



Rogue Workforce Partnership - Corporate Directors Meeting

Thursday, July 21, 2016 • 8:00 – 10:00 a.m. | 100 E. Main Street, Suite A - Board Room • Medford

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1) Use telephone: +1 (646) 749-3122; Access Code: 863-335-413 (normal long distance charges will apply); 2) Or, use computer microphone & speakers (headset is recommended to avoid reverb)

Agenda

1. **Call to Order** (5m) Jessica Gomez
 - Welcome & Introductions
 - RWP Staff Changes Jim Fong
2. **Consent Agenda** (5m) - **Action Item** Jessica

Consent agenda items are voted on as a single block unless a member wishes to pull an item(s) out for discussion

 - a. **Approval of Minutes** –
 - April 1, 2016 - RWP Corporate Directors Meeting
 - April 22, 2016 - RWP Corporate Directors & RVWC Special Meeting
 - b. **New Required Policies** 📄
 - Grievance Process
 - Incident Reporting
3. **Finance / Budget** (30-45m) Sherri Emitte, Jim Fong
 - FY 2016-2017 Budget Review & Approval - **Action Item** 📄
 - Letters Related to The Job Council 📄
4. **Southern Oregon Success** (15-20m) Jim
 - Backbone Investment / Support - **Action Item** (possible) & College & Career for All – *Staff Sustainability Business Planning*
5. **RWP Governance Structure & Meetings** (15-20m)
 - New State Policy on Quorum | Revising By-Laws & Guidance on:
 - *Workforce Board Membership & Meetings* 📄
 - *Role & Function of Corporate Directors*
 - Mission, Vision, Promise – *Next Steps* Jim
6. **Updates on . . .** (15-20m) Jim
 - **WIOA Regulations**
 - **Local Plan** – *State Feedback & RWP Response* 📄
 - **Contracts to Service Providers**
 - **Sector Strategies**
7. **Other Items** Jessica
8. **Adjourn** Jessica

📄= Documents are attached, or will be handed out or presented at meeting

Auxiliary aids and services are available upon request to individuals with disabilities. Please contact Tami Allison at 776-5100 (Voice/TDD) at least 48 hours in advance of the meeting to allow staff sufficient time to arrange for auxiliary aid



MINUTES

ROGUE WORKFORCE PARTNERSHIP • CORPORATE DIRECTORS

April 1, 2016 ♦ 100 E. Main St., Suite A - Board Room ♦ Medford, OR

MEMBERS PRESENT

Jessica Gomez
Gregg Edwards
Nikki Jones
Commissioner Cheryl Walker (via phone)
Tamara Nordin
Michael Donnelly

OTHERS PRESENT

Mark Damon, Job Council Auditor
Jim Fong, Executive Director, Rogue Workforce Partnership
Sherri Emitte, Rogue Workforce Partnership
Rene' Brandon, Rogue Workforce Partnership
Tami Allison, Rogue Workforce Partnership

MEMBERS ABSENT

Commissioner Rick Dyer
Ron Fox

Quorum Present: Yes

1) CALL TO ORDER

The meeting was called to order by Vice-Chair Gregg Edwards at 11:08 am.

2) CONSENT AGENDA

NIKKI JONES MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. THE MOTION WAS SECONDED BY MIKE DONNELLY AND APPROVED UNANIMOUSLY.

3) TJC AUDIT REPORT

Mike Donnelly recused himself from any voting on this item as his brother is a member of the audit firm. The Action Item was removed from the agenda as no action from this group (Rogue Workforce Partnership – Corporate Directors) is required or appropriate.

Mark Damon gave a high level review of The Job Council Audit Report for the year ending June 30, 2015 indicating that nothing came to the auditor's attention that was out of compliance. Mark stated he is happy to report that everything is cleaned up and commended the team on the work they did over the past couple of years to get things to where they are today. Sherri noted that the finding called out on page 34 is from the prior year.

Mark directed the group to page 22 of the audit, note 13 – subsequent events. The impact of the Moro decision on the total pension and liability and employer’s net pension asset / (liability) is estimated to reverse the asset to a liability of \$1,586,000. Because TJC is closing down with this liability on its books, Jim, as the liquidating agent, will be looking to the Corporate Directors for direction. It was proposed that another meeting take place in late April inviting TJC legal counsel, Auditor, County Counsels, Jackson County Administrator and both County Commissioner Liaisons to discuss the options.

It was noted that because this group is not meeting as The Job Council Board of Directors, we will need to get clarification on who will accept this report. Mark will note that Rogue Workforce Partnership Corporate Directors is an “interested party.”

Sherri gave an update on the closeout.

4) RWP BUDGET ADJUSTMENT

Sherri presented the mid-year budget adjustments to the directors, adding that we will be receiving Additional Assistance Rapid Response funds for the close down of Rough and Ready in Cave Junction.

TAMARA NORDIN MOVED TO APPROVE THE RWP MID-YEAR BUDGET ADJUSTMENTS AS PRESENTED. THE MOTION WAS SECONDED BY GREGG EDWARDS AND WAS UNANIMOUSLY APPROVED.

5) LOCAL PLAN REVIEW, CHANGES & APPROVAL

Jim reviewed the public comment received on the Local Plan. The group briefly discussed the need to look at economic development data, as well as labor market information. Jim indicated that he feels sitting down with the OED Labor Market Economists to mine what they could provide for us would be beneficial.

NIKKI JONES MOVED TO ACCEPT THE PLAN AS PRESENTED WITH CHANGES. THE MOTION WAS SECONDED BY MIKE DONNELLY AND APPROVED UNANIMOUSLY.

6) RWP GOVERNANCE & NEXT STEPS

In November, the Oregon Revised Statutes (ORS) was updated to require that quorums must be 51% of the membership, which is now even more prescriptive than the federal government requires. The state will go through their natural process of updating statutes for WIOA, and it has been suggested to remove the line requiring the quorum of 51%.

Jim will bring back revised Articles of Incorporation, as well as Bylaws, in the very near future.

7) RWP STAFFING UPDATE

Sherri informed the group that she will be transitioning – retaining her position, but working remotely from Oklahoma. She has separated out bookkeeping duties from her current role and has offered a bookkeeper position to Dawn Bywater. Dawn will handle the day-to-day activity and be “boots on the ground”. Sherri indicated she hopes to eventually pare back her hours to part-time. Her transition will take place July 1, 2016.

Jim indicated that four other workforce boards around the state are hiring a CFO and he would look to them for succession planning.

Jim noted that although we posted to backfill behind Graham’s position and some applications have been received, we are now recalibrating and looking to backfill for a broader array of skills. A new position will be posted in the very near future.

8) RWP CORPORATE DIRECTOR MEETING SCHEDULE

The group briefly discussed the schedule for ongoing Corporate Director meetings. The consensus of the group is to focus around the two months between workforce board meetings and to schedule either the third or fourth weeks of the month early in the morning or late in the day. Tami will generate a Doodle Poll to send out to the group.

9) OTHER ITEMS

Jim spoke about the upcoming vacancies with Ron and Tamara retiring this year.

The group agreed to meet on June 30, 2016 at 8:00 am to review and approve the final RWP budget.

10) ADJOURN

With no further business, the RWP Corporate Directors meeting was adjourned at 12:58 pm.

Respectfully Submitted,

Tami Allison
Executive Projects Manager

Approved
Jessica Gomez, RWP Chair

Date



MINUTES

**JOINT MEETING - ROGUE WORKFORCE PARTNERSHIP • CORPORATE DIRECTORS
AND ROGUE VALLEY WORKFORCE CONSORTIUM**

April 22, 2016 The Job Council Board Room | 100 E. Main St., Suite A, Medford, Or

RWP CORPORATE MEMBERS PRESENT

Jessica Gomez (via phone)
Cheryl Walker
Rick Dyer
Gregg Edwards
Tamara Nordin
Nikki Jones
Michael Donnelly (via phone)

RWP CORPORATE MEMBERS ABSENT

Ron Fox

RVWC MEMBERS PRESENT

Cherryl Walker
Rick Dyer

RVWC MEMBERS ABSENT

(intentionally left blank)

OTHERS PRESENT

Jim Fong, Executive Director, Rogue Workforce Partnership
Pat Huycke, Job Council Legal Counsel
Mark Damon, Job Council Auditor
Sherri Emitte (via phone), Rogue Workforce Partnership
Rene' Brandon, Rogue Workforce Partnership
Tami Allison, Rogue Workforce Partnership

Quorum Present: Yes

1) CALL TO ORDER

The meetings were called to order by RWP Corporate Directors Vice-Chair Gregg Edwards, and RVWC Chair Commissioner Walker at 10:02 am.

