

State of Alaska
Department of Labor and Workforce Development

Division: Employment and Training Services

Policy: 07-510.1

Subject: Program Complaint and Appeal

Pages: 9

Reference: [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR 200](#); [Workforce Innovation and Opportunity Act Regulations Notice of Proposed Rulemaking](#); [Alaska Technical and Vocational Education Program AS 23.15.820](#); [Displaced Homemakers' Program 8 AAC 88.10-190](#); [Adult Basic Education Program 8 AAC 99.10-200](#); [State Training and Employment Program AS 23.15.620](#); [80 AAC 84.100 State Employment Training Program Performance Standards for Board Evaluation of Training Programs](#); [Child Labor 8 AAC 05.100](#); [20 CFR Part 641 Final Rule](#)

Effective: 5/24/18

Revised: 8/31/18

Approved: _____


James Harvey, DETS Acting Director


Date

1. Parties Affected

This policy applies to the Division of Employment and Training Services (DETS) staff, grant recipients, and any applicant or participant who has applied or received public funds, services or training from DETS.

2. Background

This policy provides a complaint and appeal process for formal or informal resolution of program complaints in DETS funded programs. Program participants may file a complaint with DETS if they are affected by or believe a DETS program or its program provider violated the parameters of the program.

For statutorily authorized programs, the appeal processes available for program providers are those available under the law authorizing that program.

A complainant may appeal a DETS program decision if s/he:

- a. Has applied for services; or
- b. is registered for and is receiving services; and
- c. was denied DETS funding.

3. Policy

The DETS process for resolution of program complaints are specified herein. Grant recipients and program providers must inform participants and other interested parties of the information contained in this document. Any provisions contained in grant agreements, other DETS policies, or other laws and regulations shall apply, even if they are not explicitly stated in this policy. Nothing in this policy shall be construed to contradict prevailing laws and requirements for complaints or equal opportunity matters.

a. **Distinguishing between program and discrimination complaints**

A complaint cannot be processed as both a program complaint and as a discrimination complaint. Program complaints pertain to whether program staff applied the law, regulations, and professional protocol appropriately while making program decisions. A discrimination complaint includes as a reason for mistreatment one of the prohibited factors: race, color, national origin, sex, religion, age, disability, genetics, political affiliation or belief. A complainant should refer to the equal opportunity complaint and appeal policy if the complaint is on the basis of race, color, national origin, sex, religion, age, disability, genetics, political affiliation or belief. See Policy 07-506.1 and Equal Opportunity Discrimination Information Procedures and Complaint and Consent Forms for further guidance.

b. **Retaliation/intimidation or reprisal**

Federal and state laws prohibit retaliation; intimidation or reprisal against any individual because they filed a complaint, opposed a practice, or furnished information on any prohibitive basis.

c. **Types of program complaints**

Individuals may seek redress for decisions made by program staff when applying the law, regulations, and professional protocol. Program complaints may be appealed through program staff and fall into one of three categories, depending on its source:

- i. Individual complaint – pertains to a single person filing a complaint as they feel they have been or are being subjected to an incorrect decision;
- ii. Class action complaint – a complaint filed by one or more individuals alleging incorrect decisions made, not only against themselves, but also against a group of similarly situated individuals; or
- iii. Third party complaint – complaint is filed by a group or individual alleging incorrect decisions made against another group or individual. The group or individual filing the complaint must meet the definition of an “interested party”.

d. **Filing a complaint**

It is recommended, but not required, that the complaint be filed on the DETS Program Complaint Form and Privacy Act Consent Form attached to this policy. A complaint must be filed in writing and contain the following information:

- i. Complainant’s name/address or other means of contacting the complainant;

- ii. Identify of the respondent (including the individual or entity alleged to have made the determination in question);
- iii. The complaint is signed by the complainant or an authorized representative; and
- iv. The allegations, described in sufficient detail to determine whether:
 - a) the complaint is covered under the jurisdiction of DETS;
 - b) the complaint was filed within specified timeframe; and
 - c) the complaint has apparent merit (meaning the decision, if proven to be incorrect, would violate program, state or federal policies, regulations or laws).

e. **Timeframe for filing a complaint**

The complainant must file a complaint within 30 days of the occurrence of the concern.

f. **Withdrawal of Complaint**

The complainant has the right to withdraw the complaint, in writing, at any time.

g. **Division versus Department filing of a complaint**

Complaints may be filed at either the Division level or Department level. Division level complaints are reviewed and determinations made by the Director of DETS, or designee. Department level complaints are reviewed and determination made by the Commissioner, or designee. It is recommended that all complaints be initiated at the Division level, which will preserve the right for further appeal to the Department level, if warranted.

Complaints initially filed at the Department level may not later be filed at the Division level. This does not preclude informal resolution at the local level at the same time.

