



Workforce Innovation and Opportunity Act Policy
Employment System Administration and Policy

Washington envisions a nationally recognized fully integrated One-Stop system with enhanced customer access to program services, improved long-term employment outcomes for job seekers and consistent, high quality services to business customers. In order to achieve this vision, Employment System Administration and Policy sets a common direction and standards for Washington's WorkSource system through the development of WorkSource system policies, information memoranda, and technical assistance.

Policy Number: 5412

To: Washington WorkSource System

Effective Date: March 15, 2016

Subject: Incident Reporting Under the Workforce Innovation and Opportunity Act (WIOA)

1. Purpose:

To establish requirements for reporting alleged, suspected or known fraud, program abuse and criminal misconduct to the Employment Security Department (ESD) and the Department of Labor's (DOL) Office of the Inspector General (OIG).

2. Background:

Proposed 20 CFR 683.620 and Training and Employment Guidance Letter (TEGL) 2-12 provide expectations and requirements for immediately reporting information and complaints involving criminal fraud, waste, abuse or other criminal activity to the OIG.

Upon receipt of an Incident Report (IR), the OIG determines whether or not the allegations have merit and, when appropriate, conducts or arranges for an investigation and/or audit. If the OIG determines that the case does not merit an investigation or audit, the case is referred back to DOL for resolution.

No action will be taken against any individuals who disclose information concerning criminal or improper activities or who make a valid complaint to proper authorities. These individuals may remain anonymous. If individuals believe that their position will be compromised by reporting information through the IR system, they may send reports directly to the OIG or the DOL Office of Financial and Administrative Management (OFAM).

3. Policy:

a. **Local Workforce Development Board (LWDB) Responsibilities**

LWDBs must establish appropriate internal expectations or procedures for both the LWDB and its subrecipients to prevent and detect fraud, abuse, gross mismanagement or misuse of program funds, and criminal activity, and follow the procedures in this policy for documenting, immediately reporting, and following-up on instances of alleged, suspected or known fraud, program abuse and criminal misconduct involving recipients or subrecipients of federal funds under WIOA.

b. **Subrecipient Responsibilities**

Reporting procedures do not replace LWDBs' and subrecipients' responsibility to safeguard WIOA funds by taking prompt and appropriate corrective action when any evidence of a violation of WIOA or its related regulations is found. 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 affected if immediate action is not taken, the reporting entity has the responsibility to take any action it feels appropriate, including contacting the local law enforcement agency. Any immediate action taken or planned by the reporting entity must be reported to ESD when the incident report is submitted.

Situations involving imminent health or safety concerns, or the imminent loss of funds exceeding \$50,000 are considered emergencies and must immediately be reported.

All incident reports, emergency or other, must be provided to ESD and the OIG using the contact information provided below. LWDBs and their subrecipients must immediately document and report suspicions, allegations or complaints involving:

- WIOA-related fraud;
- Misfeasance, nonfeasance or malfeasance;
- Misapplication of funds; gross mismanagement;
- Employee/participant misconduct; or
- Other potential or suspected criminal action.

NOTE: Types of reportable incidents (with additional context) are listed in the definitions section.

c. **Report Submission**

LWDBs and their subrecipients must immediately submit incident reports to the following:

Employment Security Department: AND
(choose one of the following methods)

Email: LScheel@esd.wa.gov; or

Mail: Attention - Incident Reporting
Internal Audit Office
Employment Security Department
P.O. Box 9046
Olympia, WA 98507-9046

**For questions or instructions call the
Internal Audit Office at 360-902-9276**

Office of Inspector General:
(choose one of the following methods)

Email: hotline@oig.dol.gov;
Online Contact Hotline:
<http://www.oig.dol.gov/contact.htm>
FAX: (202) 693-7020; or

Mail: Office of Inspector General
Complaints Analysis Office
200 Constitution Avenue, N.W., Room S-5506
Washington, D.C. 20210

Hotline for emergency situations:
1-800-347-3756 or 202-693-6999

NOTE: Per requirements at proposed 20 CFR 683.620 to copy DOLETA on submitted incident reports, ESD will forward any incident report it receives to DOLETA on behalf of the reporting entity.

