

## WIOA Region 5 (South Central and Southwest)

### Policy Letter #3-2020 Program Complaints

**Effective Date:** July 1, 2020

**Purpose:** To establish a written procedure for grievances and complaints to comply with the WIOA and all applicable rules and regulations. All WIOA title 1 and state funded programs through DEED's Employment and Training (E&T) division will adhere to this policy.

**Background:** WIOA Final Rules and Regulations – 20 CFR 667.600 through 667.645 mandates that each local area, State, and direct recipient of funds under WIOA Title 1:

- Establish and maintain a procedure for grievances and complaints according to the requirements of the section;
- Provide information about the content of the grievance and complaints procedures to participants and other interested parties affected by the local Workforce Development System, including CareerForce partners and service providers;
- Make reasonable efforts to ensure the content of the grievance and complaint procedures are understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals.

**Cites / References** 20 CFR 667.610  
29 CFR 38  
Minnesota State Statutes: Section 16C.05, Subdivision 5  
DEED WIOA Policy Manual Chapter 7.1 Discrimination Complaints and 7.2 Program Complaints

### **Policy/Procedure:**

#### **Type of Complaints:**

##### **Program Related Complaint**

When a WIOA Title I or State E&T program complaint contains only a program issue, it is processed as a program complaint. An individual or a group of individuals may file a program grievance or complaint regarding local or State WIOA policies, programs, activities, etc.

Examples of this type of grievance include but not limited to:

- customer disputes
- customer/staff treatment eligibility
- denial of services or benefits, etc.
- policies and procedures
- program, supportive service, or training assistance or selection process

Program complaint is processed according to the Department of Labor (DOL) Employment and Training Administration's (ETA) regulations.

##### **Discrimination Complaint**

If the complaint concerns discrimination, the Equal Opportunity Office (EOO) must be advised of the existence of the complaint. A discrimination complaint alleges one of the following prohibited basis under WIOA: Race, Color, National Origin, Age, Disability, Sex, Religion, Political Affiliation or belief, Citizenship and , WIOA participant status. Minnesota State Law also prohibits discrimination on the basis of creed, marital status, public assistance status, familial status, or sexual orientation. Discrimination complaints are processed according to WIOA/CRC regulations.

When a WIOA Title 1 program involves a discrimination complaints refer to Local Policy #2-2020 Discrimination Complaints and MN DEED Employment and Economic Development Equal Opportunity Chapter 7.1: Discrimination Complaints.

**Timing for Program Related Complaint:**

WIOA Title I and State E&T program complaints are generally filed by an applicant/participant at the local level with the WIOA Title I/State E&T program provider.

- A complaint must be filed within one year of the alleged occurrence.
- The complaint should be resolved at the local level within sixty (60) days of the filing of the complaint or grievance.
- If the complaint has not been resolved at the local level, or the local level fails to issue a decision within sixty (60) days, the complainant has sixty (60) days to appeal to the State/DEED level.
- If the State fails to issue a decision within sixty (60) days, or if the complainant is dissatisfied with the State's decision, and if the complainant is receiving federal funds, the State's decision, or lack thereof, may be appealed beyond the State level to the Secretary of Labor.

Note: The 60 day period is the time allowed for the WIOA Title I/State E&T Program Provider to resolve or issue a decision at the local level regarding a program complaint. If the WIOA Title I/State E&T Program Provider sub-contracts to another service provider, the 60 day period must be met jointly by the WIOA Title I/State E&T Program Provider and the sub-contractor – the 60 day period must be met collectively at the local level.

**Records Retention:** All records regarding complaints and actions taken on complaints (including logs) must be maintained for a period of not less than six (6) years from the date of resolution of the complaint. (MN Statutes, Section 16C.05, Subd. 5).

**Program Complaint Procedures:**

When a WIOA Title I or State E&T program complaint contains only a program issue it is encouraged to start with an informal attempt at resolution at the local level prior to filing of a formal written complaint.

**Verbal (Informal) Complaint**

1. Upon receipt of the complaint, the WIOA Title 1/State E&T program provider should designate an impartial member of its staff to meet with the complainant.
2. The designated staff will review the case and its facts prior to meeting with the complainant so that an appropriate resolution can occur if possible.
3. A meeting with the complainant will be arranged and held. The complainant will be encouraged to attend this meeting, however, failure to do so does not preclude the right to request a hearing.
4. If a mutually satisfactory resolution is agreed upon by both parties, the designated staff person will write a brief report for the file stating the issues and resolution. The matter will then be considered closed.

