**Policy on Complaints and Grievances with an Appeals Process**

It is the policy of Heartland Workforce Solutions (HWS) to ensure non-discrimination, equal opportunity, and nonparticipation in sectarian activities while delivering services under the Workforce Innovation and Opportunity Act (WIOA) by HWS and Service Provider staff. WIOA prohibits discrimination on the basis of race, color, national origin, sex, age, disability, religion, political affiliation or belief, participant status, and certain non-citizens. Notice regarding this policy must be provided to: registrants, applications, employees, union or professional organizations that hold collective bargaining agreements with the grant recipient or service provider, members of the public including those with impaired vision or hearing, and any subcontractor who receives Workforce Investment funds from the service provider or grant recipient. This notice will be provided in an appropriate format to individuals with visual impairments and the service provider must be able to provide reasonable accommodations to all other individuals with disabilities so they may enjoy the benefits of the program. The notice may be provided by posting “Equal Opportunity is The Law” posters, personnel orientation, tag lines on stationary, pamphlets, handbooks, manuals, etc. Each individual who is registered for the WIOA Program will be requested to acknowledge they are aware of the service provider’s position on Equal Opportunity and they may file a complaint if they believe they have been discriminated against.

There are two different processes for submission of complaints for subsequent resolution. One process is to ensure the complainants are able to submit a complaint on violations of the Equal Opportunity laws and complaints on discrimination. The other process provides individuals an opportunity to submit a non-criminal type complaint regarding violations of WIOA or other federal and state laws or rules, including grant agreements, grant awards, collective bargaining agreements, failure to receive services, etc. Details on the processes, contacts, and procedures for filing a complaint or grievance can be found in Attachment I of the Local Plan ~~the HWS Operations Manual~~.

If a complaint of discrimination is filed with the recipient, the complainant must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (CRC).

If the recipient does not give the complainant a written Notice of Final Action within 90 days of the day the complaint was filed, the complainant does not have to wait for the recipient to issue that Notice before filing a complaint with CRC. However, the CRC complaint must be filed within 30 days of the 90-day deadline (in other words, within 120 days after the day on which the complainant filed the complaint with the recipient).

If the recipient does give the complainant a written Notice of Final Action on the complaint, but the complainant is dissatisfied with the decision or resolution, the complainant may then file a complaint with CRC. The complainant must file the CRC complaint within 30 days of the date on which he/she received the Notice of Final Action.

For non-criminal complaints and grievances, resolution at the local level is encouraged. However, complaints and grievances not resolved by the Service Provider or One Stop Operator will be referred to HWS. The procedures for filing a non-criminal complaint or grievance are found in Attachment I of the Local Plan ~~the HWS Operations Manual~~.

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 complainants 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

**Appeal of a Local Area Grievance or Complaint:** 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.

Statewide Workforce Investment System Grievance or Complaint Review Process: 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.

**Elements to Include in the Complaint Requesting Appeal of Local Area Decision or State Review**: 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 WIA 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 complainants 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 Workforce Investment 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 the WIOA.

Violations of the Labor Standards Provisions at Section 181(b)

Complaints Related to Conditions of Employment: Employees of the Local Areas and Sub-Contractors shall submit and resolve complaints through local employer procedures.

Each employer of WIA participants who is a recipient of WIOA funds shall continue to operate or establish and maintain a grievance procedure relating to the terms and conditions of employment.

Employers, including private-for-profit employers of WIOA participants, may operate their own grievance system or may utilize the grievance system established by the State or the Local Area. Employers shall inform WIOA participants of the grievance procedure they are to follow when the participant begins employment.

A complainant may appeal/submit the complaint if any of the following conditions exist:

* The employing agency does not operate a complaint system.
* The employing agency operates a complaint system but the procedures are not followed.
* The complaint alleges a violation of Federal or State rules and regulations.

Appeal to the Secretary: When the grievance alleges violation of Section 181(b) and the grievance procedure rights 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 of Labor. The Secretary shall investigate the allegations and make a determination as to whether a violation of 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 the decision issued pursuant to the grievance procedure is appropriate, the determination shall become the final decision of the Secretary.

Binding Arbitration: As an alternative to the above, a person alleging a violation of Section 181(b) may submit the grievance to a binding grievance procedure if a collective bargaining agreement covering the parties to the grievance so provides. However, binding arbitration decisions are not reviewable by the Secretary, and the remedies available to the grievant are limited to those set forth in the Act.

**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 of Labor 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, the Secretary shall require the State that has violated such provisions to repay to the United States an amount equal to the amount expended in violation.

**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.