**Attachment I**

**LOCAL AREA COMPLAINT AND GRIEVANCE PROCEDURE**

**Purpose**

Provide a procedure to submit and process complaints that allege a violation of the nondiscrimination and equal opportunity provisions of Title VI of the Civil Rights Act, as amended; Title IX of the Education Amendments Act; Section 504 of the Rehabilitation Act, as amended; the Age Discrimination Act; Title II of the Americans with Disabilities Act, and the Workforce Innovation and Opportunity Act Section 181(c).

**Policy**

The Workforce Innovation and Opportunity Act prohibits discrimination on the basis of race, color, national origin, sex, age, disability, religion, political affiliation or belief, participant status, and against certain non-citizens.

## Prohibition of Discrimination Regarding Participation, Benefits, and Employment

No individual is to be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under Title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.

## Prohibition Involving Facilities for Sectarian Instruction or Religious Worship

Participants shall not be employed to carry out the construction, operation, or maintenance of any part of any facility used or to be used for sectarian instruction, or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to WIOA participants).

## Prohibition on Discrimination on Basis of Participant Status

No person may discriminate against an individual who is a participant in a program or activity that receives funds under WIOA with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant.

## Prohibition on Discrimination Against Certain Non-citizens

Participation in programs and activities or receiving funds under WIOA shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

## Prohibition of Discrimination on the Basis of Disability

A recipient is obligated to provide physical and programmatic accessibility and reasonable accommodation/modification in regard to the WIOA program, as required by section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 181 of WIOA.

Equal Opportunity Officer: Every recipient must designate an Equal Opportunity Officer (EO Officer), except small recipients and service providers. A small recipient is defined as serving fewer than 15 beneficiaries during the entire grant year and employing fewer than 15 employees on any given day during the grant year.

The EO Officer must be a senior level employee of the recipient. He or she must not have other responsibilities or activities that create a conflict, or the appearance of a conflict, with the responsibilities of an EO Officer.

Since the Nebraska Department of Labor is the WIOA Grant Recipient Agency, the Director of Administrative Services for the department is the EO Officer for State issues related to the grant. The Director of Administrative Services also serves as EO Officer for the Nebraska Workforce Development - Department of Labor. The EO Officer may be contacted at:

Attention: Terri Slone

Nebraska Department of Labor

550 S. 16th Street Lincoln, Nebraska 68509

Phone: (402) 471-8358

The EO Officer is responsible for:

* Serving as the recipient's liaison with Civil Rights Center (CRC);
* Monitoring and investigating the recipient's activities, and the activities of the entities that receive WIOA funds from the recipient, to make sure the recipient and its sub-recipients are not violating their nondiscrimination and equal opportunity obligations under WIOA Section 181(c);
* Reviewing the recipient's written policies to make sure those policies are nondiscriminatory;

• Developing and publishing the recipient's procedures for processing discrimination complaints and making sure those procedures are followed;

• Reporting directly to the appropriate official about equal opportunity matters;

• Undergoing training (at the recipient's expense) to maintain competency; and

• If applicable, overseeing the development and implementation of the recipient's Methods of Administration.

Notice and Communication: Each recipient must provide initial and continuing notice that it does not discriminate on any prohibited grounds. The notice must be provided to: registrants, applicants, and eligible applicants and registrants; participants; applicants for employment and employees; unions or professional organizations that hold collective bargaining or professional agreements with the recipient; sub-recipients receiving WIOA funds from the recipient; and members of the public, including those with impaired vision or hearing. The recipient must take appropriate steps to ensure communications with individuals with disabilities are as effective as communications with others.

The specific wording in the notice is identified in WIOA Section 181 (c). At a minimum, the notice must be:

* Posted prominently, in reasonable numbers and places;
* Disseminated in internal memoranda and other written or electronic communications;
* Included in handbooks or manuals; and
* Made available to each participant, and made part of each participant's file. The notice must be provided in appropriate formats to individuals with visual impairments.

Where notice has been given in an alternate format, a record that such notice has been given must be made a part of the participant's file.

All brochures, pamphlets, and other publications which promote or broadcast WIOA program information must include the following tag line: "This WIOA Title 1-financially assisted program/activity is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities." Where a telephone number is provided, the materials must also include a TDDMY or relay service number.

