

GL Attachment G -- Local Area Participant Appeals Procedures

1. Purpose. The following procedure describes the process by which participants and other interested parties may file a grievance or complaint alleging a violation of the requirements under Title I of the Workforce Innovation and Opportunity Act. These procedures have been established in conformance with Sections 181(c) of the Workforce Innovation and Opportunity Act. To get a copy of the Act, refer to the U.S. Department of Labor website at: <http://www.doleta.gov/wioa/>. The grievance procedure applicable to Job Corps are set forth at 20 CFR 686.1050.

2. Protection. These procedures are designed to ensure that the identity of a person who furnishes information or assists in the investigation of a complaint will be kept confidential to the extent possible consistent with a fair determination on the complaint. A complainant's rights include freedom from employment termination, discrimination, retaliation, or denial of WIOA benefits to which entitled because the person filed a complaint. The complainant's identity will be kept confidential to every extent possible unless and until identity is necessary to resolve the issue.

3. Reprisal. Retaliation is prohibited against a person who files a complaint or testifies. An individual may file a complaint without fear of jeopardizing his/her WIOA participation, employment, advancement opportunities, salary increases, or any other rights and benefits.

4. Who May File. A complaint may be filed by any person or entity affected by the local Workforce Development System, including but not limited to program participants, contractors, subrecipients, WIOA staff, local area staff, one stop partners, service providers, One Stop Partner staff, applicants for program participation, labor unions, and community based organizations.

5. Filing Deadline. Non-criminal complaints should be filed as soon as possible and shall be filed within 180 days of the alleged occurrence.

6. How to File a Complaint. Complaints shall be submitted in writing and contain the following:

- A. Full name, legal address, and phone number of the complainant.
- B. Full name, address of the person or entity against whom the complaint is made.
- C. A clear statement of the facts and date(s) of the alleged violation.
- D. If known, the specific areas of Title I WIOA, its regulations, or other terms or conditions believed to have been violated.
- E. A statement as to whether or not the complaint has been filed anywhere else.
- F. If the complainant is represented by an attorney or other representative of the complainants choice, the name, address and phone number of the representative.
- G. Must state the relief or remedial action sought.
- H. Copies of documents supporting or referred to in the complaint must be attached to the complaint.
- I. The complaint must be signed and dated by the complainant.
- J. The written complaint is to be given to the One-Stop operator of the Lincoln American Job Center.
- K. If the complainant is unable to provide a written statement, an alternative method of obtaining written documentation from the complainant shall be pursued, which may include assistance by agency staff or the local service provider.

7. Where to get a Complaint Procedure/Form. Procedures and forms are available upon request at the Lincoln American Job Center located at 1111 O Street in the SCC Education Square Building or the Department of Urban Development located at 555 South 10th Street, Suite 205, Lincoln, Nebraska 68508. In addition, a copy of the procedure may be obtained on the City website. Any entity which is awarded Title I funds will provide and publish information on the complaint procedure and have forms available to participants upon request.

8. Resolving a Complaint.

- A. Complainants are encouraged to resolve complaints through informal discussion. If there is a mutually satisfactory resolution from the informal discussion, the One Stop Operator should include documentation in the file stating the issues and the resolution. The matter would then be considered closed.
- B. If the complaint is not resolved through informal discussion, the complainant can choose to formally file a written complaint with the One Stop Operator.
- C. The One Stop Operator will formally acknowledge its receipt of a complaint within 5 days of receipt by a written acknowledgment. The acknowledgment will be sent to the complainant's last known address on record.
- D. Within 14 days of receiving a complaint, the One Stop Operator will issue and send its initial determination to the complainant's last known address of record. The initial determination shall be construed as an informal resolution and will include:
 - 1. Statement of complainant's issues.
 - 2. The One Stop Operator's decision.
 - 3. Reasons for the decision.
 - 4. An offer to accept the decision in writing.
- E. If the decision is not accepted, a hearing may be requested by the complainant. The written request for a hearing must be made in writing by the complainant to the One Stop Operator and received by the One Stop Operator within 5 days of the complainant's receipt of the initial determination decision.
- F. Upon receipt of request for a hearing, the One Stop Operator will arrange it to be heard by a Hearing Committee of the Greater Lincoln Workforce Development Board designated by the Chairperson (hereinafter referred to as Committee) or by a hearing officer as designated by the Committee. The Committee shall have a minimum of 3 members for the hearing.
- G. The hearing will be arranged within 5 days from the date of receiving the request for a hearing.
- H. The complainant will be sent a written notice within 3 days that a hearing has been arranged and the location, date, and time of the hearing.
- I. The notice will include:
 - 1. Identity of Committee or hearing officer as designated by the committee.
 - 2. Date, time and place that the hearing will be held.
 - 3. Opportunity for the complainant to withdraw the request for a hearing. The request must be received in writing before the date of the hearing and must include a signed statement that the resolution is satisfactory.
 - 4. The opportunity to bring witnesses or documentary evidence.
 - 5. The opportunity to be represented by an attorney or other representative chosen by the complainant.
 - 6. The opportunity to have relevant records and/or other documents surrendered for the hearing.
 - 7. The opportunity to question any witnesses.
- J. The hearing will be conducted within 25 days of receiving the request for a hearing. The hearing will be held informally; meaning that formal and/or technical rules of

evidence do not apply. Opportunity shall be afforded all parties to present evidence or testimony bearing on the nature of the complaint.