4. Definitions:

Emergency – A situation involving imminent health or safety concerns, or the imminent loss of funds exceeding \$50,000.

Employee/Participant Misconduct – LWDB, subrecipient, partner, contractor or participant actions occurring during or outside work hours that reflect negatively on the U.S. Department of Labor or its mission including, but not limited to: conflict of interest or the appearance of conflict of interest involving outside employment, business or professional activities; the receipt or giving of gifts, fees, entertainment, and favors; misuse of Federal property; and/or, misuse of official information and such other activities as might adversely affect the confidence of the public in the integrity of the government as well as serious violations of Federal and state laws.

Fraud, Misfeasance, Nonfeasance or Malfeasance – Any alleged deliberate action which may be in violation of Federal statutes and regulations. This category includes, but is not limited to, indications of bribery, forgery, extortion, embezzlement, theft of checks, kickbacks from participants or contractors, intentional payments to a contractor without the expectation of receiving services, payments to ghost enrollees, misuse of appropriated funds, or misrepresenting information in official reports.

Gross Mismanagement – Actions or situations arising out of management ineptitude or oversight leading to a major violation of the legislative process, regulations, or contract/grant provisions. Such actions or situations have the potential to severely hamper accomplishment of program goals, waste government resources, and jeopardize future support for a particular project. This category includes, but is not limited to, unauditible

records, unsupported costs, highly inaccurate fiscal reports or program reports, payroll discrepancies, payroll deductions not paid to the Internal Revenue Service, or lack of good internal control procedures.

Misapplication of Funds – Any alleged deliberate use of funds, assets or property not authorized or provided for by legislation or regulations, grants, or contracts. This category includes, but is not limited to, nepotism, political patronage, use of participants for political activity, ineligible enrollees, conflict of interest, failure to report income from Federal funds, violation of contract/grant procedures, or the use of Federal funds for other than specified purposes.

An incident report should be filed when there appears to be an intent to misapply funds rather than merely for a case of minor mismanagement.

Indian and Native American programs are excluded from the nepotism category, as cited in Section 632.118 of 20 CFR Part 632, Subpart F.

Subrecipient - An entity that receives federal assistance passed through from a prime recipient or another subrecipient to carry out or administer a WIOA program. Distinguishing characteristics of a subrecipient include:

- Determining eligibility for assistance;
- Performance measured against meeting the objectives of the program;
- Responsibility for programmatic decision making;
- Responsibility for applicable program compliance requirements;
- Use of the funds passed through to carry out a program of the sub-entity as compared to providing goods or services for a program of the prime recipient.

5. References:

- [Public Law 11-128, Workforce Innovation and Opportunity Act \(WIOA\) of 2014, Section 185\(b\)](#)
- [20 CFR 683.430 and 683.620](#)
- [Training and Employment Guidance Letter \(TEGL\) 2-12](#)

6. Supersedes:

WorkSource Information Notice (WIN) 0048 – Reporting Incidents Involving WIA Funding

7. Website:

http://www.wa.gov/esd/1stop/policies/wioa_title1.htm

8. Action:

LWDBs and their contractors, as well as Employment Security Regional Directors, should distribute this policy broadly throughout the system to ensure that WorkSource System staff are familiar with its content and requirements.

9. Attachments:

[Incident Report \(IR\) form, Office of Inspector General \(OIG\) 1-156](#)

Direct Inquiries To:

*For Incident Reporting Questions:
Internal Audit Office
Employment Security Department
LScheel@esd.wa.gov
(360) 902-9276*

Direct Other Inquiries To:

*Employment System Administration and Policy Unit
Employment System Policy and Integrity Operations Division
Employment Security Department
P.O. Box 9046
Olympia WA 98506-9046
(360) 902-9666
SystemPolicy@esd.wa.gov*