



Spokane Area Workforce Development Council

DISPUTE RESOLUTION AND APPEALS POLICY

SAWDC WorkSource System Policy

POLICY #: WS-806 R.1

Effective: September 2017

Purpose of Policy

To communicate requirements for dispute resolution and appeals, including procedures to be followed.

Background

The Spokane Area Workforce Development Council (SAWDC) is issuing this policy to provide guidance and standards for dispute resolution and appeals regarding contracts, awards, monitoring and oversight outcomes, administrative agreements, memoranda, partnerships. This policy applies to all agencies involved with WorkSource, include those signatory to the WorkSource Memorandum of Understanding, those offering business and jobseeker services, and the One-Stop Operator.

Policy and Procedures

All disputes or conflicts involving two or more parties will be handled at the lowest level possible and via the SAWDC dispute resolution procedures. All actions taken to resolve disputes will be documented. Disputes will generally fall into these categories:

1. General conflicts over the normal course of providing employer and job seeker services.
2. One-Stop Operator disputes, including One-Stop Operator Agreement and amendments.
3. Memorandum of Understanding (MOU) disputes prior to failure to sign.
4. MOU disputes regarding failure to sign.

Procedures

A. Dispute resolution, under the first three categories, will proceed as follows:

- a. All attempts to resolve disputes among or between WorkSource Spokane System partners will begin with negotiations between the disagreeing parties. Partners are expected to put forth good faith efforts in communication and compromise to resolve disagreements in a cooperative and timely manner.
- b. Should the parties be unable to directly resolve their dispute, they will notify the SAWDC of the dispute, and provide in writing an explanation of the matter. The SAWDC Executive Committee will review the dispute and provide a written recommendation.
- c. If the above local-level resolution process fails and the disagreement proceeds, the following process applies: If the entities continue to disagree, they may appeal to the Employment Security Department (ESD) Commissioner for resolution, as the representative of the Governor and in consultation with appropriate Chief Elected Officials. A decision will be issued within 30 calendar days of receiving appeals.

B. Disputes involving failure to sign the WorkSource MOU will proceed as follows:

- a. All steps in the previous sections must be completed and documented. When the local boards and partners have entered into good faith negotiations and have still reached an impasse, the following additional steps shall be taken:

- i. The local board and required partners must send a letter to the Commissioner of Employment Security, as the administrative entity of the Workforce Innovation and Opportunity Act, notifying of the impasse and outlining the issues. Documentation of the attempts to resolve the dispute should be attached.
- ii. The Commissioner may seek alternatives to propose a resolution.
- iii. If an impasse continues, notifications of failure to sign will be issued with applicable sanctions to the extent of applicable state and federal laws.

The above steps are intended to provide assistance to resolve disputes and add clarification. They do not supersede or replace language in the Workforce Innovation and Opportunity Act or regulations.

C. Disputes Involving Employment Security Department will proceed as follows:

When disputes occur which directly involve the Employment Security Department, the first approach is to attempt to reach resolution at the local level. If the parties continue to disagree, either party can request the services of an independent mediator or hearing officer, with the process as follows:

- a. The selection process for the mediator or hearing officer must be concluded within 10 business days and include the following:
 - i. Each party to the dispute will identify one representative.
 - ii. From a list of three mediators/hearing officers identified through a mutually agreed upon source (e.g., local dispute resolution councils, State Department of Enterprise Services, etc.), each representative will eliminate one individual with the remaining individual selected by that process of elimination.
 - iii. Both parties to the dispute agree to share the cost of the mediator/hearing officer equally.
- b. The mediator or hearing officer will, within 30 calendar days of being retained, deliver a recommendation, in writing, to the ESD Commissioner.
- c. The ESD Commissioner has five business days to render a decision by accepting or rejecting the recommendation with the latter limited to three "just cause" allowances:
 - i. Undisclosed conflict of interest on the part of the mediator/hearing officer.
 - ii. Clear misapplication of the law and/or regulations.
 - iii. The finding does not fit the record or facts of the case.
- d. If the ESD Commissioner rejects the mediator/hearing officer recommendation, either party to the dispute and Commissioner's (rejection) decision can be appealed to the U.S. Department of Labor as described in WIOA Section 181(c).

If one or more of the parties to the dispute is dissatisfied with the ESD Commissioner's decision, the decision can be appealed to the U.S. Department of Labor as described in WIOA Section 181(c).

Per WIOA Section 121(h) and proposed 20 CFR 678.725-750, local disputes related to funding of one-stop infrastructure costs are exempt from this policy and will instead be addressed through application of the state one-stop funding mechanism determined by the Governor and subject to a state-level appeals process established by the Governor.

Definitions

None

References

- Public Law 113-128, Workforce Innovation and Opportunity Act of 2014, Section 181(c) – Grievance Procedure
- Employment Security Department Dispute Resolution and Appeals Policy #5410 R.1

Supersedes

SAWDC Dispute Resolution Policy #806 (July 2011)