



North Carolina
Department of Commerce
Division of Workforce Development

Beverly Eaves Perdue, Governor
J. Keith Crisco, Secretary

Roger Shackelford, Executive Director

April 9, 2009

LOCAL AREA ISSUANCE NO. 2009-06

SUBJECT: Non-Criminal Program Complaints

PURPOSE: To provide local Workforce Development Boards and other Workforce Investment Act (WIA) subrecipients minimum standards and procedures for processing non-criminal program complaints.

BACKGROUND: Section 181(c) of the Workforce Investment Act of 1998 requires the State and each local Workforce Development Board (WDB) receiving funds under Title I to establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this Title regarding its programs and activities from participants and other interested or affected parties. The attached procedures are designed pursuant to Section 3.10 of the Grant Administration Agreement, Section 181(c) of the Workforce Investment Act of 1998, and 20 CFR Part 652, et al, Part 667, Subparts F, G, and H.

This issuance supersedes prior issuances regarding non-criminal program complaints. Local Workforce Development Boards and other WIA subrecipients are required to establish and maintain policies and procedures that incorporate these minimum standards.

EFFECTIVE DATE: Immediately

EXPIRATION DATE: Indefinitely

CONTACT: Division Grants Management staff

A handwritten signature in black ink that reads "Roger Shackelford".

Roger Shackelford

Attachment

Non-criminal Program Complaints

In accordance with Section 181(c) subrecipients of Workforce Investment Act (WIA) funds shall establish and maintain a grievance procedure for grievances or complaints about its programs and activities from participants, subgrantees, subcontractors, and other interested persons. The grievances or complaint procedures shall also provide for resolution of complaints arising from actions taken by the subrecipients with respect to investigations, audits, or monitoring reports of their subgrantees, contractors, and other subrecipients.

1. Grievances arising at the local level must first exhaust available remedies established in local procedures before being subject to state review. When such grievances stem from an alleged act that also violates a federal statute other than WIA or a state or local law, the individual or agency may, with respect to the non-WIA cause of action, institute a civil action or pursue other remedies authorized under other federal, state, or local law against the subrecipient or its agency without first exhausting the remedies under WIA.
2. Except for complaints alleging fraud or criminal activity, complaints shall be made within one year of the alleged occurrence.
3. Local Workforce Development Boards must make reasonable efforts to assure that the information provided to 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 requirements of 29 CFR 37.35 about the provision of services and information in languages other than English.
4. All complaints must be filed in writing, signed by the complainant or authorized representative, and include the following information:
 - a. The full name, address, and telephone number of the complainant;
 - b. The full name and address of the person against whom the complaint is made, if applicable;
 - c. A clear and concise statement of the acts considered to be a violation;
 - d. The provisions of the Act, regulations, grant or other agreement under the Act believed to have been violated; and
 - e. Other information that will help to explain and resolve the complaint.
5. Hearings on any program complaint filed must be conducted within 30 days of filing.
6. Grievance hearing procedures should include the following provisions:
 - a. Reasonable notice to all parties by registered or certified mail;
 - b. A statement of the date, time and place of hearing;
 - c. A statement of the authority and jurisdiction under which the hearing is to be held;
 - d. A reference to the particular section of the Act, regulations, grant or other agreements under the Act involved;
 - e. Notice to the parties of the specific charges involved;
 - f. The right of both parties to be represented by legal counsel;

- g. The right of each party to present evidence, both written and through witnesses;
 - h. The right of each party to cross examination;
 - i. The right of an impartial decision maker who has not been directly involved in the events from which the complaint arose; and
 - j. A written decision must be rendered with the prescribed time frame.
7. Complete records and documentation should be kept in each contested case, including minutes of testimony, data submitted, findings, appeals, and final decisions.
8. Decisions must be made within 60 days of filing the complaint. If a complainant receives an unsatisfactory decision or does not receive a decision at the local level within 60 days of the filing of the complaint, the complainant has a right to request a review of the complaint by the Division of Workforce Development. Request for such review should be submitted to:

Division of Workforce Development
313 Chapanoke Road, Suite 120
4316 Mail Service Center
Raleigh, North Carolina 27699-4316
ATTENTION: Grants Management

Such requests must be filed within 10 days of receipt of the adverse decision or 15 days from the date on which the complainant should have received a decision, whichever is earlier. The Division of Workforce Development will conduct a review of the complaint and issue a decision within 30 days from the date of receiving the review request.

With the exception of complaints alleging violations of the labor standards, the Division of Workforce Development's decision is final unless the Director of the US Department of Labor (USDOL) Civil Rights Center exercises the authority for Federal-level review in accordance with federal law.

9. Should the Division of Workforce Development fail to provide a decision as required, the complainant may request from the Director of the Civil Rights Center a determination as to whether reasonable cause exists to believe that the Act or its regulations have been violated. The request for a determination must be submitted in writing within 120 days of the date the Division of Workforce Development's decision should have been issued.

Director, Civil Rights Center
US Department of Labor
Room N4123
200 Constitution Avenue, NW
Washington, DC20210

The complaint shall contain the following:

- a. The full name, address, and telephone number of the complainant;

- b. The full name and address of the person against whom the complaint is made, if applicable;
- c. A clear and concise statement of the acts considered to be a violation including the date filed with the Division of Workforce Development and the date on which the decision should have been issued and an attestation that no decision was issued;
- d. The provisions of the Act, regulations, grant or other agreement under the Act believed to have been violated; and
- e. Other information that will help explain and resolve the complaint such as information concerning remedies and sanctions sought outside the Act.

The Director of the Civil Rights Center act within 120 days of receipt of a request and, where appropriate, direct the Division of Workforce Development to take further action pursuant to State and local procedures. The Division of Workforce Development has 60 days to comply.

10. Subrecipients shall assure that other employers, including private-for-profit employers of participants under the Act, have a grievance procedure relating to the terms and conditions of employment available to their participants. Employers may operate their own grievance system or may utilize the grievance system established by the subrecipient. Employers shall inform participants of the grievance procedures they are to follow when the participant begins employment.

An employer grievance system shall provide for, upon request by the complainant, a review of an employer's decision by the subrecipient and the Division of Workforce Development, if necessary.