

AB # 19-08
Effective Date: Immediately
Supersedes AB 32 (Revised)
Issued 10/03/2013

ACTION BULLETIN

TO: All WIOA Program Operators

DATE: September 30, 2019

SUBJECT: INCIDENT REPORTING

PURPOSE OF BULLETIN:

This Action Bulletin provides procedures for reporting incidents of criminal fraud, criminal abuse or other criminal activity and noncriminal complaints such as mismanagement and gross waste of Workforce Innovation and Opportunity Act (WIOA) funds.

SCOPE:

This directive applies to Local Workforce Development Areas (LWDA) and other subrecipients of programs funded under the WIOA.

REFERENCES:

- Title 20 Code of Federal Regulations (CFR) Sections 667.505 and 667.630
- DOL Training Employment and Guidance Letter 2-12, Employment and Training Administration (ETA) Grant Recipient Responsibilities for Reporting Instances of Suspected Fraud, Program Abuse and Criminal Conduct (July 12, 2012)
- Workforce Services Directive (WSD) 12-18; Issued June 12, 2013

BACKGROUND:

The Alameda County Workforce Development Board (ACWDB) is required to report all allegations of WIOA-related fraud, abuse, and other criminal activity to the Employment Development Department's (EDD) Compliance Review Office (CRO), and the Department of Labor's (DOL) Office of Inspector General (OIG).

POLICY:

The ACWDB shall be notified of any suspected or proven incidents of fraud, abuse or other criminal activity involving WIOA-funded activities committed by staff, contractors, or program participants.

All incident reporting documents will be submitted directly to the ACWDB Director at the following address:

Attn: WDB Director
Alameda County Workforce Development Board
24100 Amador Street, 6th Floor, Suite 610C
Hayward, CA 94544
Phone: (510) 259-3842
Fax: (510) 259-3845

The reporting document must be submitted within one workday (24 hours) of detection or discovery of information alleging fraud, abuse, or other criminal activity involving WIOA funds. This immediate action is to prevent further financial loss and hopefully, recover WIOA funds or property. ACWDB staff is responsible for taking any action it deems appropriate, including contacting the local law enforcement agency when immediate action is required.

ACWDB is responsible for forwarding all incident reports simultaneously to the following:

CRO Mail: Attention: Compliance Resolution Unit

Compliance Review Office, MIC 22
Employment Development Department
P.O. Box 826880
Sacramento, CA 94280-0001

OIG (choose one of the following methods)

- Website: www.oig.dol.gov/hotlinecontact.htm
- Telephone: 1-800-347-3756
- FAX: (202) 693-7020
- Mail: Office of Inspector General
Complaints Analysis Office
200 Constitution Avenue, N.W., Room S-5506
Washington, D.C. 20210

Each subrecipient of WIOA funds shall establish appropriate internal procedures to prevent and detect fraud, abuse, and criminal activity. These procedures must include a reporting process to ensure that the CRO and OIG are notified immediately of any allegations of WIOA-related fraud, abuse, or criminal activity. Internal procedures must be in writing and include the designation of a person on the subrecipients' staff who will be responsible for such notifications.

Subrecipient contractors will establish, document, and implement procedures to immediately notify the funding entity of any suspected or proven fraud, abuse, or other criminal activity involving WIOA-funded activities. Funding entities must provide written notification to subrecipient contractors regarding their responsibilities to be alert for instances of fraud, abuse, and criminal

activity committed by staff, contractors, or program participants and to report all such instances to the funding entity, the CRO and the OIG immediately. Proof of this notification must be maintained in the funding entity's files.

Subrecipients detecting the presence or appearance of fraud, abuse, or other criminal activity must obtain sufficient information to provide a clear, concise report of each incident. Reports must include a statement of all facts, known at the time, as well as any known or estimated loss of WIOA funds resulting from the incident. It is important that an initial report is made to the CRO and the OIG within one working day of the detection of the incident.

The submission of an incident report should not be delayed, even if all facts are not readily available. Any facts subsequently developed by the subrecipient are to be forwarded in a supplemental incident report.

