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| **Complaints & Grievance of a Non-discriminatory Nature**  | Policy No.  | 8 |
| **Greater Nebraska Workforce Development Area** 550 South 16th Street Nebraska, NE 68508402.471.9878ndol.greaternebraska@nebraska.gov  | Effective Date | 7/1/2017 |
| Supersedes  |  |
| Revision Date |  |
| Revision No.  |  |
| Approval  | NDOL/GNWDB |

1. Purpose. The following procedure describes the process by which participants and other interested parties may file a grievance of a non-discriminatory nature or non-criminal complaint alleging a violation of the requirements under Title I of the Workforce Innovation and Opportunity Act, a violation of WIOA regulations or agreements under the Act, violations of the labor standards provisions at Section 181 (b) and violations of relocation provisions in Section 181 (d). 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](http://www.doleta.gov/wioa/). The grievance procedure applicable to Job Corps is set forth at 20 CFR 686.960 and 686.95.
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 organization affected by the local Workforce Development System, including but not limited to program participants, contractors, , 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 and grievances of a nondiscriminatory nature 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:
7. Full name, legal address, phone number of the complainant, and email address if available.
8. Full name, address of the person or entity against whom the complaint is made.
9. A clear statement of the facts and date(s) of the alleged violation.
10. If known, the specific areas of Title I WIOA, its regulations, or other terms or conditions believed to have been violated.
11. A statement as to whether or not the complaint has been filed anywhere else.
12. 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.
13. Must state the relief or remedial action sought.
14. Copies of documents supporting or referred to in the complaint must be attached to the complaint.
15. The complaint must be signed and dated by the complainant.
16. The written complaint is to be given to the One-Stop Operator of the American Job Center or mailed to the: Greater Nebraska Workforce Development Area, 550 S. 16th Street, Lincoln, NE 68508
17. 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.
18. Where to get a Complaint Procedure/Form. Procedures and forms are available upon request at the American Job or any Nebraska Department of Labor Office. 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. WIOA case managers are required to explain the process to clients during the initial assessment process and make available a copy of this policy.
19. Resolving a Complaint.
20. 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 and in the complaint log stating the issues and the resolution. The matter would then be considered closed.
21. If the complaint is not resolved through informal discussion, the complainant can choose to formally file a written complaint with the One Stop Operator.
22. 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.
23. 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 determination.
	3. Reasons for the determination.
	4. An offer to accept the determination in writing.
24. If the determination 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.
25. Upon receipt of request for a hearing, the One Stop Operator will arrange it to be heard by a Hearing Committee of the Greater Nebraska 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.
26. The hearing will be arranged within 5 days from the date of receiving the request for a hearing.
27. The complainant will be sent a written notice within 3 days after arranging a date that a hearing has been arranged and provide the location, date, and time of the hearing.
28. 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.
29. 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.
30. 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:
31. Statement of issues.
32. Committee’s decision.
33. Reason(s) for the decision.
34. Recommended action(s).
35. 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.
36. 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 decision has 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 a 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, Nebraska, Nebraska 68509.

1. The American Job Center and NDOL Offices 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.
2. 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.
3. 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, Nebraska, Nebraska, 68509 or you may call 402-471-2024 or 1-800-642-6112.
4. 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 Nebraska Workforce Development Board and to the State Program Monitor.
5. Statewide Workforce Development 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
Nebraska, 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 WIOA 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 WIOA 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 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 WIOA 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.

**Disclaimer**

This policy is based on Greater Nebraska’s reading of the applicable statutes, regulations, rules and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.