

Policy Category: Workforce Innovation & Opportunity Act	Effective Date: May 1, 2019
	Supersedes: Complaints & Grievances of a Non-Discriminatory Nature Policy (Eff 06/1/17)

Complaints & Grievances Policy

Reference

Nebraska DOL WIOA Policies <https://dol.nebraska.gov/EmploymentAndTraining/LCRWP/WIOA/Policies>

WIOA DOL Final Rules https://www.doleta.gov/wioa/Final_Rules_Resources.cfm

DOL Training and Employment Guidance Letters (TEGLS)
https://wdr.doleta.gov/directives/All_WIOA_Related_Advisories.cfm

Background

This policy establishes a local grievance policy in accordance with Sec. 181(c) of the Workforce Innovation & Opportunity Act (WIOA). This policy applies to grievances alleging a violation of WIOA (other than discrimination complaints which are governed by Sec. 188 of WIOA)

Action

Service providers shall take action to assure that the information contained within this policy is provided to and is understood by all participants and other individuals, including youth and those who are limited-English speaking individuals. All efforts shall comply with the language requirements of 29 CFR 38.9 regarding the provision of services and information in languages other than English. The one-stop operator shall ensure that Required Notice of Grievance Procedures are:

- Distributed to all participants who are receiving WIOA Title I funds;
- Available in the one-stop center;
- Made available in languages that represent the populations; and
- Provided to every participant receiving individualized services.

Policy

The purpose of this policy is to provide information about the content of the grievance procedure to participants and other parties affected by the local workforce system, including one-stop partners and service providers.

In the event that a WIOA registrant or participant, one-stop partner, service provider, or any other interest party has a grievance against the local workforce development system, an opportunity to submit that grievance will be offered.

Who May File

A grievance may be filed by any individual or organization, including but not limited to:

- program participants
- contractors
- WIOA staff
- local area staff
- One-Stop partner staff
- applicants for program participation
- labor unions
- community based organizations

The identity of the complainant or any other person who has furnished information or assisted in an investigation of a complaint will be kept confidential to the maximum extent possible, consistent with a fair determination of the issues.

No person, organization or agency may retaliate against any individual who files a complaint or testifies during complaint proceedings. Any individual may file a complaint without fear of jeopardizing their position, opportunity for advancement, salary increase or denial of rights, and benefits provided by the Act, regulations, or state and local laws.

Time Frames

Except for complaints alleging fraud or criminal activity, complaints shall be made within one hundred and eighty (180) days of the alleged occurrence.

This policy provides that complaints submitted under this procedure will be either resolved or a decision issued within sixty (60) days.

How To File A Grievance

A complainant may attempt to resolve all issues of unfair treatment by working with the One-Stop Operator, or designee, and staff member involved informally. After all attempts to resolve informally have been exhausted and the complainant is dissatisfied, a formal grievance may be filed.

All non-discrimination or unfair treatment grievances may be filed with:

Erin Porterfield

Executive Director

Heartland Workforce Solutions

5752 Ames Avenue

Omaha, NE 68104

(402) 218-1163

eporterfield@hws-ne.org

Complaints must be legible, signed by the complainant or the complainant's authorized representative, and dated. The date of receipt of the written complaint by the appropriate authority triggers the clock for counting days of action taken.

Complaints must pertain to a single subject, situation or set of facts.

The name, address and phone number must be clearly indicated. If the complainant is represented by an attorney or other representative of the complainant's choice, the name, address and phone number of the representative must also appear in the complaint.

Complaints must state the name of the party or parties complained against and, if known to the complainant, the address and phone number of the party or parties complained against.

Complaints must contain a clear and concise statement of the facts including pertinent dates constituting the alleged violations.

Complaints must cite the provisions of WIOA regulations, grants or other agreements under WIOA believed to have been violated, if known.

Complaints must state the relief or remedial action(s) sought.

Copies of documents supporting or referred to in the complaint must be attached to the complaint.

Investigation and Initial Determination

The HWS Executive Director will review and/or investigate the alleged incident and issue a written initial determination within ten (10) days.

The Initial Determination will include:

- Statement of Issues
- Initial Determination
- Reason for Determination
- Opportunity for Complainant to request a hearing if not satisfied with the determination.

Hearing

If the complainant is not satisfied with the Initial Determination, they may request a hearing before an impartial hearing officer. The request for hearing will be filed within seven (7) days of receipt of the Initial Determination. The hearing will be conducted in an informal manner and formal or technical rules of evidence will not apply.

If a hearing is requested, the HWS Executive Director will:

- Arrange for a hearing in the complainant's locale if possible.
- Insure the hearing is held within thirty (30) days of filing.
- Prepare a written notice of hearing and forward to all affected/interested parties.

The written notice of hearing will include:

- Identity of hearing officer;
- Date, time, and place of hearing; and
- How hearing will be conducted and issues to be decided.
- The opportunity to withdraw the request before the hearing. This request must be received in writing before the hearing date.
- The opportunity to bring witnesses and/or documentary evidence.
- The opportunity to be represented by an attorney or representative selected by the complainant.
- The opportunity to have records or documents relevant to the issues to be decided at the hearing produced by their custodian.
- The opportunity to question any witness or parties.
- The opportunity to amend the complaint prior to the hearing.

