

POLICY DIRECTIVE: Incident Reporting

To: All work2future providers of services
From: San Jose Silicon Valley Workforce Development Board
Effective Date: July 1, 2015 Rev. 2018
Reference: Workforce Innovation Opportunity Act
work2future Workforce Development Board



OPERATIONAL DIRECTIVE

work2future Workforce Development Board
5730 Chambertin Dr. San Jose, CA 95118
408-794-1200

EXECUTIVE SUMMARY

This directive provides procedures for reporting criminal activity and noncriminal complaints to the Compliance Review Office (CRO) of the Employment Development Department (EDD) and the Department of Labor's (DOL) Office of Inspector General (OIG).

This directive applies to Local Workforce Investment Areas (local area) and other sub-recipients of programs funded under the Workforce Investment Act (WIOA).

REFERENCES

- Title 20 Code of Federal Regulations (CFR) Sections 667.505 and 667.630
- DOL Training Employment and Guidance Letter 2-12, Employment and Training Administration (ETA) Grant Recipient Responsibilities for Reporting Instances of Suspected Fraud, Program Abuse and Criminal Conduct (July 12, 2012)

Per Title 20 CFR Section 667.630, information and complaints involving criminal fraud, waste, abuse or other criminal activity must be reported immediately through DOL's Incident Reporting System to the OIG with a copy simultaneously provided to the ETA. Complaints of a noncriminal nature, such as mismanagement and gross waste of funds, may also be reported through DOL's Incident Reporting System.

When an individual has knowledge or suspicion of a violation of the WIOA or its regulations, the individual must take prompt and appropriate action.

POLICY AND PROCEDURES

FILING INSTRUCTIONS: POLICY AND PROCEDURES:

This directive supersedes WIOA Directive WIOAD02-3 dated September 10, 2002, and finalizes Workforce Services Draft Directive WSDD-84, issued for comment on April 30, 2013. The Workforce Services Division received two comments during the draft comment period. The comments received resulted in two substantive changes to the directive which are viewed as highlighted text. The highlighted text will remain on the Internet for 30 days from the issuance date. A summary of comments is provided as Attachment 3. Retain this directive until further notice.

Complaint, for this directive only, means criminal complaint and noncriminal complaints accepted by the DOL as incidents, such as gross waste of funds, mismanagement and dangers to the public health and safety.

Subrecipient, for this directive, means local areas and other recipients that receive WIOA funds directly from the State.

Subrecipient Contractor means a recipient that does not receive WIOA funds directly from the State. All subrecipients that receive WIOA funds shall promptly report to the CRO and OIG, all allegations of WIOA-related fraud, abuse, and other criminal activity.

Each subrecipient shall establish appropriate internal procedures to prevent and detect fraud, abuse, and criminal activity. These procedures must include a reporting process to ensure that the CRO and OIG are notified immediately of any allegations of WIOA-related fraud, abuse, or criminal activity. Internal procedures must be in writing and include the designation of a person on the subrecipients' staff who will be responsible for such notifications.

Subrecipient contractors will establish, document, and implement procedures to immediately notify the funding entity of any suspected or proven fraud, abuse, or other criminal activity involving WIOA-funded activities. Funding entities must provide written notification to subrecipient contractors regarding their responsibilities to be alert for instances of fraud, abuse, and criminal activity committed by staff, contractors, or program participants and to report all such instances to the funding entity, the CRO and OIG immediately. Proof of this notification must be maintained in the funding entity's files. Subrecipients detecting the presence or appearance of fraud, abuse, or other criminal activity must obtain sufficient information to provide a clear, concise report of each incident. Reports must include a statement of all facts, known at the time, as well as any known or estimated loss of WIOA funds resulting from the incident. It is important that an initial report is made to the CRO and OIG within one working day of the detection of the incident. The submission of an incident report should not be delayed, even if all facts are not readily available. Any facts subsequently developed by the subrecipient are to be forwarded in a supplemental incident report.

