

1400POL Dispute Resolution (Rev1)

Effective Date: October 2021

Last Modified: March 2024

To communicate the Olympic Workforce Development Council (OWDC) operational guidance regarding dispute resolution among the WDC and WorkSource partners under Workforce Innovation and Opportunity Act (WIOA).

1. **When disputes arise during the course of conducting business, OWDC's goal is to handle at the lowest level possible.**
2. **This policy applies to all organizations involved with WorkSource in the Olympic Workforce Region, including those offering business and jobseeker services, and the One-Stop Operator, regarding contracts, awards, monitoring, oversight outcomes, administrative agreements, memorandum of understanding, and all partnerships.**
 - a. All parties are expected to put forth good faith efforts to communicate and compromise to resolve disputes in a cooperative and timely manner.
 - b. In the event disputes should arise regarding the terms and conditions, the performance, or administration of this Agreement which cannot be resolved informally, the following procedures will be conducted.
 - a. Each party to this agreement shall select between three and six individuals comprising of an equal representation of executive committee members, council members, and one-stop system partners to participate in a dispute resolution panel.
 - b. These individuals shall select, by a simple majority vote, a person not a party to this Agreement who will chair the dispute resolution panel.
 - c. The panel shall hear the facts of the dispute and render a decision by simple majority vote.
3. **Disputes related to funding on one-stop infrastructure costs are exempt from this policy.**
 - a. Per WIOA Section 121(h) and 20 CFR 678.725-750, infrastructure cost disputes are addressed through application of the state one-stop funding mechanism determined by the governor and subject to state-level appeals process (see Infrastructure Funding Agreement and State Funding Mechanism, WorkSource System Policy 1024 (Rev2)).
 - b. When the local boards and partners have entered good faith negotiations and still reach an impasse, the State Funding Mechanism and the following additional step shall be taken:
 - i. The local board must send the Governor's designee, WTECB, a notification of impasse. Upon receipt of notification, the Governor must issue guidance, and the WTECB (as the designated Representative) must assist with the issuance of that guidance and with developing the formula used by the Governor under the State Funding Mechanism to determine one-stop center budgets in the event local consensus cannot be reached (*per 1024 (Rev2)*).
 - ii. These steps do not supersede or replace language in WIOA or regulations.
4. **All disputes will be documented thoroughly by the OWDC and made available for local, state, and federal monitor review.**

REFERENCES

Infrastructure Funding Agreement and State Funding Mechanism, [WorkSource System Policy 1024 \(Rev2\)](#)

One-Stop Operating Costs, Code of Federal Regulations Title 20, Chapter V, Part 678 Subpart E, [20 CFR §678.725-750](#)

One-Stop Memorandum of Understanding (MOU), [Worksource System Policy 1013 \(Rev4\)](#)

One-Stop System Dispute Resolution and Appeals, [WorkSource System Policy 1025](#)

WIOA Establishing One-Stop Delivery Systems, Funding of One-Stop Infrastructure, Workforce Innovation and Opportunity Act Final Law H.R. 803 (113-128) [§121\(h\)](#)

Addressing the procedure for resolution of disputes that consist of general conflicts among the parties described in the policy and related to the items identified above. .

TRIGGER: Dispute

TARGET: Resolution.

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| <i>Disputing Parties</i> | 1 | Attempts to resolve the dispute will begin with negotiations between the disagreeing parties. |
| | 2 | Should the parties be unable to resolve their dispute, they will notify the WDC of the dispute and provide a written explanation of the matter. |
| <i>WDC Management</i> | 3 | Reviews the dispute and provide a written recommendation.

<u><i>If the WDC is one of the parties, or if the resolution process fails and the disagreement proceeds:</i></u> |
| <i>All Entities</i> | 4 | May appeal to the Employment Security Department (ESD) Commissioner in writing notifying of the impasse. |
| | 5 | Written notification will outline the dispute, provide applicable documentation, and the attempts to resolve the dispute. |
| <i>ESD Commissioner</i> | 6 | In consultation with appropriate local Chief Elected Official(s), must offer a resolution with 30 calendar days of receiving appeals (WS Policy 1013 (Rev4)). |
| | 7 | May seek alternatives to propose a resolution.

<u><i>If the impasse related to the Memorandum of Understanding (MOU) and is not resolved by the Commissioner</i></u> |
| | 8 | Notifications of failure to resolve will be issued with applicable sanctions to the extent of state and federal laws. |

Disputes involving Employment Security Department (ESD) will proceed as follows:

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| <i>Disputing Parties</i> | 1 | Attempts to resolve at the local level.

<u><i>If not resolved at the local level:</i></u> |
| | 2 | Request the services of an independent mediator or hearing officer <ol style="list-style-type: none">The selection of the hearing officer must be concluded within 10 business days.Through a mutually agreed upon source (e.g., local dispute resolution councils, State Department of Enterprise Services, etc.) a list of three mediators/hearing officers will be made.Each party to the dispute will identify one representative from a list of three mediators/hearing officers to eliminate.Remaining individual will be the mediator/hearing officer, by process of elimination.All parties in the dispute will share the cost for the mediator/hearing office. |
| <i>Mediator/Hearing Officer</i> | 3 | Within 30 days of being retained, deliver a recommendation, in writing to the ESD Commissioner. |
| <i>ESD Commissioner</i> | 4 | Must render decision within five business days of acceptance or rejection of recommendation.

<u><i>If rejected (through "just cause" allowances):</i></u> <ol style="list-style-type: none">Undisclosed conflict of interest on the part of the mediator/hearing officer.Clear misapplication of the law and/or regulations.The finding does not fit the record or facts of the case. |

If ESD Commissioner rejects the mediator/hearing officer's recommendation:

- a. Disputing parties may appeal the decision to the U.S. Department of Labor as described in WIOA 181(c).

REFERENCES

Implementation of the Nondiscrimination and Equal Opportunity Provisions of the WIOA, Code of Federal Regulations, Subpart A – General Provisions. [29 CFR Part 38](#)

Infrastructure Funding Agreement and State Funding Mechanism, [WorkSource System Policy 1024 \(Rev2\)](#)

One-Stop Operating Costs, Code of Federal Regulations, Title 20, Chapter V, Part 678, Subpart E, [§678.725-750](#)

Requirements and Restrictions, Workforce Innovation and Opportunity Act Final Law H.R. 803 (113-128) [§181\(d\)\(2\)](#)

Revised Code of Washington 49.60, Discrimination – Human Rights Commission, [49.60 RCW](#)

WorkSource Memorandum of Understanding, [WorkSource System Policy 1013 \(Rev4\)](#)