

REGION 1 WORKFORCE INVESTMENT BOARD

WORK4WV - REGION 1, INC.

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Region 1 Workforce Investment Board Policy Letter #08

Subject: Grievance and Complaint Policy

Effective Date: August 1, 2000 (amended November 21, 2002)(Amended September 8, 2005)(revised May 20, 2006)

1. Purpose: To set forth the procedure to be used by participants and other interested or affected parties to file grievances or complaints alleging violations of the Workforce Investment Act (WIA) of 1998. **This issuance does not cover allegations of discrimination based on race, color, religion, sex, national origin, age, disability or political affiliation or belief.** Such discrimination issues are covered under 29 Code of Federal Regulations Part 37 published November 12, 1999.

2. References: Section 181(c) Workforce Investment Act of 1998; 20 CFR Part 667 Subpart F.

3. Background: WIA requires that each state and local area receiving funds under the Act establish and maintain a grievance and complaint procedure for participants and other interested parties alleging violations of the Act. The procedures must include an opportunity for a hearing to be completed within 60 days of filing the complaint or grievance. This issuance sets forth the Region 1 procedures.

4. Policy:

(A) TRAINING PROVIDER AND ONE-STOP PARTNER GRIEVANCE PROCEDURE

Complaints and grievances arising in connection with WIA Title I programs operated by WIA Training Providers alleging a violation of the Act, regulations, grant or other agreements under this Act and from One-Stop partners, shall seek resolution of such allegation(s) through the following procedure as provided. Complaints must be filed within one (1) year of the alleged occurrence. Training Providers must specifically state section(s) and/or subsection(s) of the Act, regulations, grant or other agreements under this Act for which the allegation of non-compliance exists.

Grievance Procedure

Step 1: ALL COMPLAINTS SHALL BE IN WRITING. The individual, organization, or sub-recipient, who has the alleged complaint, shall first submit the specific allegation(s) to the:

Region 1 Workforce Investment Board
200 Value City Center, Suite 200
Beckley, WV 25801

Step 2: A representative who has not been part of any of the process or action involved in the complaint shall be designated by the Region 1 Workforce Investment Board Executive Director to meet with the complainant or representative(s) of the organization involved and shall attempt informally to resolve the issue(s). The findings of the designated representative must be submitted to the complainant, in writing, within five (5) days following the informal meeting. Notification of the right to request a hearing if a satisfactory resolution has not been achieved shall be included with the findings. If the complainant is not satisfied with the results of the informal meeting, they may proceed to the next step by requesting a hearing, in writing, within five (5) days from the receipt of the informal findings.

Step 3: An impartial hearing officer will be chosen by the Region 1 Workforce Investment Board Executive Committee and the Training Provider filing the complaint, via the striking panel listing procedure. To provide for a legal opinion within this procedure, the Federal Mediation and Conciliation Service will supply a listing of potential hearing officers consisting of attorneys. The Region 1 Workforce Investment Board and complainant will equally share all costs and fees associated with the hiring of the impartial hearing officer, who will attempt to resolve the allegations and render an independent decision. The requested hearing will be held within thirty (30) days from the date on which the complaint was filed. Written notification of the hearing will be sent out by the hearing officer, stating the date, time, place of the hearing and the issue(s) to be heard. The Region 1 Workforce Investment Board will be responsible for the formal request to the Federal Mediation and Conciliation Service for an impartial hearing officer. Should an impartial hearing officer not be chosen during the ten (10) day period via the striking panel listing procedure, the Region 1 Workforce Investment Board Executive Committee will then be responsible for the choosing of an impartial hearing officer. All involved parties have the right to be accompanied by an attorney or other duly authorized representative, the right to bring witnesses and documentary evidence, and the right to present testimony. The complainant may withdraw the request for hearing in writing before the hearing is held and either the complainant or the respondent may request a continuance of the hearing for a good cause.

The hearing officer will issue a written decision to the complainant and other parties involved, as appropriate, not later than sixty (60) days from the date on which the complaint was filed. The decision shall include a synopsis of facts, a statement of reasons for the decision and notice of recourse. All correspondence will be sent by certified mail with a return receipt requested. If the complainant and/or respondent is dissatisfied or the decision is not received within sixty (60) days of filing the complaint, he/she may proceed to the next step:

Step 4: A written request for an independent state review of the complaint should be submitted to:

Equal Opportunity Officer
WORKFORCE West Virginia
112 California Avenue
Cost Center 5002
Charleston, WV 25305

This request must be made within (10) days of the receipt of the decision or ten (10) days from the date the decision should have been rendered by the hearing officer. The designee of WORKFORCE West Virginia will conduct a review of the complaint and issue a decision within twenty (20) days from the date of the receipt of the review request. The decision rendered by the WORKFORCE West Virginia will be final.

