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200 New River Town Center
Beckley, WV 25801

GRIEVANCE PROCEDURE

Workforce Innovation and Opportunity Act

All WIOA program participants, WorkForce WV American Job Center Partners, Service Providers, and other interested parties have the right to file a grievance. Such parties may file a complaint concerning any aspect of the implementation of the Workforce Innovation and Opportunity Act when they feel the provisions of the Act have not been followed.

Purpose:

This document establishes the policy of West Virginia on the development, maintenance and implementation of programmatic grievance and complaint procedures. This policy and related procedures covers complaints alleging noncriminal violations of the requirements of Workforce Innovation and Opportunity Act (WIOA) in the operation of local WIOA programs and activities, and transmits policy governing WIOA Title I related grievance and complaint procedures at the local and State level.

Scope:

Title 20 Code of Federal Regulations (CFR) Subpart F Section 683.600 requires that Local Workforce Development Boards (LWDB) and sub-recipients of WIOA Title I grant funds comply with the grievance and complaint provisions of the WIOA. This policy applies to programmatic grievances and complaints pursuant to WIOA Section 181(c) and does not address the procedures for processing complaints alleging discrimination under WIOA Section 188 and/or Title 29 Code of Federal Regulations (CFR) Part 37. Information and complaints involving allegations of fraud, abuse, or other criminal activity must be reported directly to U.S. Department of Labor's (DOL) Office of Inspector General.

REFERENCES:

- WIOA Section 181 (c)
- Title 20 CFR Part 683.600
- Title 29 CFR Part 37

FILING INSTRUCTIONS:

This policy implements the requirements of WIOA Section 181(c) and 20 CFR Part 683.600. Retain this policy until further notice.

BACKGROUND:

Title 20 CFR Section 683.600 requires each LWDB, State, and direct recipient of funds under Title I of WIOA to establish and maintain a procedure for grievances and complaints from participants and other interested parties affected by the local workforce development system, including One-Stop partners, service providers, and the statewide workforce development programs.

POLICY AND PROCEDURES:

Definitions:

Complainant means any participant or other personally interested or personally affected party alleging a non-criminal violation of the requirements of WIOA.

Complaint file is a file that is maintained in a central location within each office which includes a hard copy of each complaint filed along with pertinent documentation.

Days means consecutive calendar days, including weekends and holidays.

Grievance or complaint means a written expression by a party alleging a violation of WIOA, regulations promulgated under WIOA, recipient grants, sub-agreements, or other specific agreements under WIOA. All complaints, amendments, and withdrawals shall be in writing. This policy is intended to resolve matters which concern actions arising in connection with the WIOA Title I grant program.

Hearing Officer means an impartial party who shall preside at a hearing on a grievance or complaint.

Local Workforce Development Board includes the Local Workforce Development Area's/Region's administrative entity and any sub-recipients to which the administrative entity has delegated the complaint and grievance resolution process.

Participant means an individual who has been determined to be eligible to participate in, and who is receiving services under, a program authorized by WIOA.

Participant case file means either a hard copy or an electronic file.

Recipient means an entity to which a WIOA grant is awarded directly from DOL to carry out a program under Title I of WIOA. The State is the recipient of funds awarded under WIOA Sections 127 (b)(1)(C), 132(b)(1)(B), and 132(b)(2)(B).

Sub-recipient means an entity to which a sub-grant is awarded and which is accountable to the recipient (or higher tier sub-recipient) for the use of the funds provided.

Procedures:

I. GENERAL PRINCIPLES AND REQUIREMENTS

These procedures will guide the receipt, hearing, and resolution of non-criminal grievances and complaints relating to WIOA Title I grant programs and activities that are funded with WIOA Title I grant monies provided to the Region 1 Workforce Development Board (R1WDB) by the State. These procedures will be available for use by all individuals and entities, including WIOA Title I grant participants, R1WDB staff, sub-recipients of the R1WDB, and other interested parties. Local procedures must include "a process which allows an individual alleging a labor standards violation to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties so provides." [Title 20 CFR Section 683.600(c)(3)]. Additionally, the R1WDB and sub-recipients of WIOA Title I grant funds must make reasonable efforts to assure that information about the content of the grievance and complaint procedures will be understood by affected participants and individuals, including youth and those who are limited English-speaking individuals. Such efforts must comply with the language requirements of Title 29 CFR Section 37.35.

At all levels of the grievance or complaint process, complainants have the right to be represented, at their own expense, by a person(s) of their choosing.

Grievances or complaints must be filed within *30 days* of the alleged violation. All grievances or complaints, amendments, and withdrawals must be in writing. All persons filing grievances or complaints shall be free from restraint, coercion, reprisal, or discrimination.

II. LOCAL GRIEVANCE AND COMPLAINT PROCEDURES

Pursuant to Title 20 CFR Sections 683.600 through 683.610, the Region 1 Workforce Development Board (R1WDB) has established this procedure for resolving grievances and complaints alleging a violation of WIOA Title I, regulations, grants, or other agreements under WIOA. The following outlines the procedures for resolving issues arising in connection with WIOA Title I grant programs operated by the administrative entity for the R1WDB and its sub-recipients. Any participant or other interested party adversely affected by a decision or action by the local workforce development system, including decisions by One-Stop partners and services providers, has the right to file a grievance or complaint with the R1WDB's Grievance Officer.

