

Policy: **Dispute Resolution**

Policy Number: **1030 – 1 Revision 1 (August 23, 2011)**

Effective Date: **July 1, 2011**

**SUBJECT: Dispute Resolution Policy**

**PURPOSE:** To provide guidelines and standards to ensure all WorkSource Northwest centers and affiliate partners are able to manage partnership issues that may result in a dispute between partner organizations.

**REFERENCES:** Workforce Investment Act (1998), CFR 662.310(b)&(c), 20 CFR 665.200(d)(2), and NWC Policy 01-37 Code of Ethics, Conflict of Interest and Protected Disclosure Policies

**BACKGROUND:** This policy defines a process which attempts to avoid a real or perceived conflict of interest in the formal mediation of a dispute. It is assumed any organization which is party to a dispute elevated to mediation, at either the local board or state level, must guard against problems arising from real, potential, or perceived conflicts of interest and to maintain an appearance of fairness.

The Northwest Workforce Council (NWC) is committed to maintaining the highest standards of ethical conduct. The NWC recognizes conflicts of interest and issues concerning the appearance of fairness may arise. Therefore, it is essential the WorkSource Northwest Career Centers and any affiliated partners be sensitive and err on the side of caution when potential or real conflict of interest or fairness matters occur.

This policy is referenced in NWC's *One Stop Operator Agreement*, *Memorandum of Understanding*; and *Regional Business Services Plan*. This policy is designed to recognize the requirements of NWC Policy 01-37 Code of Ethics, Conflict of Interest and Protected Disclosure Policies (Appendix A), and CFR 662.310(b) & (c) below.

**POLICY:** This policy defines the procedure WorkSource Northwest partners use to resolve disagreements in general, including those regarding documents such as the One Stop Operator Agreement and Regional Business Services Plan, and specifically the Memorandum of Understanding content, language, or signature.

The parties to this agreement agree to communicate openly and directly and that every effort will be made to resolve any problems or disputes in a cooperative manner. The NWC encourages consultation with affected organizations' senior leadership in the process of achieving a viable solution to a dispute between two or more partner organizations. For disputes regarding terms and conditions, performance, or administration of the documents named in the Background section above, that cannot be resolved through communication between the parties, the following procedure will be initiated. Also see the flow diagram of this procedure.

This policy may be found at [www.nwboard.org](http://www.nwboard.org)

**GENERAL PROCEDURES:** Disputes should, wherever possible, be resolved at the local level. Disputes need to be submitted in writing within 60 days of the disagreement to the NWC Executive Director. The written document should state the problem, a history of resolution strategies attempted and their outcomes; and a desired resolution.

1. All attempts to resolve disputes among or between WorkSource system partners within the Northwest shall begin with negotiations between the parties of the dispute. Partners are encouraged to put forth good faith efforts in communication and compromise in order to find solutions to their disagreements in a cooperative and timely manner. All actions taken to resolve disputes must be documented.
2. Should parties be unable to resolve the dispute through negotiation within 60 days, the Chief Elected Official (CLEO) and the chairperson of the NWC shall appoint an ad hoc committee from members of the Executive Committee and notify ESD's WorkSource Standards and Integration Division (WSID). The members of the ad hoc committee will confer with the parties involved, and attempt to resolve the dispute to the satisfaction of all concerned. All actions taken to resolve disputes will be documented.
3. Should the Executive Committee's ad hoc committee render a decision unacceptable to one or more of the parties involved in the dispute, the CLEO and NWC chairperson shall make a final determination. If the dispute involves a State Agency, the CLEO and Chair shall contact and engage that agency's director in efforts to negotiate a resolution.