Where a significant number or proportion of the population eligible to be served may need services or information in a language other than English in order to be effectively informed about, or able to participate in the program or activity, then the recipient must:

• Consider the scope of the program/activity and the size and concentration of the population that needs services or information in a language other than English, and

• Based on those considerations, take reasonable steps to provide services and information in appropriate languages.

• In cases where there is not a significant proportion of the population that is limited­ English-speaking, the recipient should still make reasonable efforts to meet the particularized language needs of individuals seeking services or information from the recipient.

To afford individuals with disabilities an equal opportunity to participate in and enjoy the benefits of the WIOA program or activity, a recipient must furnish (at no cost to the individual) appropriate auxiliary aids or services where necessary. In determining what type of auxiliary aid or service is appropriate and necessary, such recipient must give primary consideration to the requests of the individual with a disability. Primary consideration means honoring the choice unless the agency can demonstrate another equally effective means of communication is available, or using the means chosen would result in a fundamental alteration in the service, program, or activity, or undue financial and administrative burdens.

Assurances: Each application for financial assistance under WIOA must include the following assurance:

* As a condition to the award of financial assistance from the Department of Labor under WIOA, the grant applicant assures it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

Section 181(c) of the Workforce Innovation and Opportunity Act, which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I-financially assisted program or activity;

* Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;
* Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
* The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
* Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant applicant also assures that it will comply with WIOA Section 181(c) and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of WIOA financially assisted program or activity, and to all agreements the grant applicant makes to carry out under the program or activities. The grant applicant understands the United States has the right to seek judicial enforcement of this assurance.

The assurance is considered incorporated by operation of law in the grant, cooperative agreement, contract or other arrangement whereby Federal financial assistance under WIOA is made available, whether or not it is physically incorporated in such document, and whether or not there is a written agreement between the U.S. Department of Labor and the recipient, between the U.S. Department of Labor and the Governor, between the Governor and the recipient, or between recipients. The assurance also may be incorporated by reference in such grants, cooperative agreements, contracts, or other arrangements.

Orientations: During each presentation to orient new participants, new employees, and/or the general public to the WIOA financially assisted program or activity, a recipient must include a discussion of rights under the nondiscrimination and equal opportunity provisions of WIOA, including the right to file a complaint of discrimination with the recipient or Civil Rights Center Director.

A hard copy of "Equal Opportunity is the Law" should be provided and signed by all participants and employees and retained on file. An example form is provided in Attachment A.

Universal Access: Recipients must take appropriate steps to ensure they are providing universal access to their WIOA -financially assisted programs and activities. These steps should involve reasonable efforts to include members of both sexes, various racial and ethnic

groups, individuals with disabilities, and individuals in differing age groups. Such efforts may include, but are not limited to:

* Advertising the recipient's programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations;
* Sending notices about openings in the recipient's programs and/or activities to schools or community service groups serving various populations; and
* Consulting with appropriate community service groups about ways in which the recipient may improve its outreach and service to various populations.

Reasonable Accommodations: With regard to aid, benefits, services, training, and employment, a recipient must provide reasonable accommodation to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship. A recipient must not, directly or through contractual, licensing, or other arrangements, refuse to accommodate an individual's religious practices or beliefs unless to do so would result in undue hardship. Definitions of the terms "reasonable accommodation" and "undue hardship" are specified in WIOA Section 181(c).

Complaints: Any person who believes either he or she, or any specific class of individuals, has been or is being subjected to discrimination prohibited by the Workforce Innovation and Opportunity Act or the regulations implementing the nondiscrimination provisions, may file a written complaint, either by him/herself or through a representative. The complainant may file with either the recipient's Equal Opportunity Officer or to:

Director

Civil Rights Center

U.S. Department of Labor Room N4123

200 Constitution Avenue, NW Washington, D.C. 20210

Generally, a complaint must be filed within 180 days of the alleged discrimination. However, for good cause shown, the CRC Director may extend the filing time

Each complaint must be filed in writing, and must contain the following:

* + Complainant's name and address (or another means of contacting the complainant);
  + The identity of the respondent (the individual or entity the complainant alleges is responsible for the discrimination);
  + A description of the complainant's allegations. This description must include enough detail to allow the CRC Director or the recipient, as applicable, to decide who has jurisdiction over the complaint, whether the complaint was filed on time, and the merit of the complaint (whether the complainant's allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIOA or the regulations); and
* The complainant's signature or the signature of the complainant's authorized representative.

If a complaint 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.