If WORKFORCE West Virginia fails to issue a decision in the prescribed time frame, the grievance and hearing procedure provides an opportunity to request a determination whether reasonable cause exists to believe that the Act or regulations have been violated, from the Secretary of Labor. The request must be submitted to the Secretary within ten (10) days of the date on which WORKFORCE West Virginia decision should have been issued. The Secretary shall act within ninety (90) days and, as appropriate, direct WORKFORCE West Virginia to take further action pursuant to State and local procedures, where there is reasonable cause to believe the Act or regulations have been violated.

Complaints of discrimination are to be submitted within one hundred eighty (180) days of the alleged discriminatory act to:

Equal Opportunity Officer
WORKFORCE West Virginia
112 California Avenue
Cost Center 5002
Charleston, WV 25305
304-558-1600

or sent to:

U. S. Department of Labor
Directorate of Civil Rights
Room N-4123
200 Constitution Avenue, N.W.
Washington, D.C. 20210
202-693-6502

(B) PARTICIPANT GRIEVANCE PROCEDURE

All WIA Title I program participants have the right to file a grievance (WIA Regulations 667.600 and Section 181 of the Workforce Investment Act). It must be filed within one (1) year of the date the incident occurred.

Grievance: An actual or supposed circumstance regarded as just cause for protest or complaint.

Grievance Procedure

Step 1: An individual enrolled in WIA training and having a complaint shall complete the attached form and submit it to his/her immediate Supervisor /Instructor within two (2) work days of becoming aware of the alleged occurrence. Supervisor/Instructor shall give a written response to grievant within three (3) work days. A copy of the complaint and response shall be sent to:

Grievance Officer
Region 1 Workforce Investment Board
200 Value City Center
Suite 200
Beckley, WV 25801

Other individuals participating in the WIA program but not enrolled in training or other interested parties may file complaints directly to the office cited above and will be governed by the procedures outlined in Step 3 and beyond without regard to the intervening supervisor/instructor steps.

Grievant accepts the decision or proceeds to:

Step 2: Grievant requests an investigation from the Region 1 Workforce Investment Board within two (2) work days of receipt of Supervisor/Instructor response. An investigator will be assigned from the Region 1 Workforce Investment Board staff to review and/or investigate the complaint. An informal conference will be arranged between the grievant and the sub-sponsor within two (2) work days. A written response of the findings and/or resolutions will be sent to both parties within three (3) work days.

Grievant accepts the decision or proceeds to:

Step 3: Within two (2) work days of receipt of findings and/or resolutions the person having the grievance can send the written grievance form, with the responses from Steps 1 and 2, to:

Grievance Officer
Region 1 Workforce Investment Board
200 Value City Center
Suite 200
Beckley, WV 25801

The Grievance Officer will review the grievance in a final attempt to reach an informal resolution.

If an informal resolution cannot be reached, an informal hearing will be provided within a thirty-day (30) period from the time of the filing of the grievance. A written decision is rendered to all parties within sixty (60) days.

If the grievant does not receive a written decision within sixty (60) days or receives an unsatisfactory decision, the grievant then has a right to request a review of the grievance by the recipient. The request for review will be filed within ten (10) days of the receipt of the adverse decision or ten (10) days from the date on which the grievant should have received a decision. This request for review is to be sent to:

Equal Opportunity Officer
WORKFORCE West Virginia
112 California Avenue
Cost Center 5002
Charleston, WV 25305

The decision of WORKFORCE West Virginia is final except where there is reasonable cause to believe that the Workforce Investment Act or regulations have been violated. If this occurs, either party may request a determination by the Secretary of Labor.

An individual alleging a labor standards violation may submit a grievance to a binding arbitration procedure if a collective bargaining agreement covering the parties to the grievance permits.

DISCRIMINATION COMPLAINTS

All complaints alleging discrimination on the basis of race, color, national origin, age, disability, sex, religion, political affiliation or belief, and as appropriate, citizenship in violation of Section 188 of the Workforce Investment Act will be filed and processed under the procedures outlined in the United State Department of Labor's current regulations outlined in 29 CFR Part 37 implementing Title VI of the Civil Rights Act of 1964. These complaints must be filed within one hundred eighty (180) days of the alleged incident.

