

**U.S. Department of Labor**

Administrative Review Board  
200 Constitution Ave. NW  
Washington, DC 20210-0001



**IN THE MATTER OF:**

**WORKSOURCE EAST CENTRAL  
GEORGIA,**

**COMPLAINANT,**

**v.**

**EMPLOYMENT & TRAINING  
ADMINISTRATION, UNITED STATES  
DEPARTMENT OF LABOR,**

**RESPONDENT.**

**ARB CASE NOS. 2025-0018**

**ALJ CASE NO. 2024-WIA-00003  
CHIEF ALJ STEPHEN R. HENLEY**

**DATE: March 19, 2025**

**Appearances:**

***For the Complainant:***

**La Tunya Goodwin; *Pro Se*; Sparta, Georgia**

***For the Respondent:***

**Matthew Bernt, Esq., Heather Vitale, Esq., and Uchenna Evans, Esq.;  
*U.S. Department of Labor, Office of the Solicitor; Washington, D.C.***

**Before ROLFE and THOMPSON, Administrative Appeals Judges**

**DECISION AND ORDER**

**ROLFE, Administrative Appeals Judge:**

This case arises under the Workforce Innovation and Opportunity Act (WIOA) and its implementing regulations.<sup>1</sup> On November 7, 2024, Chief Administrative Law Judge (Chief ALJ) Stephen R. Henley issued an Order

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<sup>1</sup> 29 U.S.C. § 3121 et seq.; 20 C.F.R. Part 683 (2024).

dismissing Worksource East Central Georgia's (WECG or Complainant) request for the Office of Administrative Law Judges (OALJ) to review the Determination issued by the Department of Labor's Employment and Training Administration (ETA or Respondent). In his Order of Dismissal, Chief ALJ Henley found that OALJ lacked jurisdiction to hear this matter. We affirm.

### **BACKGROUND AND PROCEDURAL HISTORY**

WECG is a local workforce development board that administers programs in the corresponding local workforce development area (LWDA). On July 27, 2023, the LWDA's fiscal agent notified Complainant of its intent to resign effective October 25, 2023. Complainant failed to identify a suitable replacement fiscal agent and on January 17, 2024, the State of Georgia (through the Governor) issued an Intent to Sanction letter to Complainant for failing to select an organization to serve as a fiscal agent and failing to maintain continued operation of a one-stop delivery system as required under the WIOA.<sup>2</sup> After granting extensions to permit Complainant to come into compliance, the State issued a Notice of Sanctions letter on May 3, 2024.<sup>3</sup>

On June 3, 2024, Complainant appealed the sanction to the U.S. Department of Labor's Employment and Training Administration (ETA or Respondent).<sup>4</sup> On July 16, 2024, Respondent, through the ETA Grant Officer, issued a Determination upholding the State's sanction and finding that the State did not violate WIOA title I.<sup>5</sup> On August 6, 2024, Complainant filed a request for review of this Determination with the Department of Labor's Office of Administrative Law Judges (OALJ). Chief ALJ Henley issued a Notice of Docketing and Order to Show

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<sup>2</sup> Order of Dismissal at 1-2.

<sup>3</sup> *Id.* at 2.

<sup>4</sup> See 29 U.S.C. § 3244(b)(2) (providing that actions taken by the Governor may be appealed to the Secretary of Labor and shall not become effective until the time for an appeal has expired or the Secretary has issued a decision). The Secretary has delegated consideration of such appeals (alongside authority to carry out programs and activities under WIOA) to the Assistant Secretary for Employment and Training. See Secretary's Order 6-2010 (Delegation of Authority and Assignment of Responsibility), 75 Fed. Reg. 66,268 (Oct. 27, 2010). The Assistant Secretary has redelegated the exercise of these duties to the ETA Grant Officer. See 20 C.F.R. Part 683, Subparts F, G; 75 Fed. Reg. at 66,269 ("The Assistant Secretary for Employment and Training may further redelegate, unless otherwise prohibited, the authority and responsibilities herein delegated by this Order.).