The reporting procedures do not supersede the responsibility for subrecipients 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.

Within one workday of detection or discovery of information alleging fraud, abuse, or other criminal activity involving WIOA funds, the detecting entity shall prepare a written incident report. The report must be submitted on the attached incident report form or similar document containing the requested information. Submit the report to the funding agency, and/or the CRO and the OIG.

Allegations considered to be of an emergency nature may be reported by telephone to the Compliance Resolution Unit Supervisor at (916) 653-0298 and by calling the OIG Hotline at 1-800-347-3756 and followed immediately thereafter by a written incident report.

The Workforce Services Division will forward any incident report it receives to the CRO. The CRO will record any incident report it receives in the WIOA Incident Report System and forward the incident report to DOL/ETA, Region 6, within one working day of receipt. However, the CRO may have to contact the reporting entity for clarification or additional details prior to forwarding it to Region 6. Concurrently with its transmittal of the incident report to Region 6, the CRO will, when applicable, notify the reporting entity to take appropriate action to recover misspent funds, or to contain its financial liability.

Upon receipt, Region 6 will forward the incident report to the DOL Regional OIG, San Francisco. Subsequently, Region 6 will advise the EDD of the action to be taken by the DOL Regional OIG. If the OIG decides to investigate the incident, the CRO will wait for the OIG's results before commencing the state-level formal resolution. If the OIG decides not to investigate the incident, the CRO will request, when appropriate, a special monitoring review or an investigation by the appropriate state entities. Otherwise, the CRO will require the subrecipient to submit its fact finding and local resolution.

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 the CRO when the incident report is submitted.

Allegations of fraud, abuse, or other criminal activity in WIOA-funded programs may originate from sources other than subrecipients. Such sources may include informants, independent auditors, or local law enforcement agencies. Whenever the EDD receives an allegation from such source, the CRO will prepare an incident report (DOL Form DL 1-156) and submit it to Region 6. In such a case, the CRO will, when appropriate, inform the subject subrecipient of the incident reported and advise the latter of the need to take certain action.

During an investigation, based on a report of fraud or abuse, the DOL OIG investigators or auditors may contact a subrecipient regarding an incident of which the subrecipient was not previously aware. Upon learning of the incident from federal sources, the subrecipient should contact the CRO to determine whether the latter is aware of the incident. If the subrecipient is not aware of the allegations but the CRO is, then the CRO will, when appropriate, inform the subrecipient of the specific allegations contained in the incident report.

Action will not be taken against any complainant for disclosing information concerning criminal or improper activities or making a valid complaint to proper authorities. Complainants may remain anonymous. If a complainant considers that his or her position will be compromised by reporting information via an incident report, he or she may send the report directly to the OIG.

ACTION:

- This ACWDB Action Bulletin becomes effective immediately upon release.
- All WIOA Program Operators shall comply with these requirements.
- All relevant staff shall be immediately informed of this bulletin and all requirements contained herein.

For information and inquiries please contact:

Assistant Director
Alameda County Workforce Development Board
24100 Amador Street, 6th Floor
Hayward, CA 94544-1203
(510) 259-3836

ATTACHMENTS:

1. Glossary of Terms – 2 pages
2. Incident Report Form – 1 page

Glossary of Terms

The federal definitions that follow are provided for use as a guide in the identification of fraud, abuse, and other criminal activity. Since the definitions cannot address every possible activity, questions as to whether an activity is reportable under this policy should be referred to your ACWDB office for clarification and guidance.

Complaint, for this directive only, means criminal complaint and noncriminal complaints accepted by DOL as incidents, such as gross waste of funds, mismanagement and dangers to the public health and safety.

Employee/Participant Misconduct should be considered as actions occurring during or outside work hours, that reflect negatively on the program or its purpose, and may include, but are not limited to, conflict of interest involving outside employment, business and professional activities, and the receipt or giving of gifts, fees, entertainment, and favors; misuse of federal property; misuse of official information; and other activities that might adversely affect the confidence of the public regarding the integrity of government.