#### **DISPUTES REGARDING FAILURE TO SIGN MEMORANDUM OF UNDERSTANDING**

1. Should the parties fail to resolve the issue within 60 days at the local level by deploying general dispute resolution procedure steps 1 -2 above, the NWC chairperson shall request the assistance of the CLEO and the Executive Director of the State's Workforce Training and Education Coordinating Board (WTECB) to provide assistance and further mediation. The NWC chairperson shall send a letter advising the Commissioner of ESD, as the administrative entity of the WIA, of the impasse, with a copy sent to the Assistant Commissioner of WSID. The CLEO and the WTECB may seek alternatives such as asking for third-party mediation, or consultation with the Commissioner of ESD or the Governor's Office, to propose a resolution. Additionally, the disputing partner's program administration will be informed. All actions taken to resolve disputes will be documented.
2. If the impasse continues, a notification of failure to sign as noted in CFR 662.310(b) will be reported by the Local Board and the required partner to the Governor and the State agency responsible for administering the partner's program. A report will also be sent to the Department of Labor as noted in 662.310(b)."
3. If an impasse has not been resolved through the alternatives available under this section any partner that fails to execute the MOU may not be permitted to serve on the local board. In

addition, any local area in which a local board has failed to execute with all of the required partners is not eligible for state incentive grants. (CFR 662.310(c) and 20 CFR 665.200(d)(2)).

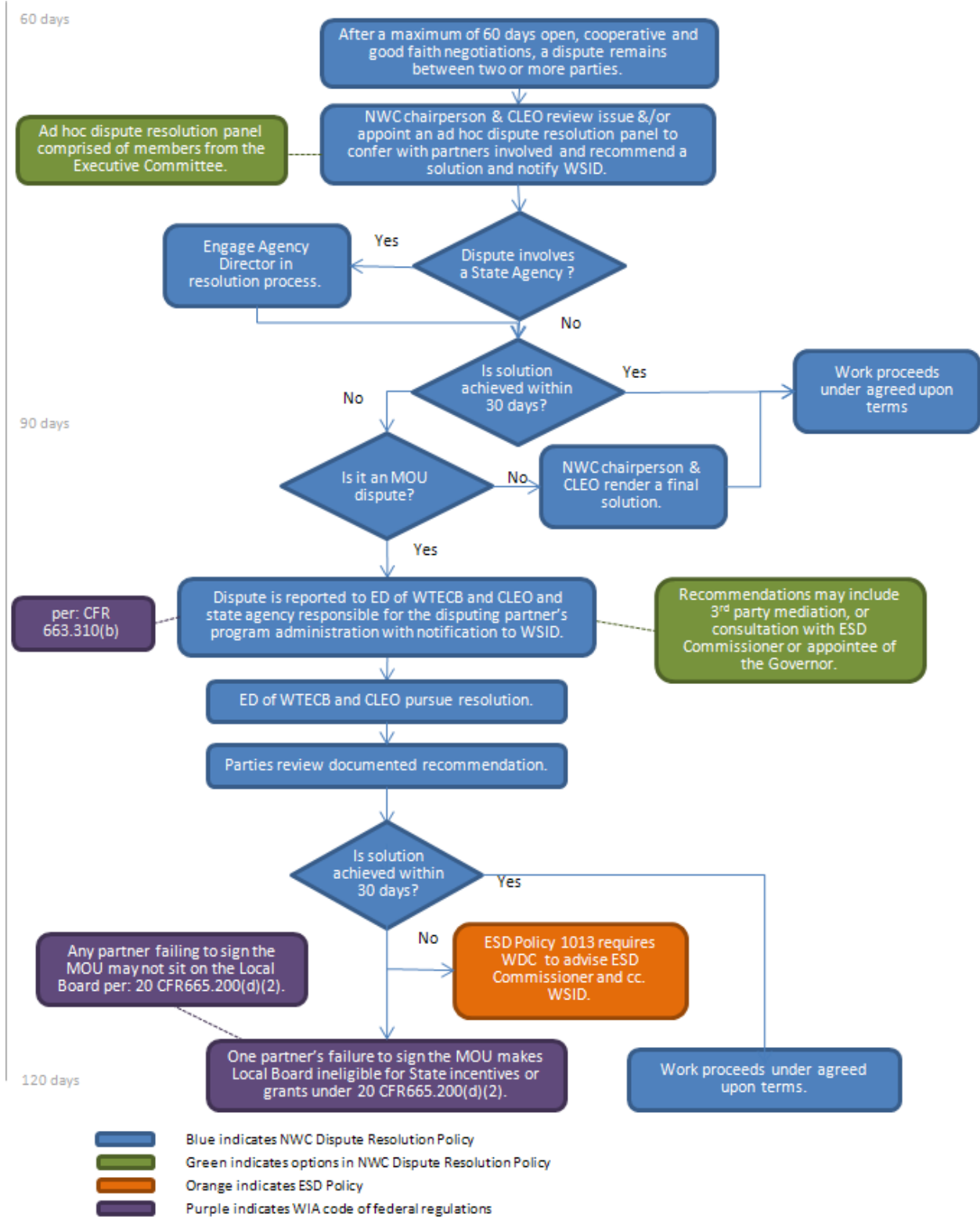
The above steps are intended to provide assistance to resolve disputes and add clarification and not to supplant or replace language in the Workforce Investment Act or Code of Federal Regulations (CFR).

