

## Grievance Procedures Generally for Non-Criminal Complaints Other than Discrimination

151-020-0042 Each Local Workforce Area (LWA) subrecipient(s) of Title I-B funds must establish and maintain a procedure for grievances and complaints in accordance with Workforce Investment Act (WIA) Sec. 181(c) and 20 CFR 667.600. At a minimum the procedures of the subrecipient(s) must include a process for dealing with grievances and complaints from participants and other interested parties affected by the local Workforce Investment System, including one-stop partners, and training and service providers. The Department of Community Colleges and Workforce Development ("hereinafter Department") will oversee the procedures for grievances and complaints and will develop technical assistance guidelines for subrecipients. Such guidance must be adopted by the subrecipients as the procedures to be used in the resolution of complaints that allege a non-criminal violation of the Act, regulation(s), grant(s), or other agreement(s) under the Act.

In order to provide for prompt and informal resolution of any complaint related to the WIA Title I-B programs, Department will refer all complaints against a LWA subrecipient or other subrecipient receiving State WIA Title I-B funds (hereinafter "subrecipient") to that subrecipient for resolution.

(1) The complainant must file the complaint with the subrecipient within one (1) year of the alleged occurrence. The complaint shall be in writing and shall include:

- (a) Name, address and phone number of complainant;
- (b) Name and address of person or organization grievance is against;
- (c) The basis of the complaint - factual information and date occurred;
- (d) Provision of the Act, regulations, grant or other agreement alleged to have been violated, if known; and
- (e) Relief requested. The subrecipient determines if the complaint includes an allegation of a violation of the Act, regulations, grant, or other agreement under the Act. If the complaint includes such an allegation, the subrecipient shall follow the procedure given in this rule regarding informal resolution. The subrecipient shall notify the complainant of the resolution process to be used within five (5) days of receipt of the complaint.

(2) Hearings on any grievance shall be conducted within 30 days of filing of a complaint and decisions shall be made not later than 60 days after filing of a complaint, unless extended upon a showing of good cause and both parties agree, in writing, to waive these timelines and establish new ones. All references to days shall be defined as calendar days.

(3) If complainant is alleging a complaint regarding discrimination, the procedure to be followed is found in the applicable OR. Admin. Rule and the filing must be within 180 days of the alleged act of discrimination unless the time is extended by the Assistant Secretary of the Department of Labor for good cause. As provided under Section 188 of the Act and 29 CFR 37.70 – 37.89, questions about or complaints alleging violation of the WIA discrimination provisions may be directed to the LWA subrecipients as applicable, or to the Director, Civil Rights Center, U.S. Department of Labor.

### (4) Informal Resolution

(a) The subrecipient begins informal resolution efforts and investigation.

(b) The subrecipient sets a date for the informal resolution and issues clarification meeting. Both parties may agree, in writing, to waive the thirty (30) day timeline for formal hearing and sixty (60) day timeline for decision as provided in this rule.

(c) The complainant, if unsatisfied with the results of the informal resolution meeting, requests in writing a formal hearing as provided in this rule.

(d) The complainant may amend the grievance, in writing, at any time until twenty (20) days before the formal hearing.

### (5) Hearing Requirements

(a) The subrecipient schedules the formal hearing to be held within thirty (30) days from receipt of the complaint, unless the parties have agreed, in writing, to waive this timeline.

(b) The subrecipient schedules the formal hearing and notifies the complainant/in writing of the date, time and place of a hearing as well as the notice that the Governor review the decision if the subrecipient fails to meet prescribed timelines or if the complainant receives a decision unsatisfactory to the complainant.

(c) The Hearing Officer or Hearing Board conducts 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 at any time.

(A) Any party may request a different Hearing Officer or Hearing Board to be appointed.

(i) Request must be filed together within five (5) days after parties received notification of the hearing schedule and designation of the Hearing Officer or Hearing Board.

(ii) No party shall be permitted to make a second request that a different Hearing Officer or Board be appointed in any one complaint.

(B) Upon receipt of the request, the recipient shall designate a different Hearing Officer or Hearing Board. In such case, all timelines shall be automatically extended ten (10) days.

(C) If the complainant does not appear for the hearing for good cause shown, the complaint may be dismissed.

(D) The Hearing Officer or Hearing Board shall provide to all parties a written recommendation, defining issues, facts and suggested resolution.

(d) The subrecipient shall consider the complaint, informal resolution efforts, and Hearing Officer's or Hearing Board's recommendation. The subrecipient shall then define issues, facts, and resolution, in writing, and forward copies of the decision to each party. The decision will be received by complainant and the Department within 60 days of filing the complaint, unless the parties have waived this requirement. The decision shall also include notice that the complainant has the right to request that the Governor review the decision if the subrecipient fails to meet the prescribed timelines or if the complainant receives a decision unsatisfactory to the complainant.

(6) Hearing Decision Review Process

(a) If a complainant receives an unsatisfactory decision from a subrecipient or if the subrecipient fails to issue a decision within the prescribed timelines, unless the timelines have been waived, either party may request a review by the Governor.

(b) The Department must receive the review request from the complainant or respondent in writing at 255 Capitol Street, NE, Salem, OR 97310, (or its current address if the office has moved within 10 calendar days of subrecipient decision or within 15 calendar days from the date on which the complainant should have received a decision. The Department may request all necessary information, including but not limited to the following:

(A) the complaint;

(B) a synopsis of the informal resolution efforts;

(C) the tapes of and exhibits from the hearing;

(D) the hearing officer's recommendation; and

(E) the subrecipient's decision.

(c) The Department reviews the complaint within ten calendar days of receipt of the request for review to ensure that the hearing process was followed and that any regulations were correctly interpreted. For the purposes of review, the subrecipient's factual determination will be accepted. If the record contains enough information to render a decision, the Department will issue a final decision within 30 calendar 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.

(A) If the hearing was in accordance with the hearing procedure, and the material regulations were correctly interpreted, the Department shall issue a final decision notifying all parties, in writing, that the subrecipient's hearing decision is affirmed;

(B) If within ten calendar days of receipt of the request for review the Department 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, the subrecipient will be given 15 calendar days to gather and provide the Department the additional information. Such requirement for additional information will include any necessary instructions. The Department will review the additional information and issue a final decision, in writing, to all parties within 30 calendar days of receipt of the request to review, either affirming or denying the subrecipient's hearing decision;

(C)The final decision shall state that, "This represents the State of Oregon's Final Decision."

(d) If the Department does not complete a review within 30 calendar days of receipt of request, complainant or respondent may request review with the Secretary of Labor within ten calendar days from the date on which the review should have been completed.

(7) This process applies to a review of hearings conducted at the subrecipient level other than for discrimination grievances.

(8) Labor Standards - Subrecipients shall establish a process that allows an individual alleging labor standards violations to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides.

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