2) CONSENT AGENDA

COMMISSIONER DYER MOVED TO APPROVE THE ROGUE VALLEY WORKFORCE CONSORTIUM MINUTES DATED DECEMBER 3, 2015. THE MOTION WAS SECONDED BY COMMISSIONER WALKER AND APPROVED UNANIMOUSLY.

3) THE JOB COUNCIL FINAL LIQUIDATION PLAN

Based upon the action taken by The Job Council Board of Directors at their April 22, 2016 meeting to reaffirm their prior approval (on June 30, 2015) for the liquidation agent to transfer all assets to the Rogue Workforce Partnership, including such assets after deduction for operating expenditures, a motion was made as follows:

TAMARA NORDIN MOVED THAT THE ROGUE WORKFORCE PARTNERSHIP ACCEPT ALL ASSETS FROM THE LIQUIDATING AGENT OF THE JOB COUNCIL. THE MOTION WAS SECONDED BY MIKE DONNELLY AND APPROVED UNANIMOUSLY.

- 4) **ROGUE WORKFORCE PARTNERSHIP STRATEGIC PLAN**
Jim reviewed the Strategic Plan document with the Consortium.

COMMISSIONER DYER MOVED TO ACCEPT THE ROGUE WORKFORCE PARTNERSHIP STRATEGIC PLAN. THE MOTION WAS SECONDED BY COMMISSIONER WALKER AND APPROVED UNANIMOUSLY

- 5) **ROGUE WORKFORCE PARTNERSHIP MEMBERSHIP**

Jim reported that he will bring back updates to the Articles of Incorporation, as well as the Bylaws, to the next Corporate Directors meeting.

Jim indicated that he will contact John Chamberlin to discuss the need for addressing how a stalemate between the two members of the RVWC would be addressed. Some suggestions from the directors included substituting a tie breaker from each county, or if the two liaisons are not in agreement, they would need to take back to their full boards of county commissioners for voting.

- 6) **OTHER ITEMS**

Jim reviewed the spreadsheet showing availability of Corporate Directors for future meetings. Ongoing Corporate Director's Meetings will be scheduled in the very near future.

- 7) **ADJOURN**

With no further business, the RWP Board of Director's and the Rogue Valley Workforce Consortium joint meeting was adjourned at 10:50 am.

Respectfully Submitted,

Tami Allison
Executive Projects Manager

Approved _____ Date _____
Jessica Gomez, RWP Chair

Approved _____ Date _____
Cherryl Walker, RVWC Chair



TITLE: GRIEVANCE PROCESS

PURPOSE

This policy provides guidance and procedures under which Rogue Workforce Partnership (RWP) and its sub-recipients/contractors accept and process grievances and complaints that allege a violation of the Workforce Innovation and Opportunity Act (WIOA), regulations, grants or other agreements administered under the Act, terms and conditions of employment, or discrimination.

REFERENCES

Workforce Innovation and Opportunity Act, Sections 181 & 188
Americans with Disabilities Act of 1990, Title II, Subpart A
Age Discrimination Act of 1975, as amended
Section 504 of the Rehabilitation Act of 1973
Title IX of the Education Amendments of 1972
Titles VI & VII of the Civil Rights Act of 1964, as amended
20 Code of Federal Regulations (CFR) Part 636
29 CFR Parts 31, 32, 34 & 37
Oregon Administrative Rules (OAR) 589-020-0110, 589-020-0300
Oregon Revised Statutes (ORS) 183.502 Alternative Dispute Resolution
ORS Chapter 36 Mediation and Arbitration
Community Colleges and Workforce Development Policy 589-40.3

POLICY

RWP values customer service and customer satisfaction and prefers that dissatisfaction and complaints be resolved amicably as close to the point of service delivery as possible. Whenever possible all parties are encouraged to use the Alternative Dispute Resolution (ADR) process. When this is not possible, written complaints including those related to discrimination or involving criminal conduct are to be processed following the guidelines established within this policy.

This policy:

1. Provides guidelines for the resolution of grievances or complaints related to:
 - a. Non-criminal violations of WIOA, and allegations of criminal violations or allegations of fraud and/or abuse related to the provision of WIOA services; and,
 - b. Nondiscrimination and equal rights provisions of WIOA.
2. Designates the RWP Equal Opportunity Officer as the local area Equal Employment Opportunity (EO) Officer.
3. Establishes requirements for RWP to ensure:
 - a. Designation of an EO Officer, in compliance with the State of Oregon Methods of Administration (MOA);

- b. The RWP EO Officer provides notification to the RWP Executive Director immediately upon the receipt of any complaint related to the provision of WIOA services or services provided through a sub-recipient/contractor that is a recipient or beneficiary of WIOA funding; and,
- c. Each sub-recipient/contractor that is a recipient or beneficiary of WIOA funding has established a written process ensuring that grievances related to WIOA or non-WIOA programs or services are referred to the appropriate program for resolution.

GENERAL

Under this policy, written complaint procedures shall be made available to every applicant of WIOA services. Reasonable efforts will be made to ensure that complaint procedures are understood by participants, individuals and recipients of federal assistance under WIOA. The written complaint procedure will include notice that the complainant and respondent have the right to be represented by an attorney or other individual of their own choice. With the exception of discrimination complaints, all complaints must be filed within one year (365 days) from the date of the alleged occurrence. Discrimination complaints must be filed within one half year (180 days) from the date of the alleged act of discrimination unless the time is extended by the Assistance Secretary of the Department of Labor for good cause.

All references to days shall be defined as calendar days, with timelines beginning on the day a complaint is received by the EO Officer initially receiving the complaint. Timelines may be extended if good cause is shown, and if both the complainant and respondent parties agree in writing to waive the timelines. A complaint may be withdrawn by the complainant at any time. Such a withdrawal must be in writing.

I. NONCRIMINAL COMPLAINTS EXCLUDING DISCRIMINATION

The procedures described below apply to all non-criminal WIOA complaints filed against RWP or its sub-recipients and contractors. RWP EO Officer will coordinate and assist in the resolution of all WIOA non-criminal complaints filed against RWP or its sub-recipients/contractors.

A. Filing Requirements:

1. The complainant must file the complaint with the RWP EO Officer. The complaint shall be in writing and shall include:
 - a. name, address, phone and social security number of complainant;
 - b. name and address of person or organization complaint is against;
 - c. statement of allegation(s) and date of occurrence(s);
 - d. provision of the Act, regulations, grant, or other agreement believed to have been violated, if applicable;
 - e. synopsis of the informal resolution efforts; and
 - f. satisfaction being sought.
2. The RWP EO Officer will determine if the complaint relates to discrimination, a violation or alleged violation of the WIOA, regulations, grant or other agreements under the Act, or to terms and conditions of employment, or is more appropriately referred to another program or organization offering services through the WorkSource Oregon system.
3. The RWP EO Officer will notify the complainant in writing of the determination within five (5) days of the receipt of a complaint and will include a written copy of RWP's complaint process describing the process for resolution based on the determination of the nature of the complaint. As appropriate, notification will include the referral of the complaint to the appropriate non-WIOA program or organization offering the services.

B. Processing of Complaints

1. Complaints Not Involving a Violation or Alleged Violation of the WIOA:

Within ten (10) days of the filing of a complaint RWP EO Officer will attempt to resolve the matter informally with the complainant and respondent. If the complaint is related to employment, the complainant will be given the opportunity to be heard by a party other than the complainant's direct supervisor.

Within ten (10) days after this meeting to clarify issues and early efforts at informal resolution, a written summary of the meeting and its outcomes will be provided to the complainant. The summary shall include the:

- Filing date of the complaint;
- Date of informal meeting to clarify or resolve the complaint;
- Determination of the nature of the complaint;
- Summary of the process used to investigate the complaint;
- Findings regarding the complaint, including the names and contact information for the parties involved;
- Proposed resolution of the complaint;
- Signed receipt or statement that a copy of the complaint process was transmitted to the complainant; and,
- Date and method of transmittal of the summary to the complainant.

