
Employment Service Complaint System

GENERAL INSTRUCTIONS

The attached Directive is being issued in draft to give the Workforce Development Community the opportunity to review and comment prior to final issuance.

Submit any comments by email no later than **May 8, 2024**.

All comments received within the comment period will be considered before issuing the final Directive. Commenters will not be responded to individually. Rather, a summary of comments will be released with the final Directive.

Comments received after the specified due date will not be considered.

Email

ESComplaints@edd.ca.gov

Include "Draft Directive Comments" in the email subject line.

If you have any questions, contact Eduardo Rodriguez at 1-916-796-7699.

Employment Service Complaint System

Executive Summary

This policy provides the guidance and establishes the procedures regarding the Employment Service (ES) Complaint System, including the intake of complaints involving ES regulations or employment-related law and the ES Complaint System poster. This policy applies to all partners within the America’s Job Center of CaliforniaSM (AJCC) network and is effective immediately.

This policy contains no state-imposed requirements.

This Directive remains active until further notice.

References

-
- Title 20 *Code of Federal Regulations* (CFR) Parts 651-654
 - Title 20 CFR Section 658.410, *Establishment of local and State complaint systems*
 - Department of Labor, Training and Employment Notice (TEN) [08-23](#), *Required Employment Service and Employment-Related Law Complaint System Posters* (October 10, 2023)

Background

Under 20 CFR 658.410, the Employment Development Department (EDD) is required to establish and maintain a uniform system for accepting, investigating, resolving, and referring complaints through the *Wagner-Peyser Act* program. This system, known as the ES Complaint System, manages complaints regarding ES regulations or employment-related law. It is important to note that the ES Complaint System is separate from the *WIOA Grievance and Complaint Resolution Procedures* ([WSD18-05](#)).

In addition, the EDD must ensure information pertaining to the use of the ES Complaint System is publicized. This includes the prominent display of the ES Complaint System poster in every AJCC location.

Policy and Procedures

Definitions

Apparent Violation – An allegation against an employer, where an EDD staff member observes, has reason to believe, or received information about a suspected violation of ES regulations or an employment-related law(s). The EDD staff member files the complaint on behalf of the individual.

CalJOBSSM – California’s online resource to help job seekers and employers navigate the state’s workforce services. Job seekers can search for jobs or training and create resumes, while employers can post jobs and find qualified candidates.

Complaint – A written, signed allegation submitted by a complainant describing a violation of ES regulations or employment-related law(s).

Complainant – The individual, employer, organization, association, or other entity filing a complaint.

EDD Complaint Representative – An EDD staff member who reviews, processes, and responds to complaints and apparent violations. There is an EDD Complaint Representative housed in each AJCC site with co-located EDD staff.

Employment-Related Law(s) – Laws that relate to the employment relationship, such as those enforced by the U.S. Department of Labor’s Wage and Hour Division, the California Department of Industrial Relations - Division of Occupational Safety and Health, or by other federal, state, or local agencies.

ES Regulations – ES regulations govern employment and include federal regulations found in Title 20 CFR Parts 651-654, and 658.

Respondent – The employer, state agency, or public agency (including a state agency official) that allegedly committed the violation described in the complaint or apparent violation.

Wagner-Peyser Act – A federal law that established a nationwide system of public employment offices, known as the ES. The ES is a required partner in the AJCC network, providing labor exchange services to all job seekers and helping businesses meet their hiring needs by referring qualified workers.

ES Complaint System

The ES Complaint System is administered by the EDD within the AJCC network. The EDD has Complaint Representative stationed in AJCC offices throughout the state that accept and

process complaints. The ES Complaint System manages complaints related to ES regulations and employment-related law as described below.

Complaints related to ES Regulations

ES-related complaints are filed against an employer regarding a specific job a customer was referred to through the Wagner-Peyser program (i.e., through the CalJOBS system). These complaints include, but are not limited to, violation of the terms and conditions of the job order; health/safety; discrimination complaints against employer; unfair employment practices (immigration related); and complaints from individuals with disabilities.

ES-related complaints can also be filed against EDD staff, policies, and/or procedures (including acts or omissions under ES regulations). For example, a complainant felt they were discriminated against by staff or staff misrepresented information on a job order during a referral.

Complaints involving Employment-Related Law (Non-ES Related)

Employment-related laws relate to the employment relationship, such as those enforced by the U.S. Department of Labor's Wage and Hour Division, the California Department of Industrial Relations - Division of Occupational Safety and Health, or by other federal, state, or local agencies.