Grievance Officer
Region 1 Workforce Development Board
200 New River Town Center – Suite 200
Beckley, WV 25801
(FAX) 304-253-0176

A. Notice to Affected Parties

Initial and continuing notice of the local grievance and complaint procedures and instructions on how to file a complaint must be:

- Posted in a public location and be made available to any interested parties and members of the public.

- Made available to each participant. A copy of the written description of the local grievance and complaint procedure shall include (1) Notification that the participant has the right to file a grievance or complaint at any time within 30 days of the alleged violation; (2) Instructions and timeline for filing a grievance or complaint; and
- Notification that the participant has the right to receive technical assistance. Such information shall be modified, as needed, whenever the procedures are changed.

The R1WDB has the responsibility to provide technical assistance to the complainants, including those grievances or complaints against the R1WDB. Such technical assistance includes providing instructions on how to file a grievance or complaint, providing relevant copies of documents such as the Act, regulations, local rules, contracts, etc., and providing clarifications and interpretations of relevant provisions. This requirement shall not be interpreted as requiring the R1WDB to violate rules of confidentiality.

B. Form and Filing of Grievance or Complaint

The official filing date of the grievance or complaint is the date the written grievance or complaint is received by the R1WDB, its service providers, One-Stop partners, or sub-recipients. The filing of the grievance or complaint will be considered a request for a hearing, and the R1WDB shall issue a written decision within 60 days for the filing of the grievance or complaint.

The grievance or complaint must be writing, signed, and dated. For resolution purposes, the R1WDB requires that the following information be obtained or provided for all complaints:

- 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 WIOA, the WIOA regulations, grant, or other agreements under the WIOA, believed to have been violated;
- Grievances or complaints against individuals, including staff or participants, shall indicate how those individuals did not comply with the law, regulations, or contract; and
- The remedy sought by the complainant.

The absence of any of the requested information shall not be a basis for dismissing the grievance or complaint.

A grievance or complaint may be amended to correct technical deficiencies at any time up to the time of the hearing. The 30 day time period in which a grievance or complaint may be filed is not extended for grievances or complaints that are refiled with amendments. Grievances or complaints may be withdrawn at any time prior to the issuance of the hearing officer's decision. The R1WDB shall send a copy of the grievance or complaint to the respondent.

C. Informal Resolution

The R1WDB shall notify the complainant and the respondent of the opportunity for an informal resolution. Respondents must make good faith efforts to resolve all grievances or complaints prior to the scheduled hearing. Failure on the part of either party in the grievance or complaint to exert good faith efforts shall not constitute a basis for dismissing the grievance or complaint, nor shall this be considered to be a part of the facts to be judged in the resolution process. Where a complaint alleges a violation of WIOA Title I, grant or any agreements under WIOA, the R1WDB must assure that every grievance or complaint not resolved informally or not withdrawn is given a hearing, regardless of the grievance or complaint's apparent merit or lack of merit.

When the complaint has been resolved through the informal resolution process, the R1WDB shall attempt to contact the complainant and have him or her provide a written withdrawal of the complaint within 10 days of the receipt of the notice of resolution or impasse where a complainant decides not to proceed to an administrative hearing. The R1WDB shall maintain copies of correspondence in the local office complaint file.

D. Notice of Hearing

Hearings on any grievance or complaint shall be conducted within 30 days of filing of a grievance or complaint. The complainant and the respondent must be notified in writing of the hearing 10 days prior to the date of the hearing. The 10-day notice may be shortened with the written consent of both parties. The hearing notice shall be in writing and contain the following information:

- The date of the notice, name of the complainant, and the name of the party against whom the grievance or complaint is filed.
- The date, time, and place of the hearing before an impartial hearing officer.
- 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.

E. Conduct of Hearings

An impartial hearing officer shall conduct the hearing. The R1WDB will seek impartial hearing officers from among the staff of legal offices or personnel departments of municipalities or counties that will not be directly affected by, or will not implement the final resolution of, a specific grievance or complaint.

The hearing will be conducted in an informal manner with strict rules of evidence not being applicable and according to the procedures established by the R1WDB. Both parties will have the right to present written and/or oral testimony and arguments; the right to call and question witnesses in support of their position; the right to examine records and documents relevant to the issues; and the right to be represented. The hearing will be recorded electronically or by a court reporter.

F. Decision

Not later than 60 days after the filing of the grievance or complaint, the hearing officer shall mail a written decision to both parties by first class mail. The hearing officer's 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 decision and the reasons for the decision;
- A statement of corrective action or remedies for violations, if any, to be taken; and
- Notice of the right of either party to request a review of the decision by the State Review Panel within 10 days of the receipt of the decision.

G. Appeal

If a complainant does not receive a decision at the R1WDB level within 60 days of the filing of the grievance or complaint, or receives an adverse decision, the complainant then has the right to file an appeal with the State.

The complainant may request a State hearing by submitting a written notice of appeal to:

WorkForce West Virginia
Deputy Executive Director, Federal Programs
112 California Avenue, Room 613
Charleston, WV 25305

I have read and understand the above Grievance and Complaint Policy and have been given a copy of said document.

SIGNATURE OF APPLICANT

DATE