If the complainant is dissatisfied with the proposed resolution, an appeal may be submitted to the Department of Community Colleges and Workforce Development. The appeal must be submitted in writing, within 10 days of RWP's decision.

If it is determined that a non-criminal violation of the WIOA, regulations, grant or other agreement under the Act has occurred, the RWP EO Officer will notify the complainant.

2. Complaints Alleging Non-Criminal Violation of the WIA or Regulations

If it is decided that the complaint does relate to a non-criminal violation or alleged violation of the Act, regulations, grant, or other agreement under the Act, the parties to the complaint are afforded the opportunity to informally resolve the matter. Both parties may agree, in writing, to waive the thirty (30) day timeline for formal hearing and sixty (60) day timeline for a decision in order to attempt to resolve this matter informally.

RWP EO Officer will set a date for an informal Resolution and Issues Clarification meeting within ten (10) days of the receipt of the complaint.

Requesting and Scheduling a Formal Hearing

If dissatisfied with the results of the informal resolution meeting, the complainant may request a formal hearing. Such requests must be made in writing and, if no informal resolution was attempted, within twenty-five (25) days of the date of filing of the complaint. The request for hearing should be directed to the RWP EO Officer. The complaint may be amended, in writing, at any time within ten (10) days before the formal hearing.

The RWP EO Officer will schedule the formal hearing within thirty (30) days from the receipt of the complaint, notify the complainant in writing of the hearing date, time and place, unless the parties have agreed, in writing, to waive this timeline.

Hearing Officer

Upon receipt of a request for a formal hearing, the RWP EO Officer shall designate a Hearing Officer. The complainant or respondent may request a different Hearing Officer be appointed. The request for a change in Hearing Officer must be filed within five (5) days after parties received notification of the hearing schedule and the designation of the Hearing Officer. No party shall be permitted to make more than one (1) claim of partiality in any one complaint, and only one request for designation of an alternate Hearing Officer may be made by either party for each complaint. In such a case all timelines shall automatically be extended ten (10) days.

Conducting the Formal Hearing

The Hearing Officer coordinates the formal hearing. Both parties shall be provided an opportunity to present evidence, cross-examine witnesses, and be represented by legal counsel. The hearing shall be taped, and a record, including all exhibits, shall be maintained. The complainant may withdraw the complaint in writing at any time. The Hearing Officer shall provide to all parties a written recommendation, defining issues, facts, and suggested resolution. If the complainant or representative does not appear for the hearing, the complaint may be dismissed or the Hearing Officer may rule on the evidence presented.

Decision by the RWP Executive Director

The RWP Executive Director shall consider the complaint, informal resolution efforts, and the Hearing Officer's recommendation. The RWP Executive Director shall then issue a written decision defining issues, facts and resolution and forward a copy of the decision to each party. The decision shall include notice that the complainant has the right to request that the State review of the decision. The decision shall be made no later than sixty (60) days after the filing of a complaint, unless extended upon a showing of good cause and agreement by both parties, in writing, to waive the timelines.

Recourse Available to the Complainant Under the Formal Resolution Process

If the complainant receives an unsatisfactory decision or if RWP fails to issue a decision within the prescribed timelines, unless the timelines have been waived, the complainant or respondent may request a review by the State.

State Review

The request for State review of the decision must be submitted to the:

State Grievance Coordinator
Department of Community Colleges and Workforce Development (CCWD)
255 Capitol St. NE, Salem, OR 97310

on behalf of the complainant or respondent within ten (10) days of the decision of the RWP Executive Director, or in the absence of a decision within fifteen (15) days from the date of the complainant should have received a decision. The State may request all necessary information, including, but not limited to the following:

- a. Copy of the written complaint/grievance
- b. Synopsis of the informal resolution efforts
- c. Tapes of and exhibits from the hearing
- d. Hearing Officer's recommendation
- e. RWP's decision

CCWD will review the complaint within ten (10) days of receipt of the Request for Review to ensure that the hearing process was followed and that any regulations were correctly interpreted. For purposes of the review, RWP's factual determination will be accepted. If the record contains enough information to render a decision, CCWD will issue a final decision within thirty (30) days of receipt of the request for review as to whether the process was followed and whether a material regulation or legal requirement was incorrectly or inadequately interpreted.

If the hearing was in accordance with the hearing procedure, and the material regulations were correctly interpreted, CCWD shall issue a final written decision to all parties affirming RWP's hearing decision. If within ten (10) days of receipt of the Request for Review CCWD finds any evidence of an irregularity in the hearing process, or determines that a material regulation was incorrectly or inadequately interpreted and additional information is needed to render a final decision, RWP will be given fifteen (15) days to gather and provide CCWD the additional information. Such requirement for additional information will include any necessary instructions. CCWD will review the additional information and issue a final decision to all parties within thirty (30) days of receipt of the Request to Review, either affirming or denying RWP's hearing decision.

Recourse Available to the Claimant after State Review Process

If the State does not complete a review within thirty (30) days of receipt of request, the complainant or respondent may request a review with the Secretary of Labor within sixty (60) days from the original review completion date.

If either party has received an adverse decision from the State they may appeal to the Secretary of Labor within one hundred twenty (120) days from the date of filing of the complaint with the State, or the filing of the appeal of a local complaint with the State.

All appeals must be submitted by certified mail, return receipt requested, and addressed to:

Secretary of Labor
U. S. Department of Labor
Washington, D.C. 20210
Attention: ASET

A copy of the appeal must be simultaneously provided to the opposing party and to the Employment and Training Administration Regional Administrator addressed as follows:

Regional Administrator
Employment and Training Administration
U. S. Department of Labor
71 Stevenson Street, 8th Floor
San Francisco, CA 94119

II. PROCEDURE FOR DISCRIMINATION COMPLAINTS

Complaints alleging violation of the equal employment opportunity and nondiscrimination provision of the Workforce Investment Act and implementing regulations will follow the state of Oregon Methods of Administration (MOA), and will be processed in such a manner as to assure accurate and timely communication among CCWD, and RWP.

The complaint may be filed either with the RWP EO Officer, CCWD EO Officer, State of Oregon EO Officer or directly with the Director of the U.S. Department of Labor Civil Rights Center (CRC). In order to provide for prompt and informal resolution, any complainant alleging violation of the equal employment opportunity or nondiscrimination provisions of the WIOA relating to a sub-recipient/contractor of RWP or an affiliate is encouraged to file the complaint directly with that agency or with the RWP EO Officer.

To the extent possible, complaints will be resolved amicably as close to the point of service as possible. The complainant has the option of resolving the complaint through the Alternative Dispute Resolution (ADR) process.

A. Notification and Responsibilities in the Receipt of a Complaint

All complaints received by the CCWD EO Officer will be referred to the RWP EO officer.

When a complaint is filed against a partner in a WorkSource Oregon setting, the EO Officer accepting the complaint must notify the co-located partners, and ensure that the RWP EO Officer is notified. The EO Officer accepting the complaint must notify the RWP EO Officer that a complaint has been received and the basis for the complaint without revealing confidential information. The RWP EO Officer is responsible for notifying the RWP Executive Director.

B. Complaint Processing Procedures

The complaint process is defined in considerable detail in the body of the State of Oregon Methods of Administration (MOA). RWP will comply with the procedures defined in the state of Oregon MOA in the event a complaint is filed against a WIOA-financially assisted program or activity on the basis of prohibited grounds of discrimination or lack of equal opportunity. All other complaints filed with sub-recipients/contractors on the basis of grounds not described herein, such as food stamp eligibility, are not subject to this complaint procedure and are resolved by the state partner agencies using their own established complaint processes.

C. Basis for a Complaint

Complaints may be filed under the MOA on the basis of:

1. Alleged discrimination on the basis of race, color, national origin, religion, sex, age, disability, political affiliation or belief, and for beneficiaries only, citizenship and WIOA participation; and,
2. If an individual believes they have been intimidated, retaliated against, threatened or coerced because they have:
 - a. filed a complaint under WIOA;
 - b. opposed a practice prohibited by the non-discrimination and equal opportunity provisions of WIOA;
 - c. furnished information to, or assisted or participated in any manner, an investigation, review, hearing, or any other activity related to the provisions under 29 CFR 37; or
 - d. exercised any rights and privileges under WIOA.

