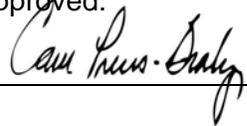


Department of Community Colleges and Workforce Development	Number: 589-40.3
	Revised: 11/01/06
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SUBJECT: Workforce Investment Act Title IB Non-Criminal Grievance/Complaint Procedure	Approved: 

Purpose: Local Workforce Investment Areas (LWIAs) and subrecipients of Workforce Investment Act (WIA) Title I grant funds are required to have procedures for appealing a grievance or complaint to the state when: (1) no decision is reached at the local level within 60 days of the filing of the grievance; or (2) either the grievant or the local area is dissatisfied with the local hearing decision.

This procedure covers complaints alleging non-criminal violations of the requirements of the WIA in the operation of local WIA programs and activities; and to transmit policy, governing WIA Title I-B related grievance and complaint procedures at the state.

References: WIA Section 181(c)
20 CFR 667.600
29 CFR 37.35
OAR 151-020-0045

Definitions: Grievance or complaint – A written expression by a party alleging a violation of WIA, regulations promulgated under WIA, recipient grants, subagreements, or other specific agreements under WIA. All complaints, amendments, and withdrawals shall be in writing. These procedures are intended to resolve matters, which concern actions arising in connection with WIA Title I-B grant program.

Hearing Officer – An impartial party who shall preside at a hearing on a grievance or complaint.

Local Workforce Investment Area – Includes the LWIA administrative entity and its subrecipients to which the administrative entity has delegated the complaint and grievance resolution process.

Participant – An individual who has been determined to be eligible to participate in, and who is receiving services under a program authorized by WIA as defined in the WIA at Section 101(34). Also referred to as Registrants.

Recipient – An entity to which a WIA grant is awarded directly from the Department Of Labor to carry out programs under Title I-B of WIA. The state is the recipient of funds awarded under WIA sections 127(b)(1)(C), 132(b)(1)(B), and 132(b)(2)(b).

Subrecipient – An entity, including service providers, to which a subgrant is awarded and accountable to the recipient for the use of the funds provided.

Policy: The Department of Community Colleges and Workforce Development requires the LWIA to develop and maintain a process for:

- receiving grievances and complaints from participants or interested parties affected by the statewide workforce investment programs;
- resolving appeals of decisions at the LWIA level;
- remanding grievances and complaints related to the local WIA Title I programs to the LWIA grievance process; and

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- providing and managing an opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint.

Procedures: State-Level Grievance and Complaint Process

A. State-Level Informal Resolution and Hearing Procedures

All complaints of non-criminal violations of the requirements of WIA by the state, or complaints by individuals or interested parties affected by the statewide workforce investment program shall be filed in writing with the Commissioner of CCWD. All requests for state hearings shall include the same basic elements necessary for local-level hearings. These are:

- full name, telephone number and mailing address of the complainant;
- full name, telephone number and mailing address of the respondent;
- a clear and concise statement of the facts and dates describing the alleged violation;
- the provisions of the WIA, the WIA regulations, grant, or other agreements under the WIA, believed to have been violated;
- grievances or complaints against individuals, including staff or participants, shall indicate how those individuals did not comply with the WIA law, regulation, or contract; and
- the remedy sought by the complainant.

Upon receipt of the request for a state hearing, the Commissioner of CCWD or his/her designee, shall review the grievance or complaint and shall provide an opportunity for an informal resolution. The Commissioner of CCWD shall notify the complainant and the respondent within 10 days of receipt of the grievance or complaint and proceed with the informal resolution process. If the state cannot resolve the grievance or complaint informally, then a hearing will be held.

Hearings on any grievance or complaint shall be conducted within 30 days of the filing of a grievance or complaint. The complainant and the respondent shall be notified in writing of the hearing 10 days prior to the date of hearing. The hearing notice shall advise the following:

- the date, time, and place of the hearing before an impartial hearing officer;
- the pertinent sections of the WIA or any other federal regulations involved;
- a statement of the alleged violations. These statements must accurately reflect the content of the grievance or complaint as submitted by the complainant. However, clarifying notes may be added to assure that the grievance or complaint is addressed accurately;
- the name, address, and telephone number of the contact person issuing the notice.