The decision of the hearing officer will be rendered, in writing, within ten (10) days from the date of hearing. The decision will include:

- A statement of issues presented at the hearing; and
- Hearing Officer's decision; and
- Reason for decision; and
- Recommended remedies to be applied.
- If the issues are not resolved at the local level, then there needs to be an opportunity for a local level appeal according to the procedures below and submitted to the State at:

Nebraska Department of Labor
Office of Employment and Training
550 South 16th Street
Lincoln, Nebraska 68509

State Appeal/Review Process

If the complainant does not receive a determination on a complaint filed at the local level within sixty (60) days of filing, or if either party is dissatisfied with the local hearing decision, an appeal may be made to the State. The request for review shall be filed within ten (10) days of receipt of the adverse determination or, if no determination is made within sixty (60) days, then at any time prior to receipt of a determination from the local level. Staff will review and/or investigate, provide opportunity for a hearing, and the hearing officer will issue a decision within sixty (60) days of the appeal to the State. A complainant may withdraw his/her appeal at any time prior to the hearing. The decision is final unless appealed to the Secretary, US DOL.

Grievances and complaints from participants and other interested parties affected by Statewide Workforce Investment programs may be submitted to the State at:

Nebraska Department of Labor
Office of Employment and Training
550 South 16th Street
Lincoln, Nebraska 68509

If it is determined that the complaint is directly related to the local WIOA program, then the complaint/grievance will be remanded to the local area grievance process. Local level procedures shall be exhausted before the complaint may be addressed at the State level. The local area shall either resolve the complaint informally or have a hearing and issue a final local decision within sixty (60) days.

Complaints must be legible, signed by the complainant or the complainant's authorized representative, and dated. The date of receipt of the written complaint by the appropriate authority [local area, State, or direct recipient], triggers the clock for counting days of action taken.

Complaints must pertain to a single subject, situation or set of facts.

The name, address and phone number must be clearly indicated. If the complainant is represented by an attorney or other representative of the complainant's choice, the name, address and phone number of the representative must also appear in the complaint.

Complaints must state the name of the party or parties complained against and, if known to the complainant, the address and phone number of the party or parties complained against.

Complaints must contain a clear and concise statement of the facts including pertinent dates constituting the alleged violations.

Complaints must cite the provisions of WIOA regulations, grants or other agreements under WIOA believed to have been violated, if known.

Complaints must state the relief or remedial action(s) sought.

Copies of documents supporting or referred to in the complaint must be attached to the complaint.

Investigation and Initial Determination

The Office of Employment and Training will review and/or investigate the alleged incident and issue a written initial determination within ten (10) days.

The Initial Determination will include:

- Statement of Issues
- Initial Determination
- Reason for Determination
- Opportunity for Complainant to request a hearing if not satisfied with the determination.

Hearing

If the complainant is not satisfied with the Initial Determination, they may request a hearing before the Commissioner of Labor or an appointed representative. The request for hearing will be filed within seven (7) days of receipt of the Initial Determination. The hearing will be conducted in an informal manner and

formal or technical rules of evidence will not apply.

If a hearing is requested, the Office of Employment and Training will:

- Arrange for a hearing in the complainant's locale if possible.
- Insure the hearing is held within thirty (30) days of filing.
- Prepare a written notice of hearing and forward to all affected/interested parties.

The written notice of hearing will include:

- Identity of hearing officer, date, time, and place of hearing, how hearing will be conducted and issues to be decided.
- The opportunity to withdraw the request before the hearing. This request must be received in writing before the hearing date.
- The opportunity to bring witnesses and/or documentary evidence.
- The opportunity to be represented by an attorney or representative selected by the complainant.
- The opportunity to have records or documents relevant to the issues to be decided at the hearing produced by their custodian.
- The opportunity to question any witness or parties.
- The opportunity to amend the complaint prior to the hearing.

The decision of the hearing officer will be rendered, in writing, within ten (10) days from the date of hearing. The decision will include:

- A statement of issues presented at the hearing.
- Hearing Officer's decision.
- Reason for decision.
- Recommended remedies to be applied.

Appeal to the Secretary of Labor

The Secretary of Labor shall investigate an allegation of a violation of the requirements of Title I if:

1. A decision relating to a Statewide WIOA program grievance or complaint has not been reached within sixty (60) days of receipt of the grievance or complaint or within sixty (60) days of receipt of the request for appeal of a local level grievance and either party appeals to the Secretary; or
2. A decision relating to such violation has been reached and the party to which such decision is adverse appeals such decision to the Secretary.

All appeals to the Secretary of Labor must be submitted by certified mail, return receipt requested, to the:

Secretary
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:

Region V Administrator
U.S. Department of Labor
Employment and Training Administration
230 S. Dearborn Street
Chicago, Illinois 60604

Appeals made under (2) above must be filed within sixty (60) days of the receipt of the decision being appealed. Appeals made under (1) above must be filed within 120 days of the filing of the grievance with the State, or the filing of the appeal of a local grievance with the State. All appeals should contain the following information:

- The full name, telephone number (if any) and address of the person making the complaint.
- The full name and address of the respondent against whom the complaint is made.
- A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.
- The provisions of the Act, regulations or grant or other agreements under the Act believed to have been violated.
- A statement disclosing whether proceedings involving the subject of the request have been commenced or concluded before any Federal, State or local authority and if so, the date of such commencement or conclusion, the name and address of the authority and the style of the case.
- The Secretary is required to make a final determination relating to an appeal no later than 120 days after receiving such appeal.

Remedies

Remedies that may be imposed through this grievance/complaint process for a violation of any requirement of Title I shall be limited to:

- Suspension or termination of payments under this title;
- Prohibition of placement of a participant with an employer that has violated any requirement under this title;
- Where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and
- Where appropriate, any other relief available under Title I of WIOA.

Other Remedies

Nothing prohibits a grievant or complainant from pursuing a remedy authorized under another Federal, State, or local law for a violation of Title I of WIOA.

Recordkeeping Requirements

Complaint records must be retained for a minimum of three years following resolution of the complaint. These records should be made available for review, as needed for compliance verification purposes.

Disclaimer

This policy is based on Greater Omaha's reading of the applicable statutes, regulations, rules and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.