If a resolution does not result from an informal procedure, the complaint must be submitted in writing to the WIOA Title 1/State E&T Program provider complaint officer. The complainant will be provided a hearing within the sixty (60) day period allowed for resolution of the complaint.

**Written (Formal) Complaint Process**

A WIOA Title 1/State E&T written program complaint may be filed with the WIOA Title 1/State E&T Program Provider level within one year of the alleged occurrence. A complaint form is available to program recipients and is attached to this policy. In the event 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 of the complainant's representative.

A written complaint must contain:

- a. Complainant's name, address and phone number;
- b. Basis for complaint; and

- c. Brief written statement of the allegation(s).
  - d. Written complaint must be signed and dated by the complainant or the complainant's representative.
2. Upon receipt of the written program complaint by the complainant or the complainant's representative, the WIOA Title 1/State E&T Program Provider will:
  - a. Log the complaint in the WIOA Title 1 Program Complaint Log and
  - b. Send a copy of the written complaint to Minnesota Department of Employment and Economic Development - Employment & Training Division (ETP), Office of Diversity and Equal Opportunity (ODEO).

### **Local Hearing**

Local Hearing before an impartial hearing officer shall be provided within the sixty (60) days allowed for resolution. The hearing should:

- Avoid unnecessary technicalities (e.g., legal requirements that would be appropriate in court proceedings).
- Provide the flexibility to adjust to the circumstances presented.
- Give full regard to the requirements of due process to ensure a fair and impartial hearing.

The hearing officer commences the hearing by summarizing the record, the issues and the manner in which the hearing will be conducted. The hearing officer ensures that everyone involved understand the proceedings and takes testimony under oath or affirmation to assure the validity of the hearing. The hearing officer confirms the burdens of proof are to be reasonable, flexible, and depend upon the circumstances of the case involved and determines the order of proof.

Generally, the party making the complaint is obligated to establish his or her case, and the party's information should be given first to explain the basis of their complaint.

Each WIOA Title 1/State E&T Program Provider must provide the following elements in the hearing process:

1. Both the complainant and respondent (program staff) will receive a timely written notice of the hearing. At minimum the notice shall state:
  - a. Date, time and location of the hearing;
  - b. Name and address of the hearing officer;
  - c. The purpose of the hearing and a statement of the issue(s) to be heard;
  - d. The importance of attending the hearing and the disadvantage of not attending;
  - e. Complainant's right in the process, including the rights to present testimony, to bring witness and records to be represented, and to present oral arguments;
  - f. Advice about where further information or assistance can be obtained. This should include an address and/or phone number of the person who can answer inquiries; and
  - g. Information on the complainant's right to appeal the local decision.
2. The hearing site shall be in a location accessible to all parties.
3. The complainant has an opportunity to:
  - a. Withdraw the hearing request in writing before the scheduled hearing,
  - b. Request rescheduling and WIOA Title 1/State E&T Program Provider reserves the right to reschedule the hearing for reasonable cause.
  - c. Be represented by an attorney or other representative of the complaint's choice throughout the complaint process.
4. The hearing officer:
  - a. Can attempt to negotiate a resolution of the issue at any time prior to the conclusion of the hearing.

- b. Prepares and submit to all parties a written decision on each complaint. The decision must include a statement indicating the complainant's right to appeal the local decision.

The local decision can be appealed to the state if there is no decision reached within sixty (60) days or if either party is dissatisfied with the local decision.

### **DEED (State) Decision**

If the WIOA Title I/State E&T program complaint has not been resolved at the program provider level, the State of Minnesota Office of Diversity and Equal Opportunity, upon receiving an appeal from the complainant, reviews the complaint and documentation, conducts an investigation, and upon completion, offers a resolution. Complaints for programs not managed under the ETP division shall be submitted to the non-WIOA Title 1 funding source. Only WIOA Title 1 Program complaints can be appealed to the DEED WIOA EO Compliance Manager.

### **When can an appeal be filed with the State of Minnesota Office of Diversity and Equal Opportunity**

A complainant may file an appeal with the WIOA EO Compliance Manager if:

- a. The complainant is dissatisfied with the WIOA Title I Program Provider decision, or
- b. The WIOA Title I Program Provider failed to issue the administrative decision within sixty (60) days of the complaint filing date.

A WIOA Title I Program Provider may also appeal a decision using the same procedures as an individual complainant.