K. The Committee's decision will be given in writing to the complainant and One Stop Operator within 60 days of the date the formal complaint was received by the One Stop Operator. The decision will include:

1. Statement of issues.
2. Committee's decision.
3. Reason(s) for the decision.
4. Recommended action(s).

L. The One Stop Operator will review and respond in writing to the Committee's decision within 5 days after receiving the decision and provide a copy to complainant. The One Stop Operator's written response to the recommended action will include:

1. Summary of facts and findings.
2. One Stop Operator response.
3. Reason(s) for the response.
4. Action(s) to be taken.

M. The parties have a right to appeal for a review by the Nebraska Department of Labor Commissioner if the Committee's decision is not satisfactory or a hearing and decision have not been provided within 60 days of receipt of the formal complaint. The appeal for review must be filed within 10 days of receipt of the adverse determination or, if no determination is made within 60 days, then at any time prior to the receipt of a determination from the local level. State staff will review and/or investigate, provide opportunity for hearing, and the hearing officer will issue a decision within 60 days of the appeal to the State. A complainant may withdraw his or her appeal at any time prior to the hearing. The decision is final unless appealed to the Federal Secretary of Labor. The State Department of Labor has issued a process for this appeal and may be contacted at Nebraska Department of Labor, Office of Employment and Training, 550 South 16th Street, Lincoln, Nebraska 68509.

N. The parties have a right to appeal for a review by the Federal Secretary of Labor if the appeal to the Nebraska Department of Labor has not resulted in a decision within 60 days of receipt of the request for appeal of a local level complaint or a decision has been reached and the party to which such decision is adverse wants to appeal. All appeals to the Secretary must be submitted by certified mail, return receipt requested to: 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 where the party is adverse to the decision must be filed within 60 days of receipt of the decision being appealed. Appeals where a decision was not reached must be filed within 120 days of the filing of the grievance with the State or appeal of a local grievance.

O. The complainant has a right to a written decision from the Federal Secretary of Labor no later than 120 days after receiving the request for appeal.

9. The Lincoln American Job Center will make reasonable efforts as provided for in 29 CFR 37.35 to assure that information on the complaint procedure and complaint forms will be understood by individuals, including youth, and limited English speaking participants, in order to meet their language needs and be effectively informed.

10. If an individual alleges a labor standard violation, such violation may be submitted to a binding arbitration procedure if such individual's collective bargaining agreement covering the parties to the grievance provides for an arbitration procedure.

11. Any equal opportunity and discrimination charges or complaints are to be handled separately and may be filed with the Nebraska Equal Opportunity Commission. Procedures are available upon request at the Equal Opportunity Commission, 301 Centennial Mall South, 5th Floor, P.O. Box 94934, Lincoln, Nebraska, 68509 or you may call 402-471-2024 or 1-800-642-6112.

12. Complaints Related to Conditions of Employment.

- A. Employees of the local areas and subcontractors shall submit and resolve complaints through local employer procedures.
- B. Each recipient of WIOA funds which is an employer of WIOA participants shall continue to operate or establish and maintain a grievance procedure of their own or use the one established by the state or local area and shall inform WIOA participants of the grievance procedure they are to follow when the participant begins employment.
- C. Employers, including private for-profit employers of WIOA participants may operate their own grievance system or use the one established by the state or local area and shall inform WIOA participants of the grievance procedure they are to follow when the participant begins employment.
- D. A complainant may appeal/submit a complaint if any of the following conditions exist:
 - 1. The employing agency does not operate a complaint system; or
 - 2. The employing agency operates a complaint system but the procedures are not followed; or
 - 3. The complaint alleges a violation of Federal or State rules and regulations.
- E. When the grievance alleges a violation of Section 181(b) of the Act and the grievance procedures have been exhausted or the 60 day time period has elapsed without a decision, either party to such procedure may submit the grievance to the Secretary. The Secretary shall investigate the allegations and make a determination as to whether a violation under Section 181(b) has occurred. If a modification or reversal of the decision issued pursuant to the recipient's grievance procedure is warranted, or the 60 day time period has elapsed without a decision, the Secretary may modify or reverse the decision, or issue a decision if no decision has been issued, after an opportunity for a hearing. If the Secretary determines that the decision issued pursuant to the grievance procedure is appropriate, the determination shall become the final decision of the Secretary.

13. Violations of the Relocation Provisions in Section 181(d) of the Act. When the grievance alleges violation of the relocation provisions in Section 181(d) of the Act, the grievance may be submitted to the Secretary for investigation to determine whether the State or local area is in compliance with the Act. If the Secretary determines that a violation of the relocation prohibitions has occurred, either by a State or an entity to which a State provided funds, the Secretary shall require the State to repay to the United States an amount equal to the amount expended in violation.

14. Complaint records must be retained by the One Stop Operator for a minimum of three years following resolution of the complaint. The One Stop Operator will maintain a Complaint Log that records all complaints, oral and written, and will provide this log upon request to the Greater Lincoln Workforce Development Board and to the State Program Monitor.