



# **Employment Services Complaint System Policy, Change 1**

General Overview



# Presentation Outline

Employment Services Complaint System Policy, Change 1

Main Discussion Points:

- Background
- Policy Overview
  - ❖ General Information
  - ❖ Purpose, Statement and Scope
  - ❖ Key Policy Elements and Revisions



# Background

- U.S. DOL 2023 Monitor Findings
  - State Hearing Officials
  - Discontinuance of ES Services
- Wagner-Peyser Act Staffing Final Rules (i.e., regulations)
  - Published: November 24, 2023
  - Effective: January 23, 2024
- L&I's internal policy review



# Policy Overview

## General Information

- Employment Service and Employment-Related Law Complaint System policy, change 1
- Effective Date: TBD
- Policy Owner: PA Department of Labor & Industry's Bureau of Workforce Partnership and Operations
- Policy Contact: BWPO Complaint System Representative [RA-LIBWPO-PROGCOORD@pa.gov](mailto:RA-LIBWPO-PROGCOORD@pa.gov)



# Policy Overview

## Policy Purpose

... It is accepted in a complex public workforce delivery system that a wide spectrum of complaints can occur. This **policy authorizes the establishment, staffing, operation and maintenance** of the commonwealth's Employment Service and Employment-Related Law Complaint System or ES Complaint System focused upon the acceptance, resolution and/or referral of Wagner-Peyser Act-based complaints.



# Policy Overview

## Policy Statement

- Outlines federal guidelines for processing ES-related and employment-related law complaints
- Provides information needed to establish & maintain the ES Complaint System
- Cites WIOA; Wagner-Peyser Act; 20 CFR, Part 658
- Requires each State Workforce Agency to establish and maintain an ES Complaint System



# Policy Overview

## Policy Statement continued

- Pennsylvania Department of Labor and Industry, or L&I, is the designated SWA and the grant recipient of Wagner-Peyser Act funds.
- L&I's Bureau of Workforce Partnership and Operations, or BWPO, has been tasked with the administrative, financial, and operational responsibilities associated with the ES Complaint System.



# Policy Overview

## Policy Statement continued

This policy describes and/or makes provision for:

1. Policy and operational guidance
2. Complaint logs
3. Federal reporting form
4. Required public notices and posters





# Policy Overview

**Scope**-This policy applies to:

- State Workforce Agency
- Local Workforce Development Area CEOs
- Local Workforce Development Boards
- Local area administrative entities
- PA CareerLink<sup>®</sup> Operators
- PA CareerLink<sup>®</sup> program partners



# Policy Overview

**Scope continued-** This policy applies to:

- Eligible service providers
- Eligible training providers
- Customers - Applicants - Registrants
- Program participants
- Employers



# Policy Elements : Key Terms

Primary sources are WIOA Title I Section 3 and 20 CFR 651.10

**Complaint** means a representation made or referred to a State or ES office of an alleged violation of the ES regulations and/or other Federal laws enforced by the Department's Wage and Hour Division or Occupational Safety and Health Administration, as well as other Federal, State, or local agencies enforcing employment-related law.



# Policy Elements : Key Terms

Primary sources are WIOA Title I Section 3 and 20 CFR 651.10

- **Complainant** means the individual, employer, organization, association, or other **entity filing a complaint.**
- **Respondent** means the individual or entity **alleged to have committed the violation described in the complaint,** such as the employer, service provider, or state agency.



# Policy Elements : Key Terms

Primary sources are WIOA Title I Section 3 and 20 CFR 651.10

- **Complaint System Representative or CSR,** means a trained ES staff individual who is responsible for processing complaints.
- **Employment Service (ES) Office Manager** means the ES staff person in charge of ES services provided in a one-stop center.



# Policy Elements : Key Terms

Primary sources are WIOA Title I Section 3 and 20 CFR 651.10

**State hearing official** means a state official authorized to hold hearings under state law. A state hearing official will be designated to preside at state administrative hearings convened to resolve appeals of decisions involving ES complaints, discontinuance of ES services and other subjects involving ES regulations this policy articulates.



# Policy Elements: Key Terms

Primary sources are WIOA Title I Section 3 and 20 CFR 651.10

- 1.** Employment Service Complaint System is established and maintained by the SWA and is operated by ES staff and/or managers to process complaints involving **failure to comply with Wagner-Peyser ES regulations** and **complaints against an employer** about the specific job to which the applicant was referred through the ES.



# Policy Elements: Key Terms

Primary sources are WIOA Title I Section 3 and 20 CFR 651.10

**2. Employment-related laws** means those laws that relate to the employment relationship, such as those enforced by the U.S. DOL's WHD, OSHA, or by other Federal, State, or local agencies as defined within 20 CFR 651.10.





# Policy Elements: Key Terms

Primary sources are WIOA Title I Section 3 and 20 CFR 651.10

**3. Apparent Violation** means a suspected violation of employment-related laws or employment service regulations by an employer, which an ES staff member observes, has reason to believe, or regarding which an ES staff member receives information.