D. Elements of the Complaint Process

The complaint process includes five general elements:

1. Jurisdiction;
2. Methods of resolution or disposition;

3. Notice of final disposition;
4. Processing timeframes; and,
5. Recordkeeping.

RWP EO Officer oversees the complaint process, which may progress to the CCWD EO Officer (in the case of WIOA funds) or to the sub-recipient/contractor's state agency EO Officer (in the case of non-WIOA funds) and on to DOL's CRC through the statewide EO Officer.

E. Who May File Complaints and When

1. Complaints may be filed by:
 - a. Applicant/registrant for aid, benefits, services or training, eligible applicants/registrants, participants; or
 - b. Employees; applicants for employment; or
 - c. Eligible service providers, and service providers; that may be attributed a characteristic protected under the WIOA.
2. Generally, there are three types of complaints:
 - a. Individuals filing on their own behalf;
 - b. Individuals or a group filing on a class basis; or,
 - c. A third party complaint authorized by the complainant in writing.

All complaints must be submitted in writing within 180 days of the alleged incident, and must contain standard information as described in 29 CFR 37.73 as printed in the Department of Labor's Civil Rights Center's (CRC) Complaint Information Form. However, for good cause shown, the Directorate of the CRC may extend the filing time. The time period for filing is for the administrative convenience of CRC, and does not create a defense for the respondent.

F. The Complaint Process

1. Receipt of a Complaint

On receipt, the RWP EO Officer reviews the complaint for:

- Jurisdiction;
- Timeliness; and the
- Basis of the complaint.

a. Jurisdiction

Any complaint alleging discrimination must meet the following criteria to be considered under this policy:

- That the individual making the complaint believes that he/she, or any class of individuals, has been subjected to discrimination on a basis prohibited by WIOA and/or 29 CFR 37.
- That the individual or entity against which the complaint is filed receives financial assistance under the WIOA (refer to 29 CFR Part 37.4 for definitions of recipient, etc.);

b. Timeliness

The written complaint is filed within 180 days of the alleged discriminatory act. If received later than 180 days from when the discriminatory action took place, the office may close the complaint as being untimely (The Director, Civil Rights Center may extend the filing time if good cause is shown); and

c. Basis for the Complaint

The complaint is filed in writing, is signed by the complainant or their authorized representative, contains the complainant's name and address (or gives other specific means of contact), identifies the respondent, and describes the complainant's allegations in sufficient detail to allow the recipient of the complaint to determine if the complaint has merit.

Complaint Format

The written complaint must contain the following information:

- 1) The complainant's name and address (or other means of contact);
- 2) The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination);
- 3) A description of the complainant's allegations. This description must include enough detail to allow the recipient of the complaint to decide whether:
 - USDOL CRC or the recipient of the complaint has jurisdiction over the complaint;
 - The complaint was filed in time; and
 - The complainant has apparent merit; in other words, whether the complainant's allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIOA or this part; and
- 4) The complainant's signature or the signature of the complainant's authorized representative.

2. Written Notification

Immediately upon receipt of a written complaint the RWP EO Officer must send written notice to the complainant. This written notice must contain:

- A complaint process timeline, including that written Notice of Final Action is due 90 days after the complaint is filed;
- References to ADR options;
- Option of direct filing with USDOL CRC; and
- An acknowledgment that the recipient has received the complaint.

The complaint must be entered in the local Complaint Log and a copy of the written complaint shall be forwarded to the Statewide EO Officer and Agency EO Officer within 5 days of the filing of the written complaint. The RWP EO Officer also notifies other state recipient partners at the WorkSource Oregon site (if applicable) and other required parties that a complaint has been filed against a specific recipient, the alleged basis for the complaint, and determines the recipient agency EO Officer that will assist in preparing the Initial Response.

The RWP EO Officer works with the recipient agency EO Officer that is assigned jurisdiction (the state recipient partner agency's EO Officer, for example) to investigate and prepare the Initial Response within 20 days. The Initial Response must contain a statement of the issue(s), including a list of the issues raised in the complaint, and for each such issue, a statement whether the recipient will accept the issue for investigation or reject the issue, and the reasons for each rejection.

a. Notice of Lack of Jurisdiction

- 1) The RWP EO Officer will notify the complainant in writing immediately, if it is determined that:

- There is no jurisdiction, or multi-jurisdiction. In such cases, the complainant must be notified immediately in writing of the reason(s), noting the right to file a complaint with the CRC within 30 days of the date on which the complainant receives the notice. Lack of jurisdiction may be based upon untimely filing of a complaint that is filed more than 180 days from the alleged incident. Should the complainant appeal a decision based on late filing with the CRC, the complainant has the burden of proving to the Directorate of the CRC that the time limit should be extended as described at 29 CFR 37.81.
- The complaint falls outside the scope of the State of Oregon MOA. In such cases the complainant will be referred to the appropriate jurisdiction and the complaint will be processed through the appropriate complaint process.

2) The written Notice of Lack of Jurisdiction must include:

- A statement of the reasons for that determination;
- Notice that the complainant has a right to file a complaint with USDOL CRC within 30 days of the date on which the complainant receives the Notice. If the complaint does not involve a recipient as defined under 29 CFR Part 37.4, the RWP EO officer will assist the complainant in forwarding the complaint to the most appropriate agency for resolution; and
- Referral, as appropriate, to the recipient agency with jurisdiction over the complaint.

b. Alternative Dispute Resolution (ADR)

It is the policy of the State that Alternative Dispute Resolution programs exist in every state agency, for use internally and with external customers. In addition, Oregon Revised Statutes Chapter 36, Mediation and Arbitration, state that it is the intent of the State to foster the development of community based programs to assist citizen in resolving disputes and developing skills in conflict resolution. To facilitate this intent, the Oregon Dispute Resolution Commission operates a clearinghouse to point disputants towards ADR resources. ADR activities are authorized at Oregon Revised Statutes 183.502. The ODRC website can be found at: www.odrc.state.or.us.

EO Officers are trained on the elements of ADR and all WorkSource Oregon sites have been encouraged to identify and use local ADR resources. The RWP EO Officer will attempt to initiate the ADR process with the complainant and contact the state/recipient agency EO Officer if necessary. The complainant must be offered ADR immediately upon receipt of the complaint. The choice whether to use ADR rests with the complainant; the preferred form of ADR is mediation.

Mediation is a voluntary process during which a neutral third party assists both parties (complainant and respondent) to communicate their concerns and come to an agreement about how to resolve a dispute. The mediator does not make decisions, rule as to who is right or wrong, take sides or advocate for one side or the other. The role of the mediator is to help with communication so the parties can reach an understanding about how to best resolve their differences. As the law allows, mediation proceedings and the information shared are confidential and no information divulged during this mediation may be used in court or any legal or administrative proceedings. If ADR fails, the complaint will be processed through the recipient's standard complaint resolution process. A party to any agreement reached under ADR may file a complaint with the Director, USDOL CRC in the event the agreement is breached. In such circumstances, the following rules will apply:

- The non-breaching party may file a complaint with the Director, USDOL CRC within 30 days of the date on which the non-breaching party learns of the alleged breach;
- The Director, USDOL CRC must evaluate the circumstances to determine whether the agreement has been breached. If he or she determines that the agreement has been breached, the complainant may file a complaint with USDOL CRC based upon his/her original allegation(s), and the Director will waive the time deadline for filing such a complaint.

If the parties do not reach an agreement under ADR, the complainant may file a complaint with the Director, Civil Rights Center.

3. Fact Finding/Investigation

The RWP EO Officer has 30 days in which to resolve the complaint. During this time the EO Officer should gather all available information relating to the alleged discriminatory actions.

At a minimum this fact finding should include:

- Discussion with the complainant to identify the elements of the complaint;
- Interviews with witnesses or others who have knowledge of the issue involved;
- Review of written and electronic files and records which pertain to the complainant and the alleged discrimination; and
- Interviews with the person(s) accused of the act (the respondent).

The investigator should take extensive notes during this process to assure nothing is missed and to help with the resolution of the complaint.

