost matter will be at the Mayor, and Council level.
• If the contractor does not appeal the final finding of the Local Workforce Investment Area (LWIA), the contractor shall agree to a repayment plan within thirty (30) days of the final decision of the City Council, and Mayor, or program funds may be discontinued.

SECTION FIVE - FRAUD AND PROGRAM ABUSE COMPLAINTS

■ REPORTING FRAUD AND ABUSE

The reporting requirements for Fraud and Program Abuse for WIA are the same as those for WIA [Section 627.500]. Those regulations require that "information and complaints involving criminal, fraud, waste, abuse or other criminal activities shall be reported through the Department’s Incident Reporting System, directly and immediately to the Department of Labor, Office of Inspector General, with a copy provided simultaneously to the Employment Development Department". WIA contractors are required, therefore, to establish internal management procedures which insure that the City of Los Angeles LWIA is notified immediately of any discovery of possible fraud, program abuse, or criminal activities.

Types of fraud include, but are not limited to: embezzlement, forgery, theft, falsification of records and claims regarding trainees (e.g. knowingly enrolling ineligible participants); misapplication of funds (e.g., intentional service to ineligible participants, violation of contact procedures); gross mismanagement (e.g., unauditable records, unsupported costs, inaccurate fiscal and/or program reports and payroll deductions not made to the Internal Revenue Service of the State of California Franchise Board).

The LWIA is not permitted to release information concerning an ongoing investigation except with the consent of the investigation agency/authority.

■ Notification of any such discovery should be made within 24 hours to:

City of Los Angeles
Community Development Department
EO/Compliance Unit
1200 West Seventh Street, 4th floor
Los Angeles, CA 90017
Attn: Eileen Scally, EO/Compliance Officer

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FAX Number: (213) 744-7289
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