

**Region 4 Workforce Development Board
WIOA Grievance Procedures
Non-Equal Opportunity**

Purpose

To provide initial guidance regarding the observance and enforcement of the nondiscrimination provisions of the Workforce Innovation and Opportunity Act (WIOA) and its implementing regulations.

References: WIOA Section 188; 29 CFR Part 38, "Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act" Final Rule (January 3, 2017);
DWD policy 2016-09

Element 1. Designation of the Tecumseh Area Complaint Officer [29 CFR Part 38].

Mellisa Leaming, Director of Operations for Tecumseh Area Partnership, Inc., is the designated Complaint Officer. Her office is at 976 Mezzanine Drive, Suite C; Lafayette, Indiana 47905. She can be reached by telephone at (765) 807-0888 (Voice), (765) 471-7830 (Fax). Her E-mail address is mleaming@tap.lafayette.in.us

She reports directly to the Chief Operations Officer of Tecumseh Area Partnership, Inc.

Element 8. Complaint Processing [29 CFR 38].

A copy of the R4WDB's Complaint Procedure is attached to and made a part of this policy.

Element 9. Corrective Actions/Sanctions [29 CFR 38]

The R4WDB's grant oversight processes involve ongoing desktop and field monitoring to identify strengths and weaknesses. Deficiencies are addressed through technical assistance and corrective action requirements. In this manner, the R4WDB affords maximum opportunity to address problem areas and comply with legal mandates.

An essential prerequisite for issuance or continuation of a grant is a good faith response by the sub recipient to the R4WDB's corrective action or clarification requirements. Failure to respond in good faith to the R4WDB's corrective action or clarification requirements will lead to progressive sanction activity.

Lack of good faith is defined as: 1) the subrecipient does not respond to the corrective action plan or clarification requirements within the timeframe allowed (or fails to negotiate an acceptable timeframe); 2) the response is inadequate and the subrecipient fails to develop an adequate response within the timeframe allowed; or 3) the response is adequate, but the subrecipient fails to fully implement the corrective action plan or implement/follow the clarification provided within the timeframe agreed upon.

Before the imposition of any sub recipient sanctions, the R4WDB will transmit a letter to the subrecipient indicating the complaint. The letter will address the possible sanctions if the complaint or problem is not remedied, appropriate clarifications are not submitted and adhered to, or the appropriate needed corrective action has not yet been undertaken. The letter may include a request for a meeting between the relevant parties and R4WDB staff to review the complaints(s) and discuss appropriate corrective and other actions and will also include timelines for instituting corrective action. This meeting should take place within 15 working days after receipt of the letter as indicated by certified mail.

If this meeting or the subrecipient's response and corrective action plan fails to resolve the difficulty, the R4WDB will notify the subrecipient and relevant parties of its intent to impose a specific sanction. Such notification shall be received by the parties involved at least ten (10) working days before the scheduled imposition of sanctions, as evidenced by certified mail. The letter will also reiterate the complaint, the corrective action needed, and the appeal process.

If satisfactory evidence of needed corrective action initiation is presented to the R4WDB within this ten (10) working day period, the R4WDB may postpone the initiation of sanctions until either the completion of the action within the R4WDB approved timelines or

attainment of any IDWD imposed deadline without completion of the action. In the former case, the implementation of the sanctions may be lifted; in the latter, sanctions will be imposed.

Sanctions which may be imposed by the R4WDB upon sub recipients include the following (in order of increasing severity):
Sanctions that may be imposed include, but are not limited to:

- Termination of future funding;
- Disallowance of selected costs;
- Restriction from bidding on competitive or discretionary funds; and
- Reduction in funding.

Appeals may be made to the R4WDB designee within ten (10) working days after receipt of notification of pending sanctions. Such an appeal, however, will not forestall the initiation of sanctions (unless the R4WDB designee extends the deadline).

If satisfactory evidence of needed corrective action initiation is presented to the R4WDB within this ten (10) working day period, the R4WDB may postpone the initiation of sanctions until either the completion of the action within the R4WDB approved timelines or attainment of the IDWD deadline without completion of the action. In the former case, the implementation of the sanctions may be lifted; in the latter, sanctions will be imposed.

