

**SOUTHWESTERN AREA
WORKFORCE DEVELOPMENT BOARD**

**GRIEVANCE AND COMPLAINT
POLICY 18-10**

DATE OF ISSUE

January 10, 2019

EFFECTIVE DATE

February 1, 2019

APPLICABILITY

Region IV, Chief Elected Officials (CEO), Southwestern Area Workforce Development Board (LWDB), and all Sub-recipients.

PURPOSE

As stated in § 683.600 of the Code of Federal Regulations, the purpose of this policy is to “establish and maintain a procedure for participants and other interested parties to file grievances and complaints alleging violations of the requirements of title I of WIOA, according to the requirements of this section.”

BACKGROUND

A. The LWDB must:

- (1) Provide information about the content of the grievance and complaint procedures required by this section to participants and other interested parties affected by the local workforce development system, including one-stop partners and service providers;
- (2) Require that every entity to which it awards title I funds provide the information referred to in paragraph (b)(1) of this section to participants receiving title I-funded services from such entities; and
- (3) Must make reasonable efforts to assure that the information referred to in paragraph (b)(1) of this section 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 language requirements of 29 CFR 37.35 regarding the provision of services and information in languages other than English.

B. Local area procedures must provide:

- (1) A process for dealing with grievances and complaints from participants and other interested parties affected by the local workforce development system, including one-stop partners and service providers;
- (2) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint;
- (3) 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 to the grievance so provides; and
- (4) An opportunity for a local level appeal to a State entity when:
 - (i) No decision is reached within 60 days; or
 - (ii) Either party is dissatisfied with the local hearing decision.

C. Action Required

- A. Program complaints against local WIOA programs and policies.
- B. Who may file. Applicants, participants, service providers, recipients and other interested parties, may file a complaint alleging a non-

criminal violation of local WIA programs, agreements or the local workforce development board's policies and activities.

C. Time and place for filing. Local program complaints shall be filed with the service provider or local administrative entity within 1 year from the date of the event or condition that is alleged to be a violation of WIOA.

(1) Local complaint process - step 1 - initial review.

(i) Written complaints will be taken by the service provider or local administrative entity from the complainant or the complainant's designated representative. All complaints will be logged.

(ii) If the complaint alleges a violation of any statute, regulation, policy, or program that is not governed by WIA, the complaint will be referred to the appropriate organization for resolution. Notice of the referral will be sent to the complainant.

(iii) If the complaint is retained, a complaint file should be established that contains: all application and enrollment forms, if appropriate; the complaint statement and form; chronological log of events; relevant correspondence; and a record of the resolution attempted.

(2) Local complaint process: step 2 - informal resolution. An attempt should be made to informally resolve the complaint to the satisfaction of all parties. This informal resolution process shall be completed within 10

calendar days from the date the complaint was filed. If all parties are satisfied, the complaint is considered resolved. The terms and conditions of the resolution shall be documented in the complaint file.

(3) Local complaint process: Step 3 - formal resolution.

(i) When no informal resolution is possible, the service provider will forward the complaint and a copy of the file to the local administrative entity that will review the complaint file, conduct a further investigation if necessary, and issue a determination within 20 calendar days from the date the complaint was filed. If further review of the determination is not requested, the complaint is considered resolved. The complaint file should be updated to reflect the determination.

(ii) Any party dissatisfied with the determination may request a hearing within 10 calendar days of the date of the determination. The local administrative entity will schedule the hearing and forward the program complaint to the impartial hearing officer for resolution. The local administrative entity will monitor the processing of the complaint.

(4) Local complaint process: step 4 - hearing. The hearing officer will schedule a formal hearing by written

- notice, mailed to all interested parties at least 7 calendar days prior to the hearing. The notice will include the date, time, and place of the hearing. The hearing shall be conducted within 45 calendar days from the date the complaint was filed. Parties may present witnesses and documentary evidence, and question others who present evidence and witnesses. Parties may be represented by an attorney or another designated representative, and may request that records and documents be produced. All testimony will be taken under oath or affirmation. The hearing will be recorded. The hearing officer's recommended resolution will include a summary of factual evidence given during the hearing and the conclusions upon which the recommendation is based.
- (5) Local complaint process: step 5 - final decision. The local administrative entity will review the recommendation of the hearing officer and will issue a final decision within 60 calendar days from the date the complaint was filed.
 - (6) Local complaint process: step 6 - appeal.
 - (7) Any party dissatisfied with the final decision, or any party who has not received a decision or a final resolution within 60 calendar days from the date the complaint was filed, may file a request for review. A request for review shall be filed with the department of workforce solutions as the state administrative entity within 90 calendar days from the date the complaint was originally filed.
 - (8) The state administrative entity will review the record and issue a final

decision on appeal within 30 calendar days from the date the appeal was received by the state administrative entity.