Recipient's Discrimination Complaint Processing Procedures: The procedures a recipient adopts and publishes must provide that the recipient will issue a written Notice of Final Action on discrimination complaints within 90 days of the date on which the complaint is filed.

The procedures must include the following elements:

* + An initial, written notice to the complainant that contains an acknowledgment the recipient has received the complaint, and notice the complainant has the right to be represented in the complaint process.
  + A written statement of the issue(s), provided to the complainant, which includes the following information:

1. a list of the issues raised in the complaint, and
2. for each such issue, a statement whether the recipient will accept the issue for investigation, or reject the issue and the reasons for each rejection. I

If a recipient determines it does not have jurisdiction over a complaint, it must immediately notify the complainant in writing. This Notice of Lack of Jurisdiction must include a statement of the reasons for the determination and notice the complainant has a right to file a complaint with CRC within 30 days of the date on which the complainant receives the Notice. The recipient may want to correspond through certified mail in order to verify date of receipt.

* + A period for fact-finding or investigation of the circumstances underlying the complaint.
  + A period during which the recipient attempts to resolve the complaint. The methods available to resolve the complaint must include alternative dispute resolution (ADR). The ADR procedures must provide that the choice whether to use ADR or the customary process rests with the complainant. The procedures must allow for a party to any agreement reached under ADR to file a complaint with the CRC Director in the

event the agreement is breached. If that happens, then the non-breaching party may file a complaint with the CRC Director within 30 days of the date on which the non­ breaching party learns of the alleged breach. The CRC Director must evaluate the circumstances to determine whether the agreement has been breached. If he or she determines the agreement has been breached, the complainant may file a complaint with CRC based upon his/her original allegation(s), and the CRC Director will waive the time deadline for filing such a complaint. If the parties do not reach an agreement under ADR, the complainant may file a complaint with the CRC Director.

• A written Notice of Final Action, provided to the complainant within 90 days of the date on which the complaint was filed. The Notice of Final Action must contain for each issue raised, a statement of either the recipient's decision on the issue and an explanation of the reasons underlying the decision, or a description of the way the parties resolved the issue. In addition, it must include notice the complainant has a right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is received if he or she is dissatisfied with the recipient's final action on the complaint.

Failure to Comply: Whenever the United States Secretary of Labor finds a State, or other recipient of funds under WIOA has failed to comply with this provision of the law, the Secretary shall notify such State or recipient and shall request compliance takes place. If within a reasonable period of time, not to exceed 60 days, the State or recipient fails or refuses to comply, the Secretary may:

• Refer the matter to the United States Attorney General with a recommendation that an appropriate civil action be instituted; or

* Take such other action as may be provided by law.

Once a referral is received or if the United States Attorney General has reason to believe a State, or other recipient of WIOA Title I funds, is engaged in a pattern or practice of discrimination, the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

Data and Information Collection and Maintenance: Each recipient must collect and maintain records to determine whether the recipient has complied or is complying with the nondiscrimination and equal opportunity provisions of the WIOA.

Records must be collected and maintained on applicants, registrants, eligible applicants/registrants, participants, terminated individuals, employees, and applicants for employment. Each recipient must record the race/ethnicity, sex, age, and where known, disability status of the specified groups. These records must be maintained for a period of not less than three years from the close of the applicable program year.

The information must be stored in a manner that ensures confidentiality, and must be used only for the purposes of recordkeeping and reporting, determining eligibility for WIOA Title I-financially assisted programs/activities, or other uses authorized by law.

Each recipient must maintain, and submit upon request of the State EO Officer or the Civil Rights Center, a log of complaints alleging discrimination. The log must include the name and address of the complainant, the status of the complainant (i.e., employee, WIOA participant,

applicant, etc.), the grounds for the complaint, a description of the complaint, the date the complaint was filed, the disposition and date of disposition of the complaint, and whether or not the complaint utilized an alternative dispute resolution (ADR) process.

The U.S. Department of Labor Civil Rights Center requires all Discrimination Complaint Logs are submitted utilizing the electronic format they have established. The State Equal Opportunity Officer shall provide this electronic form on request. Records regarding complaints and actions taken on the complaints must be maintained for a period of not less than three years from the date of resolution of the complaint.

When any administrative enforcement action or lawsuit is filed against a grant applicant and recipient alleging discrimination on the ground(s) of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIOA Title I-financially assisted program or activity, the grant applicant and recipient must promptly notify the Director of the Civil Rights Center. This notification must include: the names of the parties to the action or lawsuit; the forum in which each case was filed; and the relevant case numbers.