<sup>5</sup> Order of Dismissal at 2-3.

Cause requiring Complainant to show cause as to why the complaint should not be dismissed for lack of jurisdiction. Complainant filed a statement on September 18, 2024, and Respondent filed a response on October 21, 2024. Subsequently, Chief ALJ Henley issued an Order of Dismissal finding that the WIOA and its implementing regulations do not confer jurisdiction on OALJ to hear appeals of a determination issued by the Secretary of Labor (the Secretary) upholding a sanction or corrective action imposed by the State.

Complainant timely filed a petition for review with the Administrative Review Board (the Board). On appeal, Complainant argues that (i) Section 186 of the WIOA confers jurisdiction on OALJ to review appeals of a Secretary's Determination upholding a sanction imposed by the State, and (ii) the State's actions violated the WIOA's nondiscrimination provisions, which provides an independent basis for OALJ jurisdiction.<sup>6</sup> We disagree on both counts.

### **JURISDICTION AND STANDARD OF REVIEW**

The Secretary of Labor has delegated authority to the Board to hear appeals from ALJ decisions and to issue agency decisions in cases arising under the WIOA.<sup>7</sup> The Board reviews an ALJ's order of dismissal de novo.<sup>8</sup>

### **DISCUSSION**

#### **1. The WIOA's Statutory Scheme**

Section 184(a) of the WIOA requires the Governor of each State to establish fiscal controls and accounting procedures to safeguard against the misuse of federal funds that are distributed to local areas under the WIOA.<sup>9</sup> States and local areas

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<sup>6</sup> 29 U.S.C. §§ 3246, 3248.

<sup>7</sup> Secretary's Order No. 01-2020 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 85 Fed. Reg. 13,186 (Mar. 6, 2020); *see also* 20 C.F.R. § 683.830(b).

<sup>8</sup> *See, e.g., Van v. JP Morgan Chase & Co.*, ARB No. 2023-0018, ALJ No. 2022-SOX-00028, slip op. at 5 (ARB Nov. 5, 2024) (citing *Bauche v. Masimo Corp.*, ARB No. 2022-0035, ALJ No. 2022-SOX-00010, slip op. at 4 (ARB Sept. 27, 2022)).

<sup>9</sup> 29 U.S.C. § 3244(a)(1) ("Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds allocated to local areas under part B.").

are further required to comply with uniform administrative requirements for grants, as promulgated by the Office of Management and Budget.<sup>10</sup> If the Governor determines that a local area is not in compliance with these requirements, the Governor is obligated to require corrective action and, if the local area fails to take such corrective action, impose sanctions.<sup>11</sup> Under Section 184(b), if a Governor determines that there has been a “substantial violation” of the WIOA and the violator has not taken corrective action, the Governor is required to issue a notice of intent to revoke approval of all or part of the local plan or impose a reorganization plan.<sup>12</sup> These sanctions are appealable to the Secretary and do not become final until either the time for appeal has expired or the Secretary has issued a decision.<sup>13</sup>

Although the Governor of each state has primary responsibility for ensuring compliance with the WIOA, Section 184 also provides the Secretary with independent authority to address violations of the WIOA’s fiscal controls if a Governor fails to do so. Specifically, Section 184 obligates the Secretary to require corrective action and impose sanctions “[i]f the Secretary determines that the Governor has not fulfilled the requirements of this subsection.”<sup>14</sup> The same dynamic exists for substantial violations; if the Governor fails to promptly issue a notice of intent to revoke a local plan’s approval or impose a reorganization plan, the Secretary shall take such action in the Governor’s stead.<sup>15</sup>

The WIOA provides an entirely different appeals process for cases involving sanctions directly imposed by the Secretary. Section 186 of the Act provides that “any recipient for whom a corrective action has been required or a sanction has been imposed by the Secretary under section [184]” may “request a hearing before an administrative law judge of the Department of Labor[.]”<sup>16</sup> In sum, the WIOA has a

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<sup>10</sup> 29 U.S.C. § 3244(a)(3).

