

Bay Consortium Workforce Development Board

Policy Number: 22-01

Effective Date: August 3, 2022

Title: BCWDB Fraud, Program Abuse, and Criminal Misconduct Policy

PURPOSE

To establish expectations and procedures for reporting alleged, suspected, or known fraud, program abuse and criminal misconduct to the Bay Consortium Workforce Development Board (BCWDB) and the Department of Labor's (DOL) Office of Inspector General (OIG). 20 CFR 683.620 and TEGL 2-12 provide expectations and requirements for immediately reporting information and complaints involving criminal fraud, waste, abuse, or other criminal activity that must be reported to OIG.

REFERENCES

- [20 CFR 683.620](#) – How are complaints and reports of criminal fraud and abuse addressed under WIOA?
- [DOL TEGL 2-12](#) – ETA Grant Recipient Responsibilities for Reporting Instances of Suspected Fraud, Program Abuse and Criminal Conduct

POLICY

This policy establishes appropriate internal expectations or procedures for all subrecipients, including the BCWDB, to prevent and detect fraud, abuse, gross mismanagement or misuse of program funds and criminal activity and to follow the procedures set forth herein 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 the Workforce Innovation and Opportunity Act (WIOA).

The [Incident Report \(IR\) form](#), Office of Inspector General (OIG) 1-156 is the official form to be used for reporting allegations of criminal and other illegal or improper activities in WIOA funded programs. When the OIG receives an IR, they determine whether the allegations have merit and, when appropriate, conduct or arrange for an investigation and/or audit. If the OIG determines that the case does not have investigative or audit merit, the case is referred back to ETA for resolution.

No action will be taken against any individual who discloses information concerning criminal or improper activities or makes a valid complaint to proper authorities. These individuals may remain anonymous. If an individual believes that his/her position will be compromised by

reporting information through the IR system, he/she may send the report directly to the OIG (see contact information below).

Reporting procedures do not supersede the responsibility for subrecipients, including WFC, 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. 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 ESD (see contact information below) when the incident report is submitted.

PROCEDURES

All incident reports, emergency or other, must be sent to BCWDB and the OIG using the contact information provided below. BCWDB and their subrecipients must use the [IR form](#) to 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 actions.

Situations involving imminent health or safety concerns, or the imminent loss of funds exceeding \$50,000 are considered emergencies and must immediately be reported to BCWDB and the OIG. The BCWDB and its subrecipients must submit incident reports to the following entities:

<p>Bay Consortium Workforce Development Board (BCWDB) <i>(Choose one method)</i></p> <ul style="list-style-type: none"> • Phone: 804-333-4048 • Mail: Executive Director Attention: WIOA Incident Reporting P.O. Box 1117 Warsaw, VA 22572 	<p><u>AND*</u></p>	<p>Office of Inspector General: <i>(Choose one method)</i></p> <ul style="list-style-type: none"> • Hotline Online Complaint Form: https://www.oig.dol.gov/hotline.htm • FAX: (202) 693-7020 • Mail: Attention: Hotline Office of Inspector General U.S. Department of Labor 200 Constitution Avenue, N.W. Room S-5514 Washington, D.C., 20210 • Hotline for emergency situations: 1-800-347-3756 or 202-693-6999 <p><i>COPY:</i></p> <p>Employment and Training Administration <i>(Choose one method)</i></p> <ul style="list-style-type: none"> • Attention: Regional Administrator US Department of Labor Employment and Training Administration 1835 Market Street Mailstop ETA/20 Philadelphia, PA 19103-2968 • Email: RO2-RA-PHL@dol.gov • Phone: 215-861-5202 • Fax: 215-861-5260
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Per requirements at 20 CFR 683.620 to copy Department of Labor Employment and Training Administration (DOLETA) on incident reports, ESD will forward any incident reports it receives to DOLETA on behalf of the reporting agency.

*If BCWDB is the subject of the incident report, the incident should only be reported to the OIG with a copy provided directly to DOLETA by the reporting entity.

DEFINITIONS

The definitions of employee/participant misconduct; fraud, misfeasance or malfeasance; gross mismanagement; and misapplication of funds included below were developed to provide guidance for the purpose of implementing TEGL 2-12. These definitions are illustrative and are not intended to be either fully inclusive or restrictive.

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

Employee/Participant Misconduct – BCWDB, subrecipient, partner, contractor, or participant actions occurring during or outside work hours that reflect negatively on BCWDB and/or 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 and 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.

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 participant 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, and misrepresenting information in official reports.

Gross Mismanagement – Actions or situations arising out of management ineptitude or oversight and 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 un-auditable records, unsupported costs, highly inaccurate fiscal reports or program reports, payroll discrepancies, payroll deductions not paid to the Internal Revenue Service (IRS), and lack of good internal control procedures.

Incident Report (IR) (OIG 1-156) – This is the form for reporting instances of fraud, misapplication of funds, gross mismanagement, and any other incidents of known or suspected criminal or other serious activities. The IR OIG 1-156 may also be used to provide interim and final reports.

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, and 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.

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