PROCEDURE FOR NON-CRIMINAL COMPLAINTS AND GRIEVANCES

**Purpose**

To establish a process for dealing with non-criminal complaints and grievances from participants and other interested parties affected by the Greater Nebraska Workforce Development System including One Stop operators, service providers, and One Stop partners.

# Policy

Presentation of Information: Case Managers are required to explain the process to clients during the Initial Assessment process and make available a copy of this policy.

## Submission Requirements

The following provides standardized procedures for the submission and processing of complaints that allege:

* Violations of WIOA, regulations or agreements under the Act and other non­

, criminal complaints.

* Violations of the labor standards provisions at Section 181(b), i.e., violations involving activities that impact wages of employees, displacement, working conditions, and employment conditions.
* Violations of the relocation provisions in Section 181(d). Each local area, State, and direct recipient must:
* Provide information about the content of the grievance and complaint procedures to participants and other interested parties affected by the local Workforce Development System, including One-Stop partners and service providers.
* Make reasonable efforts to assure the grievance and complaint procedures information is understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals. Such efforts must comply with the language requirements of 29 CFR 37.35 regarding the provision of services and information in languages other than English.
* Respond to written complaints through written acknowledgement of receipt and explanation of status and next steps. If an oral complaint is received, an informal attempt at resolution can take place prior to the filing of a written complaint. If resolution does not result, the complaint must be put in writing. Complaints must be legible, signed by the complainant or the complainant's authorized representative, and dated. 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 or local service provider.

These procedures will be available to all WIOA staff, applicants, participants, One-Stop partners, service providers, sub-recipients, contractors, labor unions, community based organizations or other interested parties seeking to do business with the Department of Labor. Dissemination will be made through the Internet, Department of Labor Intranet, State Policy Manual, grant awards, and upon request. These procedures provide for prompt and equitable resolution of complaints.

## Who May File

A complaint may be filed by any individual or organization, including but not limited to:

* Program Participants
* Contractors
* WIOA Staff
* Local Area Staff
* One-Stop Partner Staff
* Applicants for Program Participation
* Labor Unions
* Community Based Organizations.

The identity of the complainant or any other person who has furnished information or assisted in an investigation of a complaint will be kept confidential to the maximum extent possible, consistent with a fair determination of the issues.

No person, organization or agency may retaliate against any individual who files a complaint or testifies during complaint proceedings. Any individual may file a complaint without fear of jeopardizing their position, opportunity for advancement, salary increase or denial of rights, and benefits provided by the Act, regulations, or state and local laws.

## Time Frames

Except for complaints alleging fraud or criminal activity, complaints shall be made within one hundred and eighty (180) days of the alleged occurrence.

This policy provides that complaints submitted under this procedure will be either resolved or a decision issued within sixty (60) days.

## Submission Requirements for the Complaint

Local Area Procedures: These procedures may be utilized in lieu of local entity procedures, providing no local procedures are in effect. If local procedures are in place, the local process must be exhausted before a complaint or grievance can proceed through this system.

Complaints and grievances not resolved at the Career Center level shall be submitted to the:

Greater Nebraska Chief Elected Officials Board

550 South 16th St

P.O. Box 94600

Lincoln, NE 68509-4600

Elements to Include in the Complaint Requesting Appeal of Career Center Decision: 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 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 Greater Nebraska Administrative Entity 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 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 Greater Nebraska Administrative Entity 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 Workforce Employment and Training

550 South 16th Street Lincoln, Nebraska 68509

## State Appeal/Review Process

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.

Statewide Workforce Development System Grievance or Complaint Review Process: Grievances and complaints from participants and other interested parties affected by Statewide Workforce Development programs may be submitted to the State at:

Nebraska Workforce Development Department of Labor

Office of Employment and Training550 South 16th Street Lincoln, Nebraska 68509

If it is determined that the complaint is directly related to the local Workforce Innovation and Opportunity Act 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 Workforce Development 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 the Workforce Development Act of 1998.

## 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 Workforce Innovation and Opportunity Act.

## 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.

## Record keeping 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.

PROCEDURE FOR ACCESSI BILI TY

**Purpose**

This policy is directed toward ensuring the programs, services and facilities of each One-Stop delivery system are accessible to all, including individuals with disabilities.

# Policy

No individual is to be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under Title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.