<sup>11</sup> 29 U.S.C. § 3244(a)(5).

<sup>12</sup> 29 U.S.C. § 3244(b)(1).

<sup>13</sup> 29 U.S.C. § 3244(b)(2). As noted previously, the Secretary has delegated consideration of such appeals to the Assistant Secretary for Employment and Training, who has redelegated consideration of such appeals to the ETA Grant Officer. *Supra* note 4.

<sup>14</sup> 29 U.S.C. § 3244(a)(7).

<sup>15</sup> 29 U.S.C. § 3244(b)(3).

<sup>16</sup> 29 U.S.C. § 3246(a). Under Section 187 of the WIOA, a final order of the Secretary imposing sanctions pursuant to Section 186 is reviewable by the United States Court of Appeals that has jurisdiction over the recipient of the funds involved. 29 U.S.C. § 3247(a)(1).

dual track compliance function in which states (through the Governor) have primary responsibility for ensuring compliance with the Act's financial controls and imposing sanctions for noncompliance, and the Department of Labor (through the Secretary of Labor or her designee) has a residual responsibility to ensure compliance and impose sanctions in instances where the Governor fails to promptly take a required action.

## **2. Section 186 of the WIOA Does Not Confer OALJ with Jurisdiction to Review the Secretary's Review of a State-Imposed Sanction**

OALJ, as an administrative agency, is a tribunal of limited jurisdiction.<sup>17</sup> As is typical of administrative agencies, OALJ has "only such adjudicatory jurisdiction as is conferred on [it] by statute."<sup>18</sup> The WIOA does not confer OALJ with jurisdiction to hear appeals in cases where the Secretary issued a determination upholding a sanction imposed by the Governor.

Our analysis must start and end there. By its plain text, Section 186 limits OALJ review to WIOA grant recipients "for whom a corrective action has been required or a sanction has been imposed by the Secretary under [Section 184]."<sup>19</sup> The WIOA's implementing regulations use similar language, stating that "a recipient, subrecipient, or a contractor against which the Grant Officer has *directly imposed a sanction or corrective action* under sec. 184 of WIOA . . . may appeal to the U.S. Department of Labor, Office of Administrative Law Judges (OALJ) within 21 days of receipt of the final determination."<sup>20</sup>

In its briefing, Complainant asserts that "the statute provides jurisdiction for appeals involving corrective actions or sanctions 'imposed *or upheld* by the Secretary'" (emphasis added).<sup>21</sup> We do not agree. Despite Complainant's use of quotation marks, the phrase "or upheld" appears neither in Section 186 nor its

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<sup>17</sup> *Eddis v. LB&B Assocs., Inc.*, ARB Nos. 2001-0031, -0086, ALJ No. 2000-NQW-00001, slip op. at 4 (ARB Aug. 8, 2001) (citing 2 Am. Jur. 2d Administrative Law § 273 (2013)).

<sup>18</sup> *Id.* (citing 2 Am. Jur. 2d Administrative Law § 273 (2013) ("As a general rule, agencies have only such adjudicatory jurisdiction as is conferred on them by statute. An agency's jurisdiction is dependent entirely upon the validity and the terms of the statutes reposing power in it, and an agency cannot confer jurisdiction on itself.")).

<sup>19</sup> 29 U.S.C. § 3246(a).

<sup>20</sup> 20 C.F.R. § 683.800(a) (emphasis added).

