

# GL ATTACHMENT F

## Local Area Participant Appeals Procedures

### 1. Purpose

The following procedure describes the process by which participants may file a grievance or complaint against an alleged violation of the requirements of Title I of the Workforce Investment Act (WIA) except for Job Corps. These procedures have been established in conformance with Sections 181(c) of the WIA law (PL 105-220), and parts 667.600 of the regulations promulgated under WIA law.

### 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 WIA 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 WIA 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, including but not limited to applicants, participants, one stop partners, WIA service providers, or other interested persons affected by the local Workforce Investment Act System.

### 5. Filing Deadline

Non-criminal complaints should be filed as soon as possible and have to 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 WIA, 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 complainant's 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.
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 10<sup>TH</sup> Street, Suite 205, Lincoln, Nebraska 68508. In addition, 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.
  - B. If the complaint is not resolved through informal discussion, the complainant can choose to formally file the complaint.
  - C. The One-Stop operator will formally acknowledge its receipt of a complaint filed within 5 days. The acknowledgement 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 complaint'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 the Performance Review Committee of the Greater Lincoln Workforce Investment Board or hearing officer as designated by the Committee. The Performance Review Committee shall be represented by a minimum of 3 members of the Committee.

- G. The hearing will be arranged within 5 working 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 Performance Review 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 Performance Review 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. The decision will include
  - 1. Statement of issues.
  - 2. Performance Review 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 Performance Review Committee's decision within 15 days 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 Performance Committee's decision is not satisfactory or a hearing and decision have not been given within 60 working

days of receipt of the formal complaint. The appeal for review must be filed within ten (10) days of receipt of the adverse determination or, if no determination is made within sixty (60) days, then within ten days of the date that the decision should have been made. State staff will review and/or investigate, provide opportunity for hearing, and the hearing officer will issue a decision within sixty (60) days of the appeal to the State. The State Department of Labor has issued a process for this appeal and may be contacted at Nebraska Workforce Development, Department of Labor, 550 South 16<sup>TH</sup> 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 working days of receipt of the request for appeal of a local level complaint.
  - 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 formal criminal complaints, regarding equal opportunity and discrimination charges or complaints may be filed with the Nebraska Equal Opportunity Commission. Procedures are available upon request at the Equal Opportunity Commission, 301 Centennial Mall South, 5<sup>TH</sup> Floor, P.O. Box 94934, Lincoln, Nebraska, 68509 or you may call (402) 471-2024 or 1-800-642-6112.