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**Complaints, Grievances & Appeal Procedures**

**Reference**

20 CFR §§ 683.600-683.610; Nebraska Department of Labor’s (NDOL) Grievances and Complaints Policy.

**Policy**

**Complaints & Grievances of a Non-discriminatory Nature**

**Purpose**

The following procedure describe the process by which participants and others affected may file complaints/grievances alleging a violation of the requirements under Title I of the Workforce Innovation and Opportunity Act (WIOA) including grant agreements, grant awards, collective bargaining agreements, failure to receive services, etc.

**Reasonable Effort**

The American Job Centers and NDOL Offices will make reasonable efforts as provided for in 29 CFR 28.9 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.

**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.

**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.

**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.

**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.

**Complaints Process**

If a grievance or compliant is made directly to the State or Secretary they will be referred to the appropriate local area for resolution. 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.

**How to File a Complaint**

**Complaints shall be submitted in writing and contain the following:**

1. Full name, legal address, phone number of the complainant, and email address if available.
2. Full name, address of the person or entity against whom the complaint is made.
3. A clear statement of the facts and date(s) of the alleged violation.
4. If known, the specific areas of Title I WIOA, its regulations, or other terms or conditions believed to have been violated.
5. A statement as to whether or not the complaint has been filed anywhere else.
6. 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.
7. Must state the relief or remedial action sought.
8. Copies of documents supporting or referred to in the complaint must be attached to the complaint.
9. The complaint must be signed and dated by the complainant.
10. 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
11. 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.

**Where to get a Complaint Procedure/Form**

This policy and forms are available upon request at the American Job Centers 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.

**Resolving a Complaint**

1. 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.
2. If the complaint is not resolved through informal discussion, the complainant can choose to formally file a written complaint with the One Stop Operator.
3. 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.
4. 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:
5. Statement of complainant’s issues.
6. The One Stop Operator’s determination.
7. Reasons for the determination.
8. An offer to accept the determination in writing.
9. 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.
10. 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.
11. The hearing will be arranged within 5 days from the date of receiving the request for a hearing.
12. 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. 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.
13. 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.
14. 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:
15. Statement of issues.
16. Committee’s decision.
17. Reason(s) for the decision.
18. Recommended action(s).
19. 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:
20. Summary of facts and findings.
21. One Stop Operator response.
22. Reason(s) for the response.
23. Action(s) to be taken.

**State Appeal Procedures**

The parties have a right to appeal for a review by the State when no determination is made at the local level within 60 days or a party to the grievance or complaint is dissatisfied with the local decision. The State Department of Labor has issued a process for this appeal, which can be found [here](https://dol.nebraska.gov/webdocs/getfile/38aadddb-b45a-4985-bd86-960c8ce0b8c8) or they may be contacted at:

Nebraska Department of Labor

Office of Employment and Training

550 South 16th Street

Lincoln, Nebraska 68509

**Federal Appeal Procedures**

All non-criminal grievances and complaints alleging violations of the requirements of WIOA Title I must be first addressed through local area and state procedures. An appeal may be submitted to the Secretary of Labor regarding a non-criminal grievance or complain when no determination is made at the State level within 60 days of filing an appeal or a party to the grievance or complain is dissatisfied with the decision on the state-level appeal filed with NDOL. The State’s Grievances and Complaints policy has issued a process for this appeal, which can be found [here](https://dol.nebraska.gov/webdocs/getfile/38aadddb-b45a-4985-bd86-960c8ce0b8c8) or they may be contacted at:

Nebraska Department of Labor

Office of Employment and Training

550 South 16th Street

Lincoln, Nebraska 68509

**Statewide Grievances and Complaints**

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  
Lincoln, 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.

**Complaints & Grievances of Another Natures**

**Labor Standard Violation**

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.

**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 Retention**

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 for compliance and 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.