<sup>21</sup> Complainant's Brief (Comp. Br.) at 7, 8, 11.

implementing regulations. Although we agree with Complainant that the statute’s plain language is dispositive, that plain language simply does not confer OALJ with jurisdiction to hear complaints involving corrective actions or sanctions that are upheld or affirmed by the Secretary: OALJ only has jurisdiction to hear complaints involving sanctions that are directly imposed by the Secretary. As the sanction WECG seeks to challenge was imposed by the Governor, OALJ is without jurisdiction to hear this case.<sup>22</sup>

In support of its position that OALJ has jurisdiction to hear appeals of sanctions imposed by the Governor, Complainant argues that “by adopting [the Governor’s] sanction, the Secretary transformed it into federal agency action subject to OALJ review under WIOA.” This mistakes the derivation of OALJ’s jurisdiction to hear certain WIOA appeals.<sup>23</sup> As previously explained, OALJ’s jurisdiction over cases involving sanctions imposed directly by the Secretary stems not from the fact that such cases involve federal agency action but from specific statutory language granting OALJ jurisdiction.<sup>24</sup> Complainant’s theory that the Secretary’s review “federalizes” the Governor’s sanction holds no weight and cannot serve as a basis for OALJ jurisdiction. Similarly, Complainant’s references to the Administrative Procedure Act (APA) do not change the jurisdictional analysis.<sup>25</sup> Complainant points to the definition of “agency action” in the APA as evidence that the Secretary’s

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<sup>22</sup> Section 186 also provides OALJ with jurisdiction to hear cases involving “any applicant for financial assistance under this subchapter [who] is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant[.]” 29 U.S.C. § 3246(a). Although Complainant argues that the Secretary’s Determination upholding the Governor’s sanction “effectively denied” Complainant of financial assistance, we find this argument unpersuasive. For one thing, Complainant’s appeal of the sanction to the Secretary acknowledges that it was the state-level Office of Workforce Development (OWD) that “failed to properly execute a grant agreement” with Complainant. Comp. Br. at Ex. B, Letter dated May 30, 2024. Thus, much like the sanction imposed by the Governor, OWd’s decision not to execute a grant agreement with Complainant is not a determination made by the Secretary that would provide OALJ with jurisdiction to hear this case.

<sup>23</sup> Comp. Br. at 8.

<sup>24</sup> See, e.g., *Entergy Servs., Inc. v. OFCCP*, ARB No. 2013-0025, ALJ No. 2013-OFC-00001, slip op. at 3 (ARB May 19, 2014) (noting that “[t]he Office of Administrative Law Judges is an administrative tribunal that exercises authority only as defined by statute or regulation.”); *Kinnett v. Sotera Def. Sols.*, ALJ No. 2021-OFC-00001, slip op. at 2 (ALJ July 12, 2021) (holding that “OALJ is not a court of general jurisdiction, but an administrative tribunal that obtains jurisdiction only when expressly provided for by statute, executive order, or regulation.”), *aff’d*, ARB No. 2021-0055 (ARB Sept. 9, 2021).

<sup>25</sup> Comp. Br. at 8, 13-14.

Determination upholding the sanction imposed by the Governor is an agency action, within the meaning of the APA.<sup>26</sup> Even assuming that the Secretary’s action constitutes agency action, it would not automatically provide OALJ with subject-matter jurisdiction. As the Board has previously recognized, the APA describes the rules and procedures that govern administrative proceedings but does not provide an independent basis for OALJ jurisdiction in the absence of a statute conferring jurisdiction to hear certain classes of claims.<sup>27</sup>

### **3. The WIOA’s Nondiscrimination Provisions Do Not Confer OALJ with Jurisdiction to Hear This Case**

Complainant argues that, even if OALJ does not have jurisdiction to review sanctions imposed by the Governor generally, OALJ has jurisdiction in the instant case because the sanction the Governor imposed on WECG was the result of the fiscal agent’s “pattern of retaliatory actions.”<sup>28</sup> Complainant reasons that the sanction’s allegedly retaliatory origin renders it “a direct violation of WIOA Section 188,” which prohibits discrimination on the basis of race, color, religion, sex, national origin, disability, or political affiliation by programs and activities funded or financially assisted by the Act.<sup>29</sup> This argument is similarly without merit. As with its first argument, Complaint’s assertion that OALJ has jurisdiction over any claim alleging a violation of Section 188 is not supported by the WIOA’s text.