Division Level complaints may be sent to:

Director, Division of Employment and Training Services
PO Box 115509
Juneau, AK 99811-5509

Department Level complaints may be submitted to:

Department of Labor and Workforce Development
Commissioner
PO Box 111149
Juneau, Alaska 99811-1149
Or Emailed to Commissioner.Labor@alaska.gov

h. Appeal Process

Complainants may appeal Division level determination within five (5) working days of a written denial. All appeals and responses must be in writing and submitted to the Commissioner at the Department level. Department level staff has ten (10) working days to make a decision regarding an appeal. Additional information from the complainant may be requested, bearing in mind that a decision must be made in a timely manner. Department level staff will negotiate with the complainant to determine a reasonable time for additional information to be submitted. Once additional information is received, staff has three (3) working days to make a determination.

If the grant recipient or participant does not agree with the complaint determination they may file a complaint with the US Department of Labor, Employment and Training Administration (ETA) within 60 days of the determination. The ETA office will review the Department determination to ensure the program complaint and appeal policy was followed.

Allegations of violations of Federal law which are not resolved within 30 days under the Department procedures, may be filed with ETA. Allegations determined to be substantial and credible will be investigated and addressed.

Federal Level complaints may be sent to:

U.S. Department of Labor
Employment and Training Administration
Director, Division of National Program, Tools, and Technical Assistance
200 Constitution Ave, NW
Washington DC 20210

i. Confidentiality

Consistent with applicable law and fair determination of the complaint; program providers and staff is required to keep the following information confidential to the maximum extent possible:

- i. the fact that the complaint has been filed;
- ii. the identity of the complainant(s);
- iii. the identity of individual respondents to the allegations; and
- iv. the identity of any person(s) who furnished information relative to, or assisting in, a complaint investigation.

A separate system will be maintained both at the division level and at the department level for logging, tracking, and reporting on complaints. When consent has been provided for the release of the complainant's identity, program providers must ensure that such disclosure is made under conditions that support the continued receipt of confidential information.

4. Definitions

- a. **Complaint:** An oral or written statement that alleges unfair treatment or a violation of applicable law, regulations, or other agreement under DETS programs (also referred to as a grievance).
- b. **Complainant:** An individual, organization, or authorized representative filing the complaint or grievance.
- c. **Department level:** The second level for complaint review and resolution by the Alaska Department of Labor and Workforce Development Commissioner, or designee.
- d. **Division level:** The first level of formal complaint for review and resolution by the Division of Employment and Training Director or designee.
- e. **Employer:** An entity that employs and pays wages to DETS program participants.
- f. **Formal resolution:** A resolution to a complaint that is determined at the Alaska Department of Labor and Workforce Development division or department level.
- g. **Informal resolution:** A mutually acceptable solution to a complaint achieved through formal discussion between complainant and the person or entity against whom the complaint is filed.
- h. **Interested party:** a person or group who has a recognizable stake in the outcome of the complaint.
- i. **Local level:** Complaint review and potential resolution and may include the case manager, and/or DETS program staff.
- j. **Participant:** An individual or organization who currently receives or has received services in the prior two months funded by a DETS program.
- k. **Program complaint:** An oral or written statement that alleges a non-criminal violation by a DETS program provider.
- l. **Program provider:** An entity that, directly or indirectly, receives funding through the DETS.
- m. **Program staff:** DETS personnel whose position is directly related to the operation or administration of a DETS program.
- n. **Working days:** means a day other than Saturday, Sunday, or a State holiday.

STATE OF ALASKA

**Department of Labor and Workforce Development
Division of Employment and Training Services**

Case Number:

Program Complaint

Complainant Information

| | | | | |
|------|-------|----------|------------------------------|------------------------------|
| Name | | | Street Address | |
| City | State | Zip Code | Home Phone Number () | Work Phone Number () |

Complaint Information

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| Date Of Occurrence: |
| To the best of your knowledge, check which of the following program(s) were involved? |
| Workforce Innovation and Opportunity Act: <input type="checkbox"/> Adult <input type="checkbox"/> Dislocated Worker <input type="checkbox"/> Youth |
| <input type="checkbox"/> National Emergency Grant |
| <input type="checkbox"/> State Training and Employment Program (STEP) |
| <input type="checkbox"/> Other (please specify) |
| Have you attempted to resolve this complaint with the agency that provided the services? Yes No |
| What date did you file, or try to file a complaint? / / |
| Have you been provided with a final decision in writing? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach a copy of the final decision. |
| Has 30 days elapsed since you filed or attempted to file your complaint? <input type="checkbox"/> Yes <input type="checkbox"/> No |

Complaint Details

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| Include which laws and rules, grants or other agreements you think have been violated. Include all facts. List all people involved, including legal counsel or other representatives. Tell us if you have filed the complaint with any other government agency. | |
| <u>Attach the facts about your case.</u> | |
| Signature | Date Signed |

Notice about Investigatory Uses of Personal Information

Two Federal laws govern personal information to Federal agencies, including the Civil Rights Center (CRC): the Privacy Act of 1974 (5 U.S.C. 552) and the Freedom of Information Act (5 U.S.C. 552) or "FOIA". Please read this description of how these laws apply to information connected with your complaint. After reading this notice, please sign and return the consent agreement printed on the back of this notice, along with your complaint form.