### **WIA CFR 662.310(b) & (c)**

*(b) WIA emphasizes full and effective partnerships between Local Boards, chief elected officials and One-Stop partners. Local Boards and partners must enter into good-faith negotiations. Local Boards, chief elected officials and partners may request assistance from a State agency responsible for administering the partner program, the Governor, State Board, or other appropriate parties. The State agencies, the State Board, and the Governor may also consult with the appropriate Federal agencies to address impasse situations after exhausting other alternatives. The Local Board and partners must document the negotiations and efforts that have taken place. Any failure to execute an MOU between a Local Board and a required partner must be reported by the Local Board and the required partner to the Governor or State Board, and the State agency responsible for administering the partner's program, and by the Governor or the State Board and the responsible State agency to the Secretary of Labor and to the head of any other Federal agency with responsibility to oversight of a partner's program. (WIA sec. 121(c).)*

*(c) If an impasse has not been resolved through the alternatives available under this section any partner that fails to execute an MOU may not be permitted to serve on the Local Board. In addition, any local area in which a Local Board has failed to execute an MOU with all of the required partners is not eligible for State incentive grants awarded on the basis of local coordination of activities under 20 CFR 665.200(d)(2). These sanctions are in addition to, not in lieu of, any other remedies that may be applicable to the Local Board or to each partner for failure to comply with the statutory requirement.*

# Northwest Workforce Council Dispute Resolution Process - Revision 1



## **Appendix A – NWC Policy WIA 01-37, Code of Ethics, Conflict of Interest & Protected Disclosure Policies**

**EFFECTIVE DATE: March 26, 2008**

### **Background:**

The Northwest Workforce Council is committed to maintaining the highest of standards of ethical conduct. Every Board member and employee is expected to read, understand and apply this policy.

The Northwest Workforce Council (NWC) recognizes that by its very composition conflicts of interest and issues concerning the appearance of fairness may arise. Therefore, it is essential for the NWC Board of Directors, Youth Council, committee, and staff members to be sensitive and error on the side of caution when potential or real conflict or fairness matters occur.

The Northwest Workforce Council recognizes that many members of NWC Board of Directors, and members of the NWC Youth Council, are selected because of their expertise and involvement in youth services, training, education, employment, and employer services. These members should have every opportunity to share their talent, knowledge, and experience within the parameters of fairness. The NWC also recognizes that NWC Board of Directors, Youth Council, committee, and staff members may have professional and/or personal associations which could lead to conflicts of interest or unfairness – real or apparent.

The Northwest Workforce Council is required to guard against problems arising from real, perceived, or potential conflicts of interest and to maintain an appearance of fairness. To accomplish these purposes, the NWC establishes the following definitions, actions, and guidelines for interpretation.

- I. **Code of Ethics:** During the performance of duties, your actions are a reflection upon the NWC as well as a reflection upon you. It is extremely important that all Board Members, employees and subcontractors act in a courteous, friendly, helpful and prompt manner in dealing with the public, customers, other employees, supervisors, officials, and members of both internal and external organizations of the NWC.

### **Ethical Principles:**

All Northwest Workforce Council board/committee members, Youth Council members, employees or subcontractors hereafter referred to as Representatives will conduct

themselves in an honest and ethical manner, including the ethical handling of perceived, potential and actual conflicts of interest between NWC interests and the personal or financial interests of a NWC representative.

- A. **Compliance with the Law:** It is the NWC's policy to be knowledgeable of and comply with all applicable laws and regulations of the United States and the State of Washington in a manner that will reflect a high standard of ethics. Compliance does not comprise one's entire ethical responsibility; rather it is a minimum, and an essential condition for adherence to mission and duties.
  