Participants and WIA funded staff are to be advised of the procedure for filing complaints with the U. S. Department of Labor, Civil Rights Center or WORKFORCE West Virginia. Complaints must be reported on forms supplied to worksite providers and sent to:

United States Department of Labor
Civil Rights Center
Room N-4123
200 Constitution Avenue, N.W.
Washington, D.C. 20210
202-693-6502

or sent to:

Equal Opportunity Officer
WORKFORCE West Virginia
112 California Avenue
Cost Center 5002
Charleston, WV 25305
304-558-1600

Notification of Rights to File Grievances

All organizations receiving funds under WIA will ensure that they have a process in place to inform participants and other interested parties concerning their right to file a grievance. Such notification shall in language appropriate for the populations served and will take into account barriers to communication including limited English speaking ability and limited literacy skills. Applicants for funds will describe their notification procedures in their grant or contract application.

REGION 1 WORKFORCE INVESTMENT BOARD

WIA PARTICIPANT GRIEVANCE FORM

Filing Date _____

Name of Complainant _____ Social Security # _____

Address _____

City _____ State _____ Zip _____ Phone # () _____

Supervisor/Instructor: _____
(if applicable)

Address _____

City _____ State _____ Zip _____ Phone # () _____

Step One (1)

Nature of Complaint/Grievance: _____

Remedy Sought: _____

Decision/Summary of Supervisor/Instructor's Response: _____
(if applicable)

Supervisor/Instructor's Signature _____ Date _____
(if applicable)

Complainant's Answer to Supervisor/Instructor's Decision: _____
(if applicable) _____

____ I am satisfied with Supervisor/Instructor's Decision.
____ I am NOT satisfied with Supervisor/Instructor's Decision and wish to proceed with Step Two
(2).

Step Two (2)

Findings and/or resolutions from investigation:

___ I am satisfied with the investigator's decision.

___ I am NOT satisfied with the Investigator's decision and request a review, investigation, and/or hearing as appropriate.

Complainant/Grievant's Signature _____ Date _____

This form must be forwarded by the Supervisor/Instructor to the Complaints Officer of the Region 1 Workforce Investment Board within two (2) work days of the date of the complainant/grievant's request to proceed to Step Two (2).

Time Frame:

Step One (5 work days)

Supervisor must respond within three (3) work days of filing of the written complaint. Complainant/Grievant must accept Supervisor/Instructor's decision within two (2) work days or request that the grievance proceed to Step Two (2).

Step Two (7 work days)

Region 1 Workforce Investment Board Investigator reviews complaint and responds in writing within five (5) work days of completion of Step One (1). Complainant responds (accepts or appeals) in writing within two (2) work days.

(C) STAFF GRIEVANCE PROCEDURES

Any staff member finding it necessary to file a formal grievance must do so in accordance with the following directives within five (5) calendar days of the date the aggrieved party became aware of the cause of such grievance.

Grievance Procedure

Step One: The aggrieved party is to submit a formal grievance in writing to the Executive Director. An investigation will occur, after which a resolution to the grievance will be sought.

Step Two: If not resolved within five (5) calendar days, the aggrieved party shall request his/her grievance to be heard by the Executive Committee of the Region 1 Workforce Investment Board within an additional five (5) calendar days. The Executive Committee will notify all concerned of the time, date, place of hearing and the right to present evidence, and the right to receive a written decision. The Executive Committee must hear the grievance and render a decision within ten (10) calendar days.

Step Three: If the issue is not resolved by the Executive Committee, the aggrieved party may appeal to the full membership of the Region 1 Workforce Investment Board within five (5) calendar days for review and/or a hearing. The decision of the Region 1 Workforce Investment Board will be rendered within fifteen (15) calendar days.

Step Four: If the issue is not resolved by the Region 1 Workforce Investment Board, the aggrieved party may appeal the final determination to WORKFORCE West Virginia within ten (10) days from date a decision should have been rendered by writing to:

Equal Opportunity Officer
WORKFORCE West Virginia
112 California Avenue
Cost Center 5002
Charleston, WV 25305

The WORKFORCE West Virginia's decision shall be rendered thirty (30) days from the receipt of the request to issue the decision. The WORKFORCE West Virginia's decision is final. Should WORKFORCE West Virginia fail to provide a decision as required, the complainant may then request from the Secretary of Labor a determination whether reasonable cause exists to believe the action or its regulations have been violated.

Complaints of discrimination are to be submitted within one hundred (180) days of the alleged discriminatory act to:

Equal Opportunity Officer
WORKFORCE West Virginia
112 California Avenue
Cost Center 5002
Charleston, WV 25305
304-558-1600

or

U. S. Department of Labor
Civil Rights Center
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