Prohibition of Discrimination on the Basis of Disability: A recipient is obligated to provide physical and programmatic accessibility and reasonable accommodation/modification in regard to the WIOA program, as required by section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended.

The ADA defines a "disability" with respect to an individual to mean a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such.an impairment, or being regarded as having such an impairment.

Auxil iarv Aids, Services and Assistive Technology: To afford individuals with disabilities an equal opportunity to participate in and enjoy the benefits of the WIOA Title I program or activity, a recipient must furnish appropriate auxiliary aids or services where necessary.

In determining what type of auxiliary aid or service is appropriate and necessary, such recipient must give primary consideration to the requests of the individual with a disability. Primary consideration means honoring the choice unless the agency can demonstrate another equally effective means of communication is available, or that using the means chosen would result in a fundamental alteration in the service, program, or activity, or undue financial and administrative burdens.

In Nebraska, a Memorandum of Understanding was signed creating a partnership between the Assistive Technology Partnership, the Commission for the Blind and Visually Impaired, Vocational Rehabilitation, and Employment and Training. This partnership was formed to support the purchase of, and integration of, assistive technology solutions into the One Stop Resource Centers. Through local written agreements, specific commitments and equipment to be received were identified.

Physical and Architectural Accessibility: In order to be ready and welcoming when persons with disabilities seek services, advance preparatory actions must be taken. Specific information on ADA accessibility guidelines for buildings and facilities is provided on the Internet at  [http://www.access-board.gov/index.php.](http://www.access-board.gov/adaag/html/adaag) Some areas to particularly note include:

* Signage
* Accessible Counters
* Automatic and Power-Assisted Doors
* Accessible Restrooms
* Accessible Workstations
* Obstacle Free Entrance
* Space in Waiting Room for People Using Wheelchairs
* 32-inch Clear Opening on Door
* 36-inch Clear Path of Travel

The above is only a sampling of considerations. Accessibility is an on-going process. However, all of the ADA technical requirements must be applied during the design, construction, and alteration of buildings and facilities.

Reasonable Accommodations: With regard to aid, benefits, services, training, and employment, a recipient must provide reasonable accommodation to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship. Definitions of the terms "reasonable accommodation" and "undue hardship" are specified in 29 CFR 37.4.

## Recommended Steps for Accessibility

* Designate an Access Coordinator (someone well versed in ADA requirements).
* Consult with disability community and with people who are trained in access and ADA compliance.
* Include a cross section of customers and board members with disabilities in visits to your Career Centers. Ask them to make suggestions for improvements.

• Use Self-Evaluation Checklists. Complete checklists for physical, program, employment and communication access including:

o Customer Service/Accommodation Practices o Existing Facilities Self Evaluation

o Software Accessibility

o Web page Accessibility

o Information Transaction Machines (ITMS) Accessibility o Information Technology Equipment.

These checklists enable each local workforce development area to conduct self-evaluations of the accessibility of its One-Stop delivery system and to plan to meet the accessibility needs of individuals with disabilities seeking to use programs, services, and facilities. The checklists are essentially a management tool to assess what has already been done to provide access for individuals with disabilities and to plan what needs to be done in the future. The self-evaluation captures both the strengths and weaknesses, and allows local workforce development areas to develop concrete plans, based on real data, to increase the level of accessibility in their programs, services and facilities.

## Develop an Access Plan

The plan shall be based on your findings and include:

* The barriers and solutions.
* Establish a priority for each item.
* . Project the costs associated with each item.
* Identify funding sources.
* Target completion.
* Identify who will do what.

## Provide Training to One-Stop Career Center Staff and Contractors

Effective training ensures that employees and contractors are knowledgeable and aware of policies and procedures relating to persons with disabilities, and are trained to comfortably work with all people. It is critical there is not a gap between written policies/procedures and the actual practice of front-line employees interacting with persons with disabilities.

There are several training and reference tools available on the Internet including:

* "Access for All: A Resource Manual for Meeting the Needs of One-Stop Customers with Disabilities" - Institute for Community Inclusion (Children's Hospital Boston and the University of Massachusetts Boston) - the web site location is http://www.communityinclusion.org/onestop/onestopmanual.html
* "At Your Service - Welcoming Customers with Disabilities" - Southeast Disability and Business Technical Assistance Center - the web site location is http://www.wiawebcourse.org/

## Conduct Regular Oversight and Monitoring

Conduct regular oversight of programs and services to ensure individuals are not subjected to discrimination on the basis of disability.