The **PRIVACY ACT** protects individuals from misuse of personal information held by the State or Federal government. The law applies to records that are kept and can be located by the individual's name, social security number, or other personal identification system. Anyone who submits information to the State of Alaska connection with a program complaint should know the following:

- a) State of Alaska has been authorized to investigate complaints of discrimination on the basis of race, color, national origin, age, and handicap, and in some programs on the basis of sex, religion, citizenship, and political affiliation or belief, in programs that receive Federal funds through the State of Alaska. State of Alaska is also authorized to conduct reviews of federally funded programs to assess their compliance with civil rights law.
- b) Information that State of Alaska collects is analyzed by authorized personnel within State of Alaska. This information may include personnel or program participant records, and other personal information. State of Alaska staff may want to reveal some of the personal information to individuals outside the office in order to verify facts related to the complaint, or to discover new facts which will help State of Alaska determine whether the law has been violated. Such information could include, for example, the physical condition or age of a complainant. State of Alaska may also have to reveal personal information to a person who submits a request for disclosure authorized by the Freedom of Information Act.
- c) Information submitted to State of Alaska may also be revealed to persons outside of State of Alaska because it is necessary in order to complete enforcement proceedings against a program that State of Alaska finds to have violated the law or regulations. Such information could include, for example, the name, income, age, marital status or physical condition of the complainant.
- d) Any personal information you provide may be used only for the specific purpose for which it was requested. State of Alaska requests personal information only for the purpose of carrying out authorized activities to enforce, and determine compliance with, civil rights laws and regulations. State of Alaska will not release personal information to any person or organization unless the person who submitted the information gives written consent, or unless release is required by the Freedom of Information Act.
- e) No law requires that a complainant reveal personal information to State of Alaska, and no action will be taken against a person who denies State of Alaska's request for personal information. However, if State of Alaska cannot obtain the information needed to fully investigate the allegations in the complaint, State of Alaska may close the case.
- f) Any person may ask for, and receive, copies of all personal materials State of Alaska keeps in his or her file for investigatory use.

AS POLICY, THE STATE OF ALASKA DOES NOT REVEAL NAMES AND OTHER IDENTIFYING INFORMATION ABOUT INDIVIDUALS UNLESS IT IS NECESSARY TO COMPLETE INVESTIGATION OR ENFORCEMENT ACTIVITIES AGAINST A PROGRAM WHICH HAS VIOLATED THE LAW.

State of Alaska never reveals to the program under investigation the identity of the person who filed the complaint, unless the complainant first gave State of Alaska written permission to do so.

The FREEDOM OF INFORMATION ACT (FOIA) gives the public maximum access to Federal government files and records. Persons can request, and receive, information from many types of records kept to the Government—not just materials that apply to them personally. The State of Alaska must honor most requests for information submitted under FOIA, but there are exceptions.

- State of Alaska is usually not required to release information during an investigation or an enforcement proceeding if that release would limit State of Alaska’s ability to do its job effectively;

and

- State of Alaska can refuse to disclose information if release would result in a “clearly unwarranted invasion” of a person’s privacy.

PLEASE READ AND SIGN SECTION A OR SECTION B OF THE CONSENT FORM, PRINTED ON THE BACK OF THIS NOTICE, AND RETURN IT TO THE STATE OF ALASKA WITH YOUR SIGNED, COMPLETED COMPLAINT INFORMATION FORM, IF YOU HAVE NOT ALREADY DONE SO.

CONSENT FORM

I have read the Notice about Investigatory Uses of Personal Information.

I understand the following provisions of the Privacy Act and Freedom of Information Act, which apply to personal information I reveal to the State of Alaska or Civil Rights Center (CRC) in connection with my complain:

- In the course of investigating my complaint, the State of Alaska may have to reveal my identity to staff of the program named in my complaint in order to obtain facts and evidence regarding my complaint;
- I understand that I do not have to reveal any personal information to the State of Alaska, however the State of Alaska may close my complaint if I refuse to reveal information needed to fully investigate my complaint;
- I may request and receive a copy of any personal information the State of Alaska keeps in my complaint file for investigatory uses; and
- Under certain conditions, may be required by the Freedom of Information Act to reveal to others personal information I have provided in connection with my complaint.

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| SECTION A | YES, THE STATE OF ALASKA MAY DISCLOSE MY IDENTITY IF NECESSARY TO INVESTIGATE MY COMPLAINT. |
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I have read and understand the notice, and I consent for the State of Alaska to process my complaint.

Signature

Date

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| SECTION B | NO, THE STATE OF ALASKA MAY NOT DISCLOSE MY IDENTITY, EVEN IF NECESSARY TO PROCESS MY COMPLAINT. |
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I have read and understand the notice, and I do not consent for State of Alaska to disclose my identity during investigation on of my complaint. I request that the State of Alaska process my complaint, however, I understand that the State of Alaska may cancel my complaint if it cannot fully investigate without disclosing my identity. I also understand that the State of Alaska may close my complaint if it cannot begin an investigation because I have not consented for the State of Alaska to reveal my identity.

Signature

Date