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B. Appeals of LWIA Decisions or Request for an Oregon Review

A complainant may file a request for review with CCWD if no decision has been issued at the LWIA level within the 60-day time limit or if there has been an incident of restraint, coercion or reprisal as the result of filing a grievance or complaint. A complainant may file an appeal if the LWIA has issued an adverse decision. The request for a CCWD review or appeal shall be filed or postmarked (if mailed) within 10 days from the date on which either party received an adverse decision from the LWIA or 15 days from:

- the date on which a complainant should have received a decision regarding a locally filed complaint, which is defined as five days from the date the decision was due; or
 - the date on which an instance of restraint, coercion or reprisal was alleged to have occurred as a result of filing the complaint.
1. All requests for review or appeals shall include the following information:
 - the full name, telephone number, and mailing address of the complainant;
 - the full name, telephone number, and mailing address of the LWIA;
 - a statement of the basis of the request or appeal; and
 - copies of relevant documents, such as the complaint filed at the LWIA and the local decision, if any.
 2. If an evidentiary hearing was held at the LWIA level, CCWD shall request the record of the hearing from the LWIA and shall review the record without scheduling an additional hearing from the LWIA and shall review the record without scheduling an additional hearing. If an evidentiary hearing was not held at the LWIA level, CCWD shall instruct the LWIA to hold a hearing within 30 days of receipt of the appeal or request for a CCWD review. If the LWIA refuses to hold a hearing within the required timeframe, CCWD shall, within 30 days of receipt of the appeal or request for hearing, schedule an evidentiary hearing before a hearing officer. The Commissioner of CCWD shall notify the concerned parties and the LWIA by first class mail, certified with a return receipt, of the following information at least 10 days before a scheduled hearing:
 - the date of the notice, name of the complainant, and the name of the party against whom the complaint was filed;
 - the date, time and place of the hearing before a hearing officer;
 - a statement of the alleged violations. This statement shall accurately reflect the content of the complaint as submitted by the complainant; and
 - the name, address, and telephone number of the contact person issuing the notice.

C. Hearings

1. The CCWD hearing shall be conducted in an informal manner with strict rules of evidence not being applicable. Both parties shall have the right to:

- present written and/or oral testimony under oath and arguments;
- call and question witnesses;
- request and examine records and documents relevant to the issues; and
- be represented.

The hearing shall be recorded electronically or by a court reporter.

2. Parties may file with the Hearing Officer written arguments in lieu of closing arguments within five days of the close of the hearings.

D. CCWD Decision

1. Following completion of the CCWD hearing, or submission of written closing arguments, the CCWD hearing officer shall issue a proposed decision which the Commissioner of CCWD may adopt or modify as a final decision or direct the hearing officer to conduct further proceedings. The hearing officer's proposed decision shall contain the following information:

- the names of the parties involved;
- a statement of the alleged violation(s) and issues related to the alleged violation;
- a statement of the facts;
- the hearing officer's proposed decision and the reasons for the decision; and
- a statement of the proposed corrective action, if any, to be taken.

2. The Commissioner of CCWD shall not conduct a new evidentiary hearing, but shall review the record established by either the LWIA hearing or the CCWD hearing officer. The Commissioner of CCWD shall issue a decision on the basis of the information contained in the record. The Commissioner of CCWD may accept, reject, or modify the hearing officer's proposed decision of the LWIA, and shall issue a written decision to the concerned parties within 60 days of receipt by CCWD of the request for hearing or review.

3. The Commissioner of CCWD shall mail a written decision to both the complainant and the respondent by certified mail. The decision shall contain the following information:

- the names of the parties involved;
- a statement of the alleged violation(s) and issues related to the alleged violation;
- a statement of facts;
- the Commissioner's decision and the reasons for the decision;
- a statement of the corrective action, if any, to be taken; and
- a notice of the right of either party to file an appeal to the Secretary of Labor.

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E. Referral of Local Grievances or Complaints

Grievances or complaints filed directly with the state related to the local WIA programs will be remanded to the local area grievance process in accordance with LWIA Grievance and Complaint Procedures.

F. Federal-Level Appeal Process

Under Title 20 CFR Section 667(a)(1), if the state has not issued a decision with the required 60-day time limit, the complainant can file an appeal to the Secretary of Labor. The appeal must be filed with the Secretary of Labor within 60 days of the receipt of the decision being appealed.

The request for appeal must be submitted by certified mail, return receipt to:

Attention: ASET
Secretary
U.S. Department of Labor
200 Constitution Avenue NW
Washington DC, 20210

A copy of the appeal must be simultaneously provided to the ETA Regional Administration – Region 6, U.S. Department of Labor, Office of Regional Administrator, P.O. Box 193767, San Francisco, CA 94119-3767 and the opposing party.

ACTION: All LWIAs shall review grievance and complaint procedures specified in this policy and ensure that their policies and procedures are in accordance with these requirements.