### **WIOA Title I Program Provider appeal process responsibilities**

WIOA Title I Program Provider responsibilities in the appeal process includes, but are not limited to providing DEED with a completed copy of the complaint file and a copy of the hearing decision. This information is to be forwarded to DEED upon notice that the appeal request has been received and accepted for review by DEED.

### **All appeals to State of Minnesota Office of Diversity and Equal Opportunity must contain the following information:**

- a. Name, address, and telephone number of person making the complaint;
- b. Name and address of the respondent against whom the complaint is made; and
- c. A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.

### **State Appeal Timeline**

An appeal must be filed within sixty (60) days of the WIOA Title I Program Provider's decision to be accepted for review and a decision made by DEED. If no decision is provided by the WIOA Title I Program Provider within sixty (60) days of the date the complaint was filed, the complainant has sixty (60) days to appeal to DEED. (A total of 120 days from the date the complaint was first filed.) Appeals received outside this time frame risk not being processed.

### **State (DEED) appeals are to be forwarded to:**

Equal Opportunity Officer  
Department of Employment and Economic Development  
Office of Diversity and Equal Opportunity  
1st National Bank Building  
332 Minnesota Street, Suite E200  
St. Paul, MN 55101-1351

If the complainant was not provided an opportunity for a hearing at the local level, the hearing will be scheduled by the DEED EOO.

### **State Appeal Decision**

The DEED EOO will issue a decision within sixty (60) days of the date the appeal is received at the department level. Copies of the decision will be sent to the complainant and to the WIOA Title I Program Provider. The decision will contain:

- a. Synopsis of the facts,
- b. Reason(s) for the decision,
- c. Remedy as applicable, and
- d. Statement explaining further appeal rights to the Secretary of Labor if the WIOA Title I complainant is receiving federal funding.

Note: applicants/participants receiving federal funds have appeal rights beyond the State level with a program complaint. Applicants/participants receiving state funds have no appeal rights beyond the State level with a program complaint, the state's decision is considered final.

### **Secretary (DOL) Appeal**

A WIOA Title I complainant who receives federal funds can appeal to the Secretary of Labor if the State fails to issue a decision in sixty (60) days from the receipt of the appeal, or (2) a party wishes to appeal an adverse decision.

### **Secretary (DOL) Appeal Timeline**

Appeals to the Secretary of Labor contesting an adverse decision must be filed within sixty (60) days of the receipt of the decision being appealed. Appeals must be made within 120 days of the filing of the complaint with the State or the filing of the appeal of a local complaint with the State where the State fails to issue a decision within sixty (60) days.

Appeals to the Secretary of Labor must be submitted by certified mail, return receipt requested, to:

1. Secretary  
U.S. Department of Labor  
Washington, D.C. 20210  
Attention: ASET

A copy of the appeal must be *simultaneously* provided to:

2. Regional Administrator  
U.S. Department of Labor  
230 South Dearborn Street  
Chicago, Illinois 60604

and

3. WIOA EO Compliance Manager  
Department of Employment and Economic Development  
Office of Diversity & Equal Opportunity  
1st National Bank Building  
332 Minnesota Street, Suite E200  
St. Paul, MN 55101-1351



## CareerForce Program Complaint Form

Complainant Information	Respondent Information
Name:	Name:
Address:	Organization
City/State/Zip:	Address:
Email:	City/State/Zip:
Phone:	Email:
	Phone:
Description of Complaint (Please explain the incident and circumstances)	
Date of Incident:	
Desired Resolution Please explain any resolutions you are seeking in response to this complaint.	
<b>Certification:</b> I certify that the information furnished is true and accurately stated to the best of my knowledge. I authorize the disclosure of this information to other enforcement agencies for the proper investigation of my complaint. I understand my identity will be kept confidential to the maximum extent as possible, consistent with applicable law and a fair determination of my complaint.	
Signature:	
Date:	

## Staff Use Only

What program(s) were involved in the incident? (Check all that apply.)

WIOA (DW, Adult, Youth) <input type="checkbox"/>	Trade Adjustment (TAA) <input type="checkbox"/>
Employment Services <input type="checkbox"/>	Veterans Services <input type="checkbox"/>
SCSEP <input type="checkbox"/>	Against Employer – Job Order <input type="checkbox"/>
Alleged Violation of Employment Law(s) <input type="checkbox"/>	Another Program/Provider <input type="checkbox"/>
Name of Law Violated	Name of Program/Provider
Name of Person Receiving Complaint	Name of Person Replying to Complaint
Office:	Office
Address/City/State/Zip	Address/City/State Zip
Phone	Phone
Email	Email
Signature	Signature
Date	Date