Section 188 tasks the Secretary with ensuring that States and other recipients of WIOA funds comply with the Act’s nondiscrimination and equal opportunity provisions, and permits the Secretary to refer noncompliance matters to the Attorney General with a recommendation that an appropriate civil action be

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<sup>26</sup> 5 U.S.C. § 551(13) (“‘agency action’ includes the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act[.]”).

<sup>27</sup> *Kinnett*, ALJ No. 2021-OFC-00001, slip op. at 3 (“[T]he Administrative Procedure Act simply describe[s] the rules and procedures that govern administrative proceedings and do[es] not independently provide Plaintiff the right to a hearing before OALJ[.]”); *cf.* *Califano v. Sanders*, 430 U.S. 99, 107 (1977) (concluding that “the APA does not afford an implied grant of subject-matter jurisdiction permitting federal judicial review of agency action.”).

<sup>28</sup> Comp. Br. at 19 (“[T]he Fiscal Agent engaged in a pattern of retaliatory actions, culminating in the state-imposed sanction that dismantled the LWDB.”).

<sup>29</sup> *Id.*; *see also* 29 U.S.C. § 3248.

instituted.<sup>30</sup> Section 188 also empowers the Attorney General to bring a civil action “whenever the Attorney General has reason to believe that a State or other recipient of funds under this subchapter is engaged in a pattern or practice of discrimination in violation” of applicable law.<sup>31</sup>

The regulations implementing Section 188 permit any person who believes they have been retaliated against in violation of the WIOA’s nondiscrimination provisions to file a complaint with either the recipient’s equal opportunity officer or the Department of Labor’s Civil Rights Center (CRC).<sup>32</sup> The regulations also outline the process by which CRC will decide whether to accept a complaint; investigate a complaint; make a determination regarding the alleged violative conduct; and attempt to secure voluntary compliance with the Act’s nondiscrimination and equal opportunity provisions.<sup>33</sup> At the conclusion of this process, if the Director of CRC concludes that compliance cannot be secured by voluntary means, the Director must either (a) issue a Final Determination; (2) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or (3) take such other action as may be provided by law.<sup>34</sup> Grant applicants and recipients who receive a Final Determination may file a written answer to the Final Determination with OALJ and request a hearing before OALJ.<sup>35</sup>

Assuming—without concluding—that the Complainant is protected by the WIOA’s nondiscrimination provisions and the fiscal agent’s alleged conduct violates those provisions, not a single step in the regulations’ detailed remedial process has been followed. As a result, the Director of CRC has not issued a Final Determination and there is therefore nothing for which Complainant can request an OALJ hearing. Importantly, we note that it is the grant applicant or recipient accused of violating the WIOA’s nondiscrimination provisions that the regulations afford an opportunity to request a hearing before OALJ; not the person alleging discrimination.

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<sup>30</sup> 29 U.S.C. § 3248(b).

<sup>31</sup> 29 U.S.C. § 3248(c).

<sup>32</sup> 29 C.F.R. § 38.69.

<sup>33</sup> 29 C.F.R. §§ 38.69–38.96.

<sup>34</sup> 29 C.F.R. § 38.95.

<sup>35</sup> 29 C.F.R. § 38.111.



Although the regulations implementing Section 188 provide an avenue for grant recipients to seek OALJ review of a Final Determination, they do not provide OALJ with jurisdiction over any case in which a party alleges that they have been discriminated or retaliated against. Therefore, WECG's claim of retaliation, even if it were substantiated, cannot serve as the basis for OALJ jurisdiction to review the sanction imposed on WECG by the Governor.

### **CONCLUSION**

We **AFFIRM** the ALJ's Order of Dismissal.

**SO ORDERED.**

**ANGELA W. THOMPSON**  
**Administrative Appeals Judge**

**JONATHAN ROLFE**  
**Administrative Appeals Judge**