- B. **Professional Standards:** It is the NWC's policy that its representatives be knowledgeable of emerging issues and professional standards in the field and conducts themselves with professional competence, fairness, efficiency and effectiveness.
  
- C. **Responsibility to NWC Employees:** NWC is committed to treating employees with honesty and respect, and to provide a safe and healthy work environment. The NWC fully supports all relevant laws to protect and safeguard the rights and opportunities of all people to seek, obtain, and hold employment without regard to race, religion, sexual orientation, marital status, disability, age, national origin or other protected status. It is the NWC's intent to provide an environment free of unlawful harassment and discrimination.

#### **Guidelines for Interpretation:**

Areas of concern are those actions or lack of actions which may lead to conflict or interest or the appearance of conflict of interest or to a perception of unfairness related to NWC business or NWC, Youth Council, committee, and staff actions outside NWC meetings. Specific areas which may pose problems include, but are not limited to, comments made in public, information sharing, and disclosure of associations.

- A. **Comments Made in Public:** Representatives are encouraged to act in a public relations capacity for the NWC. This includes public speaking engagements and comments in a public forum. Because there is interest in NWC actions, Representatives should differentiate between descriptive comments, which relate to actions already taken by the NWC, and statements, which imply future NWC decision making, or the ability to influence decision-making.
  
- B. **Information Sharing:** Representatives are encouraged to share information with the community about NWC activities. All must protect against implying that actions taken by a specific interested party may result in favorable consideration by the NWC. To the extent possible, access to information regarding procurement of services should be available at the same time and under the same circumstances to all parties. Such

information includes the Strategic and Operations Plans, requests for proposals, notice of meetings, meeting minutes, and policies.

- C. **Disclosure of Associations:** Representatives have professional and personal associations throughout the community. Such associations have been and will continue to be of significant benefit to the NWC. Where a direct or indirect financial conflict of interest exists, a NWC, Youth Council, or committee member may not vote or serve on a rating team. NWC, Youth Council, committee members, and staff must disclose all such associations. When associations raise appearance of fairness as an issue, NWC, Youth Council, committee, and staff members should qualify statements in public by disclosing the association: minutes of the meeting should reflect the disclosure. NWC staff shall not serve on boards of directors or advisory boards of organizations which are subgrantees or subrecipients (as defined under the Workforce Investment Act Public Law 105-220) of NWC funds.

## II. **Conflict of Interest**

A Conflict of Interest Policy is required in order to ensure that individuals or representatives of Northwest Workforce Council entrusted with public funds will not personally or professionally benefit from the award or expenditure of such funds.

### **Policy & Definitions**

- A. All procurement transactions whether negotiated or advertised, without regard to dollar amounts, shall be conducted in a manner that avoids conflicts of interest or the appearance of conflict of interest. No Workforce Council member (director), officer, staff or agent shall participate, cast a vote, nor participate in any decision-making capacity, in the selection, award or administration of a contract if a real, implied or apparent conflict of interest would be involved. Such a conflict would arise when the member, officer, employee or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. A director, officer, staff or agent shall declare when a conflict of interest could occur.
- B. Neither membership on the WDC nor the receipt of WIA funds to provide training and related services shall be construed, by itself, to violate provisions of the WIA or its regulations.
- C. A conflict of interest under paragraph 1 would arise when:
- An individual, i.e., director, employee, officer, agent, or

- Any member of the individual's immediate family (partners, spouse, children, or siblings), or
  - The individual's business partner, or
  - An organization which employs, or is about to employ an individual (individual has received a job offer from the organization) who has financial or other interest, either through ownership or employment, and participates in the selection or award of funding for that organization or firm.
- D. Employees shall not provide or involve themselves in any aspect of agency services involving their friends, relatives, and/or former co-workers, such as; but not limited to:
- Accept, process or involve themselves in any phase of the initial or continued eligibility and provision of service process;
  - Interview, refer or participate in other services to employers or clients for purpose of obtaining jobs or services.
- E. Workforce Council Officers, members, employees and agents shall neither solicit nor accept gratuities, favors or anything of monetary value from subgrantees, contractors, or potential subgrantees or contractors.
- F. The prior paragraph does not apply where the financial interest is not substantial (not more than \$50.00) or the gift is an unsolicited item of nominal intrinsic value (not more than \$50.00).
- G. Any violations of these provisions against conflict of interest shall be evaluated by the Executive Committee on a case-by-case basis to determine if and what penalties, sanctions, or other disciplinary actions are appropriate.
- H. All directors, employees, officers and agents shall sign a copy of this policy acknowledging they have read and understood this policy. Signed copies will be maintained in a file, retention of which should be for the duration of the relationship to NWC plus three years.
- I. This policy will be reviewed and circulated annually at the first calendar quarter NWDC Board meeting of the year.