# Policy Elements

## General Policy Provisions: Introduction

Complaints may take the form of an expression of dissatisfaction, protest, distress, grief, or pain.

The source of the issue may come from a variety of scenarios found within our workforce delivery system.



# Policy Elements

## General Policy Provisions: Introduction continued

Each LWDB has ensured a method exists so that a customer's complaint is **accepted**, **considered**, **referred** to the appropriate program partner or service provider and **resolved** as efficiently as possible.



# Policy Elements

## General Policy Provisions: Introduction continued

An Employment Service based complaint is a representation made or referred to a State or ES office of an alleged violation of the ES regulations and/or other Federal laws enforced by Federal, State, or local agencies enforcing employment-related law.



# Policy Elements

## General Policy Provisions: Introduction continued

**Any individual, employer, organization, association, or other entity may file a complaint.** This policy supports practices and procedures so that PA CareerLink<sup>®</sup> customers or other stakeholders that supply potential Wagner-Peyser Act-based complaints are made aware of the ES complaint system and how to express complaints to a trained PA CareerLink<sup>®</sup> complaint system representative.



# Policy Elements

## General Policy Provisions: Introduction continued

ES complaints may be accepted in all one-stop center locations, by the SWA's assigned entity (i.e., BWPO) that operates and manages the ES Complaint System, or elsewhere by outreach staff.



# Policy Elements

## General Policy Provisions: Distribution of Responsibilities

**Complaint System Representative:** Complaints filed through the local ES office **must be processed by a trained Complaint System Representative, or CSR**

Complaints received by a SWA must be assigned to a trained Complaint System Representative designated by L&I's BWPO staff.



# Policy Elements

## General Policy Provisions: Distribution of Responsibilities

**ES Office Manager:** At the local area level, the ES Office Manager is responsible for the **day-to-day management** of the local ES complaint system. The ES Office Manager, or other BWPO representative, may identify a designee, referred to as a “Complaint System Representative”, or CSR.





# Policy Elements

General Policy Provisions: Distribution of Responsibilities

## State-level ES Complaint System Representative:

The state-level ES Complaint System Representative, or state-level CSR, is assigned **overall responsibility** for the operation of the ES Complaint System.



# Policy Elements

## General Policy Provisions: Non-ES Complaint Referral

**Non-ES-related complaints** can be delineated into sub-groups. CSRs may collect non-ES complaints.

Non-ES complaint types each have distinct recording, resolution, and appeal procedures as well as different time frames to accept, act and complete the resolution associated with them.



# Policy Elements

General Policy Provisions: Non-ES Complaint Referral continued

Complaint(s) may be referred **per the LWDB's and/or Operator policy, or in absence of said policy,** to appropriate PA CareerLink<sup>®</sup> program partner(s), the local area EO Officer or referred to other local area organizations that may be of assistance to the complainant.



# Policy Elements

General Policy Provisions: Non-ES Complaint Referral continued

In absence of a LWDB and/or Operator policy that directs how complaints are referred the CSR will promptly refer non-Wagner-Peyser-based complaints to the PA CareerLink<sup>®</sup> respondent(s) associated with resolving the complaint **if the program is noted in the policy.**



# Policy Elements

## General Policy Provisions: Request for Hearings/Appeals

A request for a hearing can be made by either a **complainant** who is not satisfied with the outcome of their complaint, or by a **business** who has had, or is in danger of having, ES services discontinued.



# Policy Elements

## General Policy Provisions: Discontinuance of ES Services

When U.S. DOL or another authorized enforcement agency determines that a violation of Wagner-Peyser administrative regulations or employment related laws has occurred, the discontinuation of services must be initiated.



# Policy Elements

General Policy Provisions: Discontinuance of ES Services continued

Only when every effort has been exhausted, and thoroughly documented, the discontinuation of services be initiated.



# Policy Elements

General Policy Provisions: Discontinuance of ES Services continued

1. Basis for Discontinuance of ES Services

2. Notification for discontinuance of ES services to Businesses





# Policy Elements

General Policy Provisions: Discontinuance of ES Services continued

## 3. Reinstatement of ES Services



# Policy Elements

## General Policy Provisions: Local Workforce Development Boards

- LWDBs will ensure their local area complaint policy and procedures align with this policy and associated guidance.
- LWDBs ensure customers are notified of the ES complaint system.
- All Wagner-Peyser Act based complaints are to be recorded.
- LWDBs will ensure all local area staff are knowledgeable of the content of this policy and the local area board's complaint policy.



# L&I Workforce Development Policy Website

You may find policies and guidance at:

- **Website title: “Workforce Development”**
- <https://www.dli.pa.gov/Businesses/Workforce-Development/Pages/default.aspx>
  
- **Website title: “Workforce System Policy”**
- <https://www.dli.pa.gov/Businesses/Workforce-Development/Pages/Pennsylvania's-Workforce-System-Directives.aspx>
  
- **List of policies includes “Employment Service Complaint System”**
  - ❖ Activate drop down arrow to view the Policy and Guidance



**Send your questions  
to our resource  
account.  
Thank you!**



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