



North Carolina Department of Commerce
Division of Workforce Solutions

DWS Policy Statement Number: PS 14-2015

Date: August 14, 2015

Subject: Non-Criminal Program Complaints

From:


William H. Collins, Jr. Assistant Secretary of Workforce Solutions

Purpose: To provide local Workforce Development Boards and other Workforce Innovation and Opportunity Act (WIOA) subrecipients the minimum standards and procedures for processing non-criminal program complaints and to rescind Local Area Issuance No. 2009-06.

Background: WIOA Section 181(c) requires the State and each local Workforce Development Board (WDB) receiving funds under Title I to establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this Title regarding its programs and activities from participants and other interested or affected parties. The attached procedures are designed pursuant to Section 3.10 of the State of North Carolina and local WIOA Grant Administration Agreements and WIOA Section 181(c).

Local Workforce Development Boards and other WIOA subrecipients are required to establish and maintain policies and procedures that incorporate these minimum standards.

Effective Date: Immediately

Expiration Date: Indefinitely

Contact: Director of Field Operations

Attachment: Non-Criminal Program Complaints

Non-Criminal Program Complaints

In accordance with WIOA Section 181(c) subrecipients of Workforce Innovation and Opportunity Act (WIOA) funds shall establish and maintain a procedure for grievances or complaints about its programs and activities from participants, subgrantees, subcontractors, and other interested persons. The grievances or complaint procedures shall also provide for resolution of complaints arising from actions taken by the subrecipients with respect to investigations, audits, or monitoring reports of their subgrantees, contractors, and other subrecipients.

1. Grievances arising at the local level must first exhaust available remedies established in local procedures before being subject to state review. When such grievances stem from an alleged act that also violates a federal statute other than WIOA or a state or local law, the individual or agency may, with respect to the non-WIOA cause of action, institute a civil action or pursue other remedies authorized under other federal, state, or local law against the subrecipient or its agency without first exhausting the remedies under WIOA.
2. Except for complaints alleging fraud or criminal activity, complaints shall be made within one year of the alleged occurrence.
3. Local Workforce Development Boards must make reasonable efforts to assure that the information provided will be understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals. Such efforts must comply with the requirements of 29 CFR 37.35 about the provision of services and information in languages other than English.
4. All complaints must be filed in writing, signed by the complainant or authorized representative, and include the following information:
 - a. The full name, address, and telephone number of the complainant;
 - b. The full name and address of the person against whom the complaint is made, if applicable;
 - c. A clear and concise statement of the acts considered to be a violation;
 - d. The provisions of WIOA, regulations, grant or other agreement under WIOA believed to have been violated; and
 - e. Other information that will help to explain and resolve the complaint.
5. Hearings on any program complaint filed must be conducted within 30 days of filing.
6. Grievance hearing procedures should include the following provisions:
 - a. Reasonable notice to all parties by registered or certified mail;
 - b. A statement of the date, time and place of hearing;
 - c. A statement of the authority and jurisdiction under which the hearing is to be held;
 - d. A reference to the particular section of WIOA, regulations, grant or other agreements under WIOA involved;
 - e. Notice to the parties of the specific charges involved;
 - f. The right of both parties to be represented by legal counsel;

- g. The right of each party to present evidence, both written and through witnesses;
 - h. The right of each party to cross examination;
 - i. The right of an impartial decision maker who has not been directly involved in the events from which the complaint arose; and
 - j. A written decision must be rendered with the prescribed time frame.
7. Complete records and documentation should be kept in each contested case, including minutes of testimony, data submitted, findings, appeals, and final decisions.
8. Decisions must be made within 60 days of filing the complaint. If a complainant receives an unsatisfactory decision or does not receive a decision at the local level within 60 days of the filing of the complaint, the complainant has a right to request a review of the complaint by the N.C. Division of Workforce Solutions. Request for such review should be submitted to:

N.C. Division of Workforce Solutions
313 Chapanoke Road, Suite 120
4316 Mail Service Center
Raleigh, North Carolina 27699-4316
ATTENTION: Director of Field Operations

Such requests must be filed within 10 days of receipt of the adverse decision or 15 days from the date on which the complainant should have received a decision, whichever is earlier. The Division of Workforce Solutions will conduct a review of the complaint and issue a decision within 30 days from the date of receiving the review request.

With the exception of complaints alleging violations of the labor standards, the Division of Workforce Solutions decision is final unless the Director of the U.S. Department of Labor (USDOL) Civil Rights Center exercises the authority for Federal-level review in accordance with federal law.

9. Should the Division of Workforce Solutions fail to provide a decision as required, the complainant may request from the Director of the USDOL Civil Rights Center a determination as to whether reasonable cause exists to believe that the Act or its regulations have been violated. The request for a determination must be submitted in writing within 120 days of the date the Division of Workforce Solutions decision should have been issued.

Director, Civil Rights Center
U.S. Department of Labor
Room N4123
200 Constitution Avenue, NW
Washington, DC 20210

The complaint shall contain the following:

- a. The full name, address, and telephone number of the complainant;
- b. The full name and address of the person against whom the complaint is made, if applicable;
- c. A clear and concise statement of the acts considered to be a violation including the date filed with the Division of Workforce Solutions and the date on which the decision should have been issued and an attestation that no decision was issued;
- d. The provisions of WIOA, regulations, grant or other agreement under WIOA believed to have been violated; and
- e. Other information that will help explain and resolve the complaint such as information concerning remedies and sanctions sought outside WIOA.

The Director of the USDOL Civil Rights Center must act within 120 days of receipt of a request and, where appropriate, direct the Division of Workforce Solutions to take further action pursuant to State and local procedures. The Division of Workforce Solutions has 60 days to comply.

10. Subrecipients shall assure that other employers, including private-for-profit employers of participants under WIOA, have a grievance procedure relating to the terms and conditions of employment available to their participants. Employers may operate their own grievance system or may utilize the grievance system established by the subrecipient. Employers shall inform participants of the grievance procedures they are to follow when the participant begins employment.

An employer grievance system shall provide for, upon request by the complainant, a review of an employer's decision by the subrecipient and the Division of Workforce Solutions, if necessary.