### III. **Appearance of Fairness**

The issue of the appearance of fairness arises out of associations, past, present, and future. While not a financial issue, as in conflict of interest, the association may appear unfair to the public. Associations which may cause an unfair appearance are memberships on boards of directors, advisory boards, professional and personal associations, and membership-like

associations.

Whenever a NWC, representative is in doubt about a possible problem with appearance of fairness, they will disclose the association from which the problem arises. Disclosure of association(s) does not prohibit a NWC, Youth Council, or committee member from voting or participating in other NWC business unless prohibited by the Board of Directors.

Associations are those which pertain to memberships in organizations or contractual agreements such as those between partners, stockholders, or employers and employees as well as those which arise out of custom, shared interests, friendships, or other relationships.

#### IV. **Protected Disclosure of Employee Concerns**

##### **Policy**

The Northwest Workforce Council is committed to lawful and ethical behavior in all of its activities and requires its employees to conduct themselves in a manner that complies with all applicable laws and regulations. If at any time a concern exists regarding the propriety or legality of any action contemplated to be taken or that has been taken by any NWC employee, or grantee, contractor, vendor, as the action relates to NWC activities, or if an action needs to be taken in order for the NWC to be in compliance with law or appropriate ethical standards, you can address the issue directly by going to your manager or to the next level of management as needed until matters are satisfactorily resolved.

Alternatively, if you are not comfortable speaking to a manager or do not feel your issue has been properly addressed, you may contact the NWC Equal Opportunity Officer (Operations Manager) or the Executive Director.

Under this policy, those who report illegal or improper activity will be protected. Efforts will be made to treat a report of unethical or illegal conduct as confidential, consistent with the need to investigate and prevent or correct the action. The individual making the report will not be discharged, threatened, harassed, or discriminated against for reporting in good faith what they perceive to be wrongdoing, violations of law, or unethical conduct.

#### **How Are Complaints and Reports of Criminal Fraud and Abuse Addressed Under The Workforce Investment Act?**

Information and complaints involving criminal fraud, waste, abuse or other criminal activity must be reported immediately through the Department's Incident Reporting System to the DOL Office of Inspector General, Office of Investigations, Room S5514, 200 Constitution Avenue NW., Washington, DC 20210, or to the corresponding Regional Inspector General

for Investigations, with a copy simultaneously provided to the Employment and Training Administration. The Hotline number is 1-800-347-3756. Complaints of a non-criminal nature are handled under the procedures set forth in Sec. 667.505 of this part or through the Department's Incident Reporting System. (20 CFR 667.730)

### **Retaliatory Action Unlawful:**

1. It is unlawful for any employee to take retaliatory action against another employee because the employee provided information in good faith in accordance with the provisions that an improper governmental action occurred.
2. In order to seek relief, a NWC employee shall provide a written notice of the charge of retaliatory action to the Equal Opportunity Officer (EEO) of the NWC that:
  - A. Specifies the alleged retaliatory action; and
  - B. Specifies the relief requested.
3. The charge shall be delivered to the NWC no later than (30) thirty days after the occurrence of the alleged retaliatory action. The NWC has (30) thirty days to respond to the charge of retaliatory action and request for relief.

“Retaliatory action” means:

- (a) Any adverse change in a NWC employee’s employment status, or the terms and conditions of employment including denial of adequate staff to perform duties, frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action; or
- (b) Hostile actions by another employee towards a NWC employee that were encouraged by a supervisor or senior manager or official.

### **References:**

All policies and guidance letters published for WIA are governed, as appropriate, under: Public Law 105-200, Section. 117.

Workforce Investment Act Complaints of Fraud and Abuse Reporting under: 20 CFR 667.730

Northwest Workforce Council Complaint and Hearing Procedure Workforce Investment Act WIA 01-02.