Effective Date: July 2018

USE THE FOLLOWING INFORMATION FOR HANDLING COMPLAINTS
NOT BASED ON DISCRIMINATION

Complaint Procedure:

- Grievances must be filed within one year of the alleged violation by certified mail.
- Written complaints must be signed and dated by the complainant and include the complainant's name and address, the identity of the respondent and a detailed description of the complainant's allegations.
- Grant recipients may use DWD Complaint Form SF 45153 for complaints, or they may develop their own form.
- Grant recipients are to provide a written acknowledgement of receipt of the complaint to the complainant. The acknowledgement should include a notice of the complainant's right to be represented in the complainant process; a list of the issues raised in the complaint, and for each issue a statement whether the recipient will accept the issue for investigation or reject the issue, and if rejected, the reasons for each rejection; the option of resolving the complaint by alternative dispute resolution instead of an investigation; and a statement that the complainant is due a decision or "Notice of Final Action" within 60 days after receipt of the complaint.
- The "Notice of Final Action" should inform the complainant that if he/she is dissatisfied with the decision the local decision must be appealed to the DWD EEO Officer within 10 days of receipt of adverse decision. The appeal should be sent to DWD-EEO Officer, Jennifer Long, 10 N. Senate, Room SE 105, Indianapolis, IN 46204. For all complaints, DWD will issue a determination within 60 days of the filing.

RECORDKEEPING REQUIREMENTS

Complaint records must be retained for a minimum of 3 years following the resolution of the complaint. All complaints must be entered on the DWD Complaint Log (SF 46001). The logs should contain the name and address of the complainant, the grounds for the complaint, a description of the complaint, the date the complaint was filed and the disposition of the complaint.

The Region 4 Workforce Development Board (R4WDB) has delegated the authority to operate and maintain the grievance procedure to its subrecipients and vendors except for the following situations which will necessitate directly filing with the Grant Recipient:

- Issues between the R4WDB and the R4WDB designee (RO)
- Issues involving more than one of the R4WDB's sub recipients, vendors, or community based organizations.
- Complaints directly involving the operations or responsibilities of the R4WDB.

The R4WDB will assure all subrecipient service provider staff members, vendors and other organizations that they will have access to the WIOA grievance procedure.

The identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation of the Act, shall be kept confidential to the maximum extent possible, consistent with a fair determination of the issues.

COMPLAINT PROCEDURE PROCESS

Step 1: Acceptance of Complaint and Investigation by Complaint Officer

After a complaint is received by the Complaint Officer, he/she will conduct an investigation to gather relevant information and facts. The Complaint Officer will render a written decision or resolution within seven (7) calendar days of the date of the filing of the complaint. The complainant will also be notified of his/her right to appeal the Complaint Officer's decision. Complaint should be sent to: Mellisa Leaming, Director of Operations, 976 Mezzanine Drive, Suite C, Lafayette, IN 47905
Phone: 765-807-0888

Step 2: Informal Hearing

If a satisfactory decision or resolution is not reached in Step One, the Complaint Officer and the complainant will attend an informal hearing with the complainant's supervisor or other relevant party connected with the grievance. If in the judgment of the Complaint Officer, a representative of the R4WDB designee or a Service Provider should be involved in the informal hearing, the attendance of that representative will be requested by the complaint Officer. This decision rests with the Complaint Officer.

The Complaint Officer will conduct the informal hearing and a resolution will be written and given to the complainant within fifteen (15) calendar days of the initial filing of the complaint. Notification of the complainant's right to appeal the decision to a formal hearing officer will also be given in writing within this same 15-day period. If a complainant fails to appear at the informal hearing, he/she will be sent a letter explaining that another informal hearing will be held at an appointed time and place. The Complaint Officer will assume the responsibility of having the informal hearing completed and proper notification being sent to the complainant within 15 calendar days of the initial filing of the complaint.

Step 3: Formal