Fraud is any deceitful act or omission, or willful device used with the intent to obtain some unjust advantage for one party, or to cause an inconvenience or loss to another party. Types of fraud include embezzlement, forgery, theft, solicitation and receipt of bribes (kickbacks), and falsification of records and claims regarding trainees (e.g., knowingly enrolling ineligible participants). Criminal fraud is a type of larceny and is punishable under both federal and California law as a felony. Civil fraud is subject to tort actions under civil laws.

Gross Mismanagement is defined as actions, or situations arising out of management ineptitude or oversight, which lead to a major violation of contract provisions and/or which severely hamper accomplishment of program goals. These include situations, which lead to waste of government resources and put into serious jeopardy future support for a particular project. This category includes, but is not limited to, unauditable records, unsupported costs, highly inaccurate fiscal and/or program reports, payroll discrepancies, payroll deductions not paid to the Internal Revenue Service or the State of California, and the lack of internal control procedures.

Misapplication of Funds is defined as any use of funds, assets, or property not authorized or provided for in the grant or contract. This category includes, but is not limited to, nepotism, political patronage, use of participants for political activity, intentional services to ineligible enrollees, conflict of interest, failure to report income derived from federal funds, violation of contract provisions, maintenance of effort violations, and the use of the WIOA funds for other than WIOA purposes.

Standard of Conduct Violations are violations of terms and conditions stipulated in the subgrant agreement. The relevant stipulations in the subgrant agreement are General Assurances, Employment of Former State Employees, Conducting Business Involving Relatives, Conducting

Business Involving Close Personal Friends and Associates, Avoidance of Conflict of Economic Interest, and Maintenance of Effort.

Glossary of Terms (Continued)

Subrecipient, for this directive, means LWDA's and other recipients that receive WIOA funds directly from the State.

Sub-recipient Contractor means a recipient that does not receive WIA funds directly from the State.

ALAMEDA COUNTY WORKFORCE DEVELOPMENT BOARD
Incident Report for Fraud, Criminal Activity, Mismanagement or Waste

1. Name of Person Completing Report: _____	
2. Date: _____	3. Date ACWDB forward to: A. CRD: _____ B. OIG: _____
4. Type of Report (check one) <input type="checkbox"/> Initial <input type="checkbox"/> Supplemental <input type="checkbox"/> Final <input type="checkbox"/> Other [specify]	5. Type of incident (check one) <input type="checkbox"/> Conduct violation <input type="checkbox"/> Criminal violation <input type="checkbox"/> Program violation <input type="checkbox"/> Mismanagement or Waste
6. Allegation against (check one) <input type="checkbox"/> Contractor <input type="checkbox"/> Program Participant <input type="checkbox"/> Other [(specify), give name and position of employee(s), list telephone number, Social Security account number, if applicable, and other identifying data.]	
7. Location of incident [give complete name(s) and addresses of organization(s) involved]	
8. Date and time of incident/discovery [date, time]	
9. Source of complaint (check one) <input type="checkbox"/> Audit <input type="checkbox"/> Contractor <input type="checkbox"/> Program Participant <input type="checkbox"/> Public <input type="checkbox"/> Investigative Law Enforcement Agency [(specify)] <input type="checkbox"/> Other [(specify)], give name and telephone number so additional information can be obtained.]	
10. Contacts with law enforcement agencies [specify name(s) and agency contacted and results]	
11. Persons who can provide additional information [(include custodian of records) name, position or job title, employment, local address (street, city and state) or organization, if employed and telephone number]	
12. Details of incident [describe the incident (use additional sheets of paper if necessary)]	
The ACWDB will forward copies to the Alameda County Board of Supervisors, 1221 Oak Street, Suite 536, Oakland, CA 94612; Compliance Review Division, MIC 22M, Attention: Compliance Resolution Unit, Employment Development Department, P.O. Box 826880, Sacramento, CA 94280-0001; Office of Inspector General, Dept. of Labor, 200 Constitution Avenue NW, Rm. S-5506, Washington, D.C. 20210.	