- D. Program complaints against local WIOA programs and policies.
 - (1) Who may file. Applicants, participants, service providers, recipients and other interested parties, may file a complaint alleging a non-criminal violation of local WIA programs, agreements or the local workforce development board's policies and activities.
 - (2) Time and place for filing. Local program complaints shall be filed with the service provider or local administrative entity within 1 year from the date of the event or condition that is alleged to be a violation of WIA.
 - (3) Local complaint process - step 1 - initial review.
 - (i) Written complaints will be taken by the service provider or local administrative entity from the complainant or the complainant's designated representative. All complaints will be logged.
 - (ii) If the complaint alleges a violation of any statute, regulation, policy, or program that is not governed by WIA, the complaint will be referred to the appropriate organization for resolution. Notice of the referral will be sent to the complainant.
 - (iii) If the complaint is retained, a complaint file should be established that contains: all application and enrollment forms, if appropriate; the

complaint statement and form; chronological log of events; relevant correspondence; and a record of the resolution attempted.

- (4) Local complaint process: step 2 - informal resolution. An attempt should be made to informally resolve the complaint to the satisfaction of all parties. This informal resolution process shall be completed within 10 calendar days from the date the complaint was filed. If all parties are satisfied, the complaint is considered resolved. The terms and conditions of the resolution shall be documented in the complaint file.
- (5) Local complaint process: Step 3 - formal resolution.
 - (i) (a) When no informal resolution is possible, the service provider will forward the complaint and a copy of the file to the local administrative entity that will review the complaint file, conduct a further investigation if necessary, and issue a determination within 20 calendar days from the date the complaint was filed. If further review of the determination is not requested, the complaint is considered resolved. The complaint file should be updated to reflect the determination.
 - (ii) (b) Any party dissatisfied with the determination may request a hearing within 10 calendar days of the date of the determination. The local

administrative entity will schedule the hearing and forward the program complaint to the impartial hearing officer for resolution. The local administrative entity will monitor the processing of the complaint.

- (6) Local complaint process: step 4 - hearing. The hearing officer will schedule a formal hearing by written notice, mailed to all interested parties at least 7 calendar days prior to the hearing. The notice will include the date, time, and place of the hearing. The hearing shall be conducted within 45 calendar days from the date the complaint was filed. Parties may present witnesses and documentary evidence, and question others who present evidence and witnesses. Parties may be represented by an attorney or another designated representative, and may request that records and documents be produced. All testimony will be taken under oath or affirmation. The hearing will be recorded. The hearing officer's recommended resolution will include a summary of factual evidence given during the hearing and the conclusions upon which the recommendation is based.
- (7) Local complaint process: step 5 - final decision. The local administrative entity will review the recommendation of the hearing officer and will issue a final decision within 60 calendar days from the date the complaint was filed.
- (8) Local complaint process: step 6 - appeal.
 - (i) Any party dissatisfied with the final decision, or any party

who has not received a decision or a final resolution within 60 calendar days from the date the complaint was filed, may file a request for review. A request for review shall be filed with the department of workforce solutions as the state administrative entity within 90 calendar days from the date the complaint was originally filed.

- (ii) The state administrative entity will review the record and issue a final decision on appeal within 30 calendar days from the date the appeal was received by the state administrative entity.

E. Discrimination and Equal Opportunity Grievance

F. The grievances related to discrimination and equal opportunity are governed by the New Mexico Administrative Code, 11.2.21, herewith attached. The Southwestern Area Workforce Development Board use this code as its procedure for processing complaints and grievances related to discrimination and equal opportunity grievances.

G. Inquiries

WIOA Administrative Entity; (575) 744-4857.

ATTESTED

This policy was approved through board resolution on January 10, 2019

SAWDB Board Chair Signature

Date