4. Initial Response

The RWP EO Officer has up to 20 days from receipt of the complaint to investigate and prepare and issue the Initial Response, which includes acknowledgment that:

- The recipient has received the complaint;
- The complainant has the right to be represented in the complaint process;
- A statement of issues accepted or denied and reasons for denial; and
- Other required elements specified at 29 CFR 37.70 et seq.

Following the Initial Response, the state recipient agency's EO Officer continues to investigate and attempts to resolve the complaint for up to 20 additional days.

5. Notice of Final Action

Within 90 days of the receipt of a complaint, a written Notice of Final Action must be provided to the complainant. The Notice must contain the following information, for each issue raised in the complaint, a statement of either:

- The recipient's decision on the issue and an explanation of the reasons underlying the decision, or a
- Description of the way the parties resolved the issue; and
- Notice that the complainant has a right to file a complaint with USDOL CRC within 30 days of the date on which the Notice of Final Action is issued if he or she is dissatisfied with the recipient's final action on the complaint.

The state recipient agency's EO Officer prepares a draft Notice of Final Action for review by the statewide EO Officer residing at the Oregon Employment Department. The statewide EO Officer takes up to 30 days to provide technical support to those preparing the Final Notice to assure that it contains the required elements per CFR, before the RWP EO Officer returns the Final Notice to the complainant. The written Final Notice explains for each issue raised:

- The recipient's decision and basis for it; or
- A description of the way the parties resolved the issue; and
- Appeal rights.

The statewide EO Officer logs the complaint, informs the Governor and US DOL CRC of its resolution, and recommends to the Governor or Governor's representative corrective action and/or sanctions that may be needed to cure the complainant. If corrective actions are required, the statewide EO Officer monitors them and reports to the Governor and USDOL CRC on their satisfactory completion, within the remaining 20 days remaining in the 90 day complaint process.

The Final Notice is due 90 days from the date of initial filing of the complaint. If the complainant is dissatisfied with the Final Notice, or there is no Final Notice issued, the complainant must wait an additional 30 days from the issue of the Final Notice, or the date the Final Notice was due, before filing a complaint with USDOL CRC.

6. Resolution

Resolution means that legitimate complaints (those complaints with merit) are resolved to the satisfaction of the complainant. If the complaint is determined not to have merit the complainant must be notified immediately as explained under Notice of Lack of Jurisdiction.

If the RWP EO Officer is unable to reach resolution within 30 days the complaint and all information gathered during the local-level investigation must be passed to the State EO Officer responsible for resolution.

An extension may be requested by the RWP EO Officer, with the permission of the state/recipient agency EO Officer and in consultation with the State EO Officer, to facilitate resolution. Resolution may include such actions as:

- Disciplinary action against the party found responsible for discriminatory action(s);
- Corrective actions required by the recipient; and
- Sanctions against the recipient of WIOA funding, including the withdrawal of WIOA funding.

a. Due Process

During the process of attempting to come to resolution of the complaint, the State EO Officer shall ensure that all parties involved are given due process. These due process elements include:

- Notice to all parties of the specific charges;
- Notice to all parties of the responses to the allegations;
- The right of both parties to representation;
- The right of each party to present evidence, and to question others who present evidence; and
- A decision made strictly on the evidence on the record.

b. Determinations

At the conclusion of the investigation of the complaint, the investigating authority must take the following actions:

- Determine whether there is reasonable cause to believe that the respondent has violated the nondiscrimination and equal opportunity provisions of WIOA or 29 CFR Part 37; and
- Notify the complainant and respondent, in writing, of that determination.

1) Violation Found

If the investigating authority finds reasonable cause to believe that the respondent has violated the nondiscrimination and equal opportunity provisions of WIOA or 29 CFR Part 37, an Initial Determination must be issued. The Initial Determination must include:

- The specific findings of the investigation;
- The corrective or remedial action that the Governor’s Office and State EO Officer’s proposes to the respondent, under Element Nine of the MOA and 29 CFR Part 37.94;
- The time by which the respondent must complete the corrective or remedial action;
- Whether it will be necessary for the respondent to enter into a written agreement under Element Nine of this MOA and 29 CFR Part 37.95 and 37.96; and
- The opportunity to engage in voluntary compliance negotiations.

2) Violation Not Found

If the investigating authority determines that there is no reasonable cause to believe that a violation has taken place, a Final Determination must be issued. The Final Determination represents the Governor’s Office and State EO Officer’s final action on the complaint. The Final Determination must:

- Be issued within the 90 day complaint resolution period;
- Give the investigating authority’s decision on the issue and an explanation of the reasons underlying the decision; and
- Notice that the complainant has the right to file the complaint with the Director, Civil Rights Center.

c. Corrective Actions

If, during the course of investigating the complaint, discriminatory actions are discovered, corrective action will be taken immediately, regardless of whether the complaint is resolved at the state level or is filed with USDOL CRC. This process of corrective actions and sanctions is described in Element Nine of the State of Oregon MOA.

7. Record Maintenance

RWP shall maintain records regarding complaints and actions taken for at least three years. Such records shall be maintained in a secure area and made available only to those with authorization. The complaint and any information gathered during the investigation may not be discussed or revealed to anyone not legitimately entitled to access (29 CFR 37.41). Investigators from the USDOL CRC will have access to any information collected by each recipient as outlined in 29 CFR 37.40.

ACTION

RWP and its sub-recipients/contractors will take the necessary action to support and assure adherence to this policy. This policy will remain in effect from the date of issue until such time that a revision is required.

INQUIRIES

Inquiries should be addressed to the RWP EO Officer at 541-842-2530.

Approved: _____

Chair, Rogue Workforce Partnership

Date: _____



**ROGUE WORKFORCE
PARTNERSHIP**

Administrative Policy

Standard Operating Procedure

Effective Date: 7/1/2015

New

Revised

Page 1 of 2

TITLE: INCIDENT REPORTING

PURPOSE

The purpose of this policy is to provide guidance and procedures for reporting allegations of fraud, program abuse or criminal conduct.

REFERENCES

Community Colleges and Workforce Development (CCWD) Policy 589-40.2
Workforce Innovation and Opportunity Act
20 Code of Federal Regulations Part 667.630
Training and Employment Guidance Letter No. 2-12
CCWD Policy 589-40.5

POLICY

All incidents of suspected fraud and/or abuse must be reported to RWP Executive Director and CCWD. Such incidents may be reported anonymously. This policy applies to all staff and any contractor/subcontractor or other entity responsible for providing WOIA services. Staff may anonymously report such incidents to their own agency as well.

PROCESS

Any incident of suspected fraud, abuse, or other program-related criminal activity will immediately be reported directly to RWP and CCWD.

RWP will complete necessary reporting documentation and will submit the report to CCWD. CCWD will immediately forward documents to the Department of Labor (DOL) Regional Office of Inspector General (OIG) and the Regional Administrator of the Employment and Training Administration.

Investigations are initiated and conducted by CCWD and will be handed over to the DOL/OIG at their request.

After conducting the investigation, CCWD will issue an initial determination report to the RWP Board Chair requesting response to report findings including plans for debt collection and other corrective actions as appropriate. This initial determination offers the opportunity for informal resolution. If no informal resolution meeting is requested, CCWD will issue the final determination.

GUIDE TO REPORT AN INCIDENT OF FRAUD AND/ OR ABUSE

I. General Report Procedures

- A. Staff is responsible for reporting any suspected fraud/abuse, misapplication of funds, gross mismanagement or employee/participant misconduct.
- B. Staff is encouraged to report such incidents to their supervisor, who must immediately notify RWP Executive Director, who will in turn notify the RWP Director of Administration.
- C. Staff can report directly to CCWD staff at 503-947-2401, or to the DOL OIG Hotline at 1-800-347-3756. Incidents may be reported anonymously.

II. General Investigation Procedures

When the RWP Executive Director is notified by staff of an incident of fraud or abuse, RWP Executive Director confers with parties involved in the reporting, gathers details, and submits the Incident Report Form, Office of Inspector General (OIG) 1-156.

When CCWD investigates the incident and makes a determination, the Executive Director can request an informal hearing within twenty (20) working days from the initial determination.

III. RESOLUTION

RWP Board Chair and/or CCWD and/or RWP Executive Director, as appropriate, will determine the final resolution to the incident and inform the appropriate parties.