Employment-related law complaints are filed against an employer and include, but are not limited to, violations related to wages; working hours; workplace crimes; wrongful termination; contract compliance; employer-provided transportation or housing; child labor; pesticides; health/safety; discrimination; trafficking; sexual harassment, coercion, or assault. These complaints are not related to employment opportunities posted in the CalJOBS system.

Complaints not covered under the ES Complaint System

The ES Complaint System does not cover complaints related to Unemployment Insurance or Disability Insurance. These complaints should be provided to EDD using the [Comments, Suggestions, and/or Complaints \(PDF\)](#) form located on EDD's [Contact EDD](#) webpage, within the *Comments, Suggestions, or Complaints* dropdown. This form can be downloaded in California's top 15 languages.

ES Complaint System Poster

The ES Complaint System Poster publicizes the ES Complaint System and informs complainants how to file a complaint. The poster must be displayed in a prominent location in each AJCC site and must contain contact information for the local Complaint System Representative and State Monitor Advocate in the designated fields.

Each AJCC site must populate the designated fields with the contact information that is applicable to their office. In AJCC sites with co-located EDD staff, EDD staff will ensure the poster is populated and hung in an appropriate location. No further action is required. AJCC sites without co-located EDD staff should follow the guidelines below.

Populate the field for the Complaint System Representative with the contact information of the local AJCC office with an EDD Complaint Representative. This information can be found on the EDD's [ES Complaint System Guidance](#) webpage. On the webpage, go to the *AJCCs with EDD Complaint Representatives* section. This section will display a list of AJCC sites and their assigned AJCC office with an EDD Complaint Representative. In the field for the Complaint System Representative, enter the assigned AJCC office information. The AJCC office will have internal procedures for connecting complainants with the EDD Complaint Representative.

To populate the contact information for the State Monitor Advocate, stay on the ES Complaint System Guidance webpage and go to the *State Monitor Advocate* section. The State Monitor Advocate contact information is the same for all AJCC sites statewide. In the field for the State Monitor Advocate, enter the contact information for the State Monitor Advocate.

The EDD's [ES Complaint System Guidance](#) webpage also includes links to download the ES Complaint System Poster. On the webpage, go to the *Employment Service Complaint System Poster* section. The ES Complaint System Poster can be downloaded and filled out to display in each AJCC office. The EDD is translating the poster into the most frequently spoken languages in California. As these translations are completed, they will be added to the webpage for AJCC sites to download. Please refer to the webpage for the most current resources and information.

The EDD will send each AJCC site one 8.5x14 copy of the poster in both English and Spanish. If the AJCC site would like additional copies, they may be downloaded from the ES Complaint System Guidance webpage.

If the AJCC site has an older version of the ES Complaint System poster, titled *If You Have a Complaint About* poster, please replace the poster with the new, updated version.

Procedures for Taking Complaints

The EDD has staff that are trained to take complaints and either attempt to resolve the issue at the local level or refer the complainant to the appropriate agency for assistance. These EDD Complaint Representatives are housed in each AJCC office with co-located EDD staff. If a customer would like to file a complaint regarding the ES regulations or employment-related law, please follow the appropriate steps below:

EDD staff are co-located in the AJCC

- Refer the customer to an EDD staff partner. The EDD staff member will connect the customer with the EDD Complaint Representative. No further action is required.

EDD staff are not co-located in the AJCC

- Verify the AJCC site designated to take complaints from your AJCC office. This information is listed on the EDD's [ES Complaint System Guidance](#) webpage. On the webpage, go to the *AJCCs with EDD Complaint Representatives* section. This section will display a list of AJCC sites and their assigned AJCC office with an EDD Complaint Representative.
- Gather contact information from the complainant and refer them to the assigned AJCC office with an EDD Complaint Representative. AJCC staff have two options for completing the referral:
 - a. Complete the AJCC site's internal referral form.
 - b. Complete the EDD's [Complaint/Apparent Violation form](#). Include the complainant's information (name, address, and telephone number), respondent's information (name, address, and telephone number), and the description of the complaint. Have the complainant sign and date the form. This form can be completed and signed electronically or in hard copy.
- Email the AJCC site's internal referral form or the EDD's Complaint/Apparent Violation form to the assigned AJCC office with an EDD Complaint Representative.
- Inform the customer the EDD Complaint Representative will contact them within three business days.

Action

Please bring this directive to the attention of all appropriate staff.

Inquires

If you have any questions, contact your [Regional Advisor](#).

/s/ JAVIER ROMERO, Deputy Director
Workforce Services Branch

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.