The reporting procedures do not supersede the responsibility for subrecipients to safeguard WIOA funds by taking prompt and appropriate corrective action when any evidence of a violation of WIOA or its implementing regulations is found. Attachment 1 includes a glossary of terms related to reportable issues.

Reporting:

Within one workday of detection or discovery of information alleging fraud, abuse, or other criminal activity involving WIOA funds, the detecting entity shall prepare a written incident report. The report must be submitted on the attached incident report form or similar document containing the requested information. Submit the report to both the CRO and OIG as follows:

CRO Mail: Attention: Compliance Resolution Unit
Compliance Review Office, MIC 22
Employment Development Department
P.O. Box 826880
Sacramento, CA 94280-0001

OIG (choose one of the following methods)
Website: www.oig.dol.gov/hotlinecontact.htm
Telephone: 1-800-347-3756
FAX: (202) 693-7020
Mail: Office of Inspector General
Complaints Analysis Office
200 Constitution Avenue, N.W., Room S-5506
Washington, D.C. 20210

Allegations considered to be of an emergency nature may be reported by telephone to the Compliance Resolution

Unit Supervisor at (916) 653-0298 and by calling the OIG Hotline at 1-800-347-3756 and followed immediately thereafter by a written incident report.

The Workforce Services Division will forward any incident report it receives to the CRO. The CRO will record any incident report it receives in the WIOA Incident Report System and forward the incident report to DOL/ETA, Region 6, within one working day of receipt. However, the CRO may have to contact the reporting entity for clarification or additional details prior to forwarding it to Region 6. Concurrently with its transmittal of the incident report to Region 6, the CRO will, when applicable, notify the reporting entity to take appropriate action to recover misspent funds, or to contain its financial liability.

Upon receipt, Region 6 will forward the incident report to the DOL Regional OIG, San Francisco. Subsequently, Region 6 will advise the EDD of the action to be taken by the DOL Regional OIG. If the OIG decides to investigate the incident, the CRO will wait for the OIG's results before commencing the state-level formal resolution. If the OIG decides not to investigate the incident, the CRO will request, when appropriate, a special monitoring review or an investigation by the appropriate state entities.

Otherwise, the CRO will require the subrecipient to submit its fact finding and local resolution.

Whenever the entity reporting the allegation of an incident believes that immediate action to prevent further financial loss or other damage is necessary, or recovery of funds or property may be impeded if immediate action is not taken, the reporting entity has the responsibility to take any action it deems appropriate, including contacting the local law enforcement agency. Any immediate action taken or planned by the reporting entity must be reported to the CRO when the incident report is submitted.

Allegations of fraud, abuse, or other criminal activity in WIOA-funded programs may originate from sources other than subrecipients. Such sources may include informants, independent auditors, or local law enforcement agencies. Whenever the EDD receives an allegation from such source, the CRO will prepare an incident report (DOL Form DL 1-156) and submit it to Region 6, in accordance with this directive. In such a case, the CRO will, when appropriate, inform the subject subrecipient of the incident reported and advise the latter of the need to take certain action.

During an investigation, based on a report of fraud or abuse, the DOL OIG investigators or auditors may contact a subrecipient regarding an incident of which the subrecipient was not previously aware. Upon learning of the incident from federal sources, the subrecipient should contact the CRO to determine whether the latter is aware of the incident. If the subrecipient is not aware of the allegations but the CRO is, then the CRO will, when appropriate, inform the subrecipient of the specific allegations contained in the incident report.

Action will not be taken against any complainant for disclosing information concerning criminal or improper activities or making a valid complaint to proper authorities. Complainants may remain anonymous. If a complainant considers that his or her position will be compromised by reporting information via an incident report, he or she may send the report directly to the OIG.

INQUIRIES

If you have questions please contact work2future Workforce Development staff at:
sangeeta.durrall@sanjoseca.gov.

Cc: Monique Melchor, Executive Director
work2future Workforce Development Board