Approved: _____
Chair, Rogue Workforce Partnership

Date: _____



ACTION BRIEF

DATE: July 21, 2016
TO: RWP Board of Directors
FROM: Sherri Emitte, Director of Administration
SUBJECT: PY16 Budget

Attached is the proposed RWP Budget for Program Year PY16 (year ending 6/30/17), as well as a summary of the various revenue and expenditure line items. Contained within the budget are various increases and decreases, with a net overall decrease of about \$9,000.

At the Board of Directors Meeting, I will have access to the detailed budget spreadsheet in case you need additional information.

Recommendation

It is recommended that the Corporate Directors review and approve the attached Budget for the year ending June 30, 2017.

ROGUE WORKFORCE PARTNERSHIP
PY 16 PROPOSED BUDGET

Revenue Summary

Total Revenue Projection

The total revenue projected for PY16 (the year ending June 30, 2017) is \$5,461,450, which is a decrease of \$9,022 from the PY15 amended budget.

WIOA Revenue Projection

Workforce Innovation and Opportunity Act Title 1B allocations have been received from the State’s Higher Education Coordinating Commission (HECC). Total WIOA 1B allocations for the coming program year are \$3,053,689, compared to \$2,540,195 for the same funding sources in the prior year, or a 20.2% increase. Individually, the Adult funds are increasing by \$261,812 (32.8%), Dislocated Worker funds are decreasing by \$39,508 (4.3%), and Youth funds are increasing by \$291,190 (34.7%).

We also have \$455,000 in Title 1B “carry-in” funds from PY15, and are planning to have \$467,953 that may be used as either “carry-out” funds into PY17, or for additional initiatives that may present themselves through the year.

In addition, we have carry-in in the amount of \$220,492 for our Job Driven National Emergency Grant (JD NEG), \$14,000 in Rapid Response funds (for the Rough and Ready layoff), and \$45,287 in Layoff Aversion funds (a grant we recently received that will train folks at Cars, Inc., reducing unemployment funds that would have to have been made). The decrease in the Rapid Response funds came about since we were first planning to contract directly with the Employment Department, but the State decided OED’s participation should be contained in its own separate grant. The corresponding contract expense has also been eliminated. The remaining NEG DWT grant was finished out in PY15.

Following is a summary:

	PY 16 Allocation	Carry-In Funds	PY 16 Total Available	PY 15 Amended Budget	Difference
Adult	\$1,059,696	\$ 110,000	\$ 1,169,696	\$ 860,687	\$ 309,009
Dislocated Worker	863,966	25,000	888,966	1,464,320	(575,354)
Youth	1,130,028	310,000	1,440,028	1,335,441	104,587
NEG DWT			0	5,981	(5,981)
JD NEG		220,492	220,492	362,250	(141,758)
Rapid Response		14,000	14,000	148,012	(134,012)
Layoff Aversion		45,287	45,287	0	45,287
Total	\$3,053,690	\$ 724,779	\$3,778,469	\$4,176,691	\$ (398,222)

Other Income

Other income represents an array of grants and contracts that add to our larger funding streams, as well as program income generated from sublease rents and other sources. PY16 Other Income is expected to be \$1,682,981, up by \$389,200, or 30.1%, from PY15 revenues.

Notable changes include:

- PY16 Funding for Back to Work Oregon, Local Board Support, National Fish & Wildlife Foundation, REACH, Rethinking Job Search, Sector Strategies, and SOHOPE represents a carry-over of remaining funds from PY15 multi-period programs. (The PY15 budgeted amounts had been adjusted down to amounts expected to be used in that year).
- Budgeted funds from SOESD for supplementing our PY16 College and Career for All efforts are shown as decreasing; however, PY15 expenditures and reimbursements ended up being substantially less than was initially expected.
- The Miscellaneous Income budget for PY15 consisted mostly of in-kind facilities contributions and donations in the form of substantial price reductions for IT-related expenditures. We have not budgeted any of these miscellaneous items for PY16.
- Both RCC PATH and Rogue Watershed Council programs were ended in PY15.
- Careers in Gear budgeted PY16 income reflects the entire amount needed, and does not include any additional subsidies.
- PY16 Rental Income / Cost Reimbursements has increased due to RWP's increase in lease costs (and the reimbursement of those increased costs from our sub-lessees). This line item has been restated from the PY15 budget presentation in that income from both the JOBS and OFSET programs have been included in this line item instead of separately stated.

Possibilities for Additional PY16 Revenues

- We've just been notified that we will soon receive a \$36,000 grant from the DHS Independent Living Program that will provide foster youth with summer work experience.

Expenditure Summary

Total Expenditure Projection

Total planned expenditures for PY16 are \$5,461,450, which is equal to the projected revenue.

Personnel

Staff wage and fringe/tax costs of \$843,049 are 15.4% of planned expenditures, and represent a 21.8% increase from the PY15 Amended Budget. Be aware that this figure is a high-end projection, and will most likely end up at a lower amount.

There are several factors involved in this increase, with the significant ones as follows:

- We are executing/planning/proposing several staffing changes to meet capacity needs that affect the overall budget. We will provide detail on those changes and discuss them at the Board Meeting.
- There are currently no planned increases in any existing salaries from the previous year.
- Fortunately, our health insurance increased by only about 2.5%, and all other insurance programs remained at the same level.

Contracted Services

Contracted Services of \$3,216,515 are 58.9% of planned expenditures, and represent a 13.4% decrease from the PY15 Amended Budget. (Note that the presentation has changed from the PY15 budget in that expenditures for our sub-contractor, ResCare, is included in this amount instead of stated separately).

The most significant factors in this decrease are:

- Our subcontractor for In School Youth, College Dreams, will be hiring an additional person to provide WIOA services to youth at Crater, Eagle Point, Ashland, Gladiola Alternative, Armadillo Alternative, and Logos Charter schools – schools that College Dreams does not currently have capacity to serve. This will add approximately \$55,000 to their PY16 contract.
- The PY16 contract for ResCare, our subcontractor for all other services, will be decreasing by almost \$325,000, due to several factors. The main reason may be seen in the WIOA funding summary on the previous page. As that revenue is decreased, so are the expenditures.

Operating Expenses

Operating Expenses for both RWP and the Medford and Grants Pass One Stop Centers total \$768,796, or 14.1% of planned expenditures, representing a \$37,000, or 5%, increase from the PY15 Amended Budget. This represents an increase in the lease payments for the RWP offices (the other two buildings had no increase this year), as well as a few other small increases in janitorial and other operating expenses.

Holdback / Carry Out into Following Year

We are happy to report that we conservatively project to carry out \$633,090 into PY17. With an excess amount of Youth funds available to us for PY16, we've held back over \$224,000 in order to take advantage of any opportunities that may come our way in order to strengthen our youth efforts. The carry-out projections also include amounts in the SOHOPE, REACH and other programs that extend beyond the end of PY16. We've also held back a relatively small percentage of other program funds that will provide a cushion in case of unanticipated changes through the year. With a large portion of our expenditures going to subcontractors, it's much easier to grant them additional funds later in the year than to take them back.

SE/se

**ROGUE WORKFORCE PARTNERSHIP
BUDGET FOR YEAR ENDING JUNE 30, 2017**

	CURRENT YEAR 2016-17	PRIOR YEAR 2015-16	DIFFERENCE
REVENUES			
WORKFORCE INNOVATION & OPPORTUNITY ACT			
Title 1B Adult	1,169,696	860,687	309,009
Title 1B Dislocated Worker	888,966	1,464,320	(575,354)
Title 1B Youth	1,440,028	1,335,441	104,587
National Emergency Grant Dislocated Worker Training	0	5,981	(5,981)
Job-Driven National Emergency Grant	220,492	362,250	(141,758)
Rapid Response	14,000	148,012	(134,012)
Layoff Aversion	45,287	0	45,287
WIOA SUBTOTAL	3,778,469	4,176,691	(398,222)
OTHER INCOME			
Back to Work Oregon	300,087	233,100	66,987
Careers in Gear	16,384	8,300	8,084
Local Board Support	131,505	86,719	44,786
National Fish & Wildlife Foundation	19,998	74,480	(54,482)
RCC PATH	0	9,838	(9,838)
REACH	333,242	166,667	166,575
Rethinking Job Search	51,604	38,359	13,245
Rogue Watershed	0	5,200	(5,200)
Sector Strategies	126,359	125,700	659
SOESD (CC4A)	50,408	69,736	(19,328)
SOHOPE	297,837	59,551	238,286
Miscellaneous Income	0	70,450	(70,450)
Rental Income / Cost Reimbursements	355,557	345,681	9,876
OTHER INCOME SUBTOTAL	1,682,981	1,293,781	389,200
TOTAL REVENUES	5,461,450	5,470,472	(9,022)
EXPENDITURES			
SERVICES			
Personnel	843,049	691,910	151,139
Contracted Services	3,216,515	3,713,799	(497,284)
RWP Operating Expense	294,282	263,534	30,748
One Stop Operating Expense	474,514	468,541	5,973
Holdback / Rollover into following year	633,090	332,688	300,402
TOTAL EXPENDITURES	5,461,450	5,470,472	(9,022)

MEMORANDUM

TO: Pat Huycke

FROM: Jacquelyn Bunick

RE: Rogue Workforce Partnership – Statue of Limitations on PERS Funds

DATE: June 1, 2016

Unfortunately, there is not a clear answer on whether or not there is a statute of limitations that would bar PERS from initiating a claim on any funds received from The Job Council that should have been paid to PERS. I spent a substantial amount of time researching this issue, but have been unable to find a statute on point that provides a specific statute of limitations or that even gets close to addressing the type of issue that the Rogue Workforce Partnership is dealing with. Additionally, there is not a significant amount of case law that deals with PERS, and, again, nothing that was on point for this issue.

In an effort to obtain clarification, I spoke with Peter Neilsen from the PERS employer legal department. He informed me that there is not a statute of limitations in Oregon for PERS to file a claim for owed liability. However, he was not able to direct me to a statute or administrative regulation that prescribes as such. Mr. Neilsen did say, however, that he has seen situations where PERS has sent employers invoices for back owed liability as far back as into the 1980s. If correct, this would suggest that PERS is not subject to a statute of limitations, but, without seeing any law on point, I would not assume he is correct.

PERS is governed by the Oregon Administrative Procedures Act (APA), so the standard statute of limitations for a PERS claim is 6 years. Although not analogous to the situation faced by the Rogue Workforce Partnership, there are cases out there that apply this 6 year statute of limitations in situations where PERS determines that an employee was overpaid benefits and wants to go back and adjust them. There is also documentation that it provides a deadline for an employee filling a claim with PERS to dispute the amount of benefit they are entitled to or a determination of their status with PERS.

ORS 183.315 exempts certain state agencies from complying with the APA. It should be noted that this statute exempts other public agencies, including the Department of Employment and the Department of Labor, but does not include any provision for PERS. This statute seems like the exact place where the exemption that Mr. Neilsen addressed would have been codified. A lack of inclusion of PERS to this exemption calls further into question the advice of Mr. Neilsen.

Without further research, my best informed opinion is that assuming a 6 year statute of limitations is a reasonable approach to take. This means, that, it seems likely that PERS would be barred from trying to collect on the debt of The Job Council if more than 6 years had passed since a default on the PERS liability occurred. A safe approach would be to assume 6 years from the date The Job Council dissolved. Please advise if you would like me to conduct any further research on this issue.



JUL 08 2016

760 SW Ninth Ave., Suite 3000
Portland, OR 97205-2584
T. 503.224.3380
F. 503.220.2480
www.stoel.com

July 1, 2016

OREN B. HAKER
Direct (503) 294-9338
oren.haker@stoel.com

SENT BY U.S. MAIL AND EMAIL

Ms. Debra Hembree
Public Employees Retirement System
11410 SW 68th Parkway
Tigard, OR 97223

(Debra.Hembree@state.or.us)

Re: The Job Council's Transitional PERS Liabilities

Dear Ms. Hembree:

As you know, we represent Josephine County in connection with the above-referenced matter. Over the past year Josephine County has attempted a dialogue with Oregon PERS in connection with certain transitional liabilities allocated to The Job Council. My last letter of October 30, 2015 has received no response to date. The purpose of this letter, absent any further response from PERS, is to disclaim, fully and finally out of an abundance of caution, any liability in connection with the dissolution of The Job Council and to reiterate Josephine County's refusal to assume, and unwillingness to accept, *any* portion of unfunded PERS obligations of The Job Council.

In your letter dated June 29, 2015, you represented that The Job Council had a total PERS unfunded actuarial liability of \$5,983,837 of which \$4,738,287 constitutes a non-pooled transition liability. Notwithstanding my prior request, we have not received any information from PERS as to (a) its calculation of pooled versus non-pooled transition liabilities, and (b) the legal basis in the PERS statute for characterizing certain liabilities as "non-pooled" and then transferring such unfunded actuarial liabilities to a separate PERS-participating employer. ORS 190.080(3) does not, nor was ever intended to, allow the State of Oregon to shift unfunded PERS obligations from one participating employer to another participating employer upon the former's dissolution. Rather, the unfunded liabilities of a PERS-participating employer should be absorbed by PERS upon that employer's dissolution.

Furthermore, and as we stated in our letter of October 30, even if ORS 190.080 does apply, that statute allocates liability jointly and severally among the municipalities "*unless the*

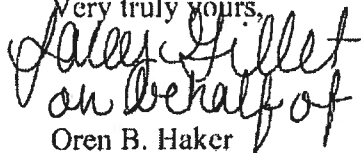
Ms. Debra Hembree
(Debra.Hembree@state.or.us)
July 1, 2016
Page 2

[intergovernmental] agreement specifically provides otherwise.” (emphasis added.) Here, The Job Council’s intergovernmental agreement precludes any allocation of unfunded PERS obligations between Josephine County and Jackson County for two reasons. First, the intergovernmental agreement requires that, upon its termination, “TJC shall pay or make provision for payment of its creditors, including reimbursement to the federal government or other governmental agencies of amounts required to be paid to them upon termination of this Agreement and the liquidation of TJC.” Thus, it is The Job Council’s responsibility to satisfy its creditors, including PERS.

Second, the apportionment of liabilities among Jackson County and Josephine County pursuant to Article VII, section 1 is limited to liabilities “due to TJC’s acts, errors, or omissions or TJC’s performance or failure to perform pursuant to the requirements of state or federal law.” To the best of Josephine County’s knowledge, there have been no allegations by the State of The Job Council’s breach of a contract or commission of a tort, and certainly no judgment to either effect.

To the extent the State takes issue with Josephine County’s position with respect to The Job Council’s transition liability, I would appreciate a prompt call or response to this letter. I ask for a prompt response because, as you well know, Josephine County is by any measure in financial distress. Any cloud of liability here only exacerbates its current distress. To the extent the State does not respond to this letter, I believe my client has a good faith basis to rely on the lack of a response as an acknowledgment that Josephine County is not responsible for The Job Council’s unfunded PERS obligations.

Very truly yours,


on behalf of
Oren B. Haker

cc: Client
The Job Council (by U.S. Mail)
Jackson County Board of Commissioners (by U.S. Mail)

May 17, 2016

Jim Fong
Executive Director
Rogue Workforce Partnership
100 East Main St. Suite A
Medford, OR 97540

Jim,

Congratulations on submitting your first local area plan under the new Workforce Innovation and Opportunity Act! In order to ensure that Oregon continues to be a leading state in workforce development, we have undertaken a thorough review process that should help you and your board deliver the best system possible to serve the businesses and individuals in your area. This process included a review of each local plan by Workforce Investment staff and two members of the Oregon Workforce Investment Board (OWIB). A third-party review was completed by our strategic planning consultants, Thomas P. Miller & Associates, LLC. The state guidance for local plans was the standard upon which all local plan reviews were based.

Comments have been combined into one set of recommendations and checked for consistency across all nine regions. With four new areas that are still in the early stages of development and several areas that are more seasoned, expectations for the level of detail in the plans varies accordingly. This dynamic is reflected in the various sections of the attached letter.

Review Comment Types

The comments are divided into four categories:

1. Elements of your plan that are particularly innovative, strong and/or represent a best practice. Some of these items will be developed into a Best Practices document that the OWIB can distribute to all local areas as reference for future modifications and planning efforts.
2. Items to address during conditional approval. These are items which are missing or need to be addressed in order to receive conditional approval by the OWIB on June 10.
3. Items for consideration which are not required to be addressed for approval, but the review team believes could make your plan even stronger over time.
4. A section of potential areas that may require modification based on anticipated federal guidance for local plans.

Next Steps

Since official guidance has not yet been issued by the U.S. Department of Labor (USDOL), all local plans will receive conditional approval at the June 10th OWIB meeting. However, there is still work to be done that is required to meet this conditional approval and to move into final approval status.

Under the section entitled **Items to Address for Conditional Approval**, in the attached OWIB Plan Comments Document, you will see that the sections align with the Local Plan Guidance you received back in October of 2015. For those local areas that have items to be addressed under Section 5 (compliance related), these must be remedied by June 30, 2016, in order to be in compliance with WIOA currently.

However, for Sections 1 through 4, there will be a **ninety-day follow up period** from July 1 to October 1, 2016 to allow for time to make changes as needed. CCWD will issue instructions for how these additional changes will be incorporated in Plan Modifications, pending forthcoming guidance from DOL.

We have also established general timeframes for **“check-ins” with each local area**. The purpose of these check-ins will be to discuss progress toward implementation of the local plans and to identify additional areas of need within the plans. We are expecting the first check-in to occur in Fall 2016 and a subsequent check in to occur in Spring 2017. If USDOL guidance is issued prior to either of the check-in periods, the state will use this time to discuss plan modifications with the local boards. More details about these operational pieces will be provided as the necessity for formal deadlines and timelines materializes.

Once missing elements under **Section 5 (due by June 30th)** have been addressed, please resubmit your plan by uploading it to <http://oregonlocalplanning.weebly.com/planning-regions.html>. And, as the required modifications under Sections 1-4 are completed, please update your local plan accordingly by uploading using this same link.

Last, due to the lack of existing guidance from USDOL we don't know exactly what monitoring will look like this year. We do believe there will be a focus on solid fiscal compliance. CCWD will be working with DOL to ensure monitoring is in line with DOL's expectations.

If you have any questions about the requirements or any of the comments, please contact the local Point of Contact for your specific region.

Thanks,

Kurt Tackman
Core Initiatives and Program Manager
Workforce Investment Division



Local Plan Revisions / Updates

June 30, 2016

Items to Address for Conditional Approval

Section 1

- Complete.

Section 2

- Complete.

Section 3

- Complete.

Section 4

- **4.1: Please provide additional detail about how access will be expanded.**

4.1 Describe how the local board, working with the entities carrying out core programs, will expand access to employment, training, education, and supportive services for eligible individuals, particularly eligible individuals with barriers to employment. [WIOA Sec. 108(b)(3)]

RWP will expand access by deploying resources for eligible individuals, particularly targeted populations, as described in 3.9. Additionally, we have strong partnerships in our region and leverage non-WIOA funding as much as possible to assist customers with education and training costs.

As discussed in section 3.2, 3.3, 3.4 and 3.8, our region has extremely strong partnerships between key workforce agency/program partners, including the Oregon Department of Human Services (*Self-Sufficiency programs: TANF-JOBS, SNAP-OFFSET; Vocational Rehabilitation*), Southern Oregon Goodwill Industries, Oregon Commission for the Blind, Easter Seals, Options for Southern Oregon, U.S. Veterans Administration, etc. The Workforce & Higher Education System Partners

Unlike the rest of state, TANF-JOBS, SNAP-OFFSET program services in our region are provided by the same service provider organization (*ResCare*) that provides WIOA Adult, Dislocated Workers and out-of-school Youth. These staff are an integrated part of the WorkSource Rogue Valley staff capacity, thus creating a seamless service delivery system that allows public assistance client as well as Vocational Rehabilitation clients (*many of whom have significant barriers to employment*) to access all of the foundational level Exploratory, Career and Training services provided through Title IB and Title V / SEDAF funds. For TANF-JOBS program clients, DHS provides case management and support services of child care and transportation that support employment and training activities. This integrated approach leverages the combined resources of DHS, Title IB, and Title V/SEDAF to help these individuals with barriers develop their skills, obtain employment and achieve greater self-sufficiency.

In addition, we are convening a Person with Disabilities work group that will focus on ensuring that disabled individuals with barriers to employment are able to equitably access all appropriate employment and training services, develop their skills, obtain employment and achieve greater self-sufficiency.

Finally, our region is committed to developing our performance metrics and key performance indicators and aligning them with the OWIB's statewide metrics. As part of this on-going effort, we will identify performance metrics to guide our work and outcomes to expand access to employment, training, education, and supportive services for eligible individuals, particularly eligible individuals with barriers to employment.

- **4.6: RWP indicates that a decision is still to be made on which strategy it will use to meet the minimum training expenditure requirement. This decision and a description of how the board will ensure the requirement is met is needed for conditional approval.**

4.6 Consistent with the Guidance Letter on Minimum Training Expenditures, describe how the board plans to implement the occupational skill development expenditure minimum. Clearly state whether the local board will: A. Expend a minimum 25% of WIOA funding under the local board's direct control on occupational skill development. OR B. Use an alternative formula that includes other income beyond WIOA funding to meet the minimum 25% expenditure minimum. Provide a description of other income it would like to include in calculating the expenditure minimum.

RWP has determined that it will use Option B – an alternative formula that includes other income beyond WIOA funding to meet the minimum 25% expenditure minimum. Examples of other income beyond WIOA formula funds we could include (depending on future funding allocations or grants), but would not be limited to:

- State of Oregon - Back to Work Oregon
- Job-Driven – National Emergency Grant
- Rethinking Job Search
- Layoff Aversion & Rapid Response grant
- TANF-JOBS
- SNAP 50/50
- SOHOPE – Southern Oregon Health Occupations Poverty Elimination (*an HPOG grant from US Department of Health & Human Services to Rogue Community College, with some services provided at WorkSource Rogue Valley*)
- REACH (*a State of Oregon grant to provide training to TANF clients and other low-income Oregonians*)

Not all of these revenue streams flow directly through the Rogue Workforce Partnership, however they would all be training investments connected directly through the comprehensive array of services provided through our WorkSource Rogue Valley One-Stop Centers.

We will structure our service provider contract so that the contractual budgeted amounts will meet this 25% minimum expenditure requirement.

Section 5

- **5.3: Current submission of board members has 19 non-business place holders and 15 business members. Until appointments are finalized, it is unknown whether the board has >50% business members.**

Given recent changes and clarifications in state quorum requirements for local Workforce Development Boards, we are now in the process of reconfiguring our By-laws to recalibrate the board membership to meet these and our Workforce Board operational requirements. We expect this recalibration to be complete by September, 2016. An update roster of appointed board members will be provided upon completion.

- **5.4: Must submit RWP policy for nomination and appointment of board members.**

This policy was submitted as part of our original plan submission.

- **5.5: Need a signed Local Workforce Development Board Certification Request, submitted form was not filled out.**

Attached as required.

- **5.11: It is unknown whether the board received any comments that disagreed with the plan. If so, they need to be submitted.**

We received no comments that disagreed with the plan. Attached is an action brief to our RWP Corporate Directors (aka Executive Committee) which summarizes all the feedback we received and took action upon to incorporate into our final plan submission.

Items for Consideration

- **In Section 1.2, on page 3 there may be a slight math error on the % of bachelor's and higher openings. It states 13%, but I think if Bachelors, Master's and Doctoral numbers are combined, the percentage grows to 22%.**

We will correct these numbers in a next phase update of our local plan.

- **Section 1.2 could be enhanced by the addition of needed skills for the identified in-demand sector of IT/e-Commerce.**

Our industry sector strategies efforts are just in the process of identifying these required skills and industry recognized credentials or certifications. We will enhance this section in our next phase update.

- **TANF and SNAP connections should be strengthened with more detail as some of the partnerships are strengthened and more guidance is offered on alignment from the state and federal level.**

Our additional response to section 4.1 above provide additional details on the strong service integration partnerships our region enjoys with our DHS – TANF and SNAP program. We are state leaders in this comprehensive program and service integration, and will continue to provide whatever additional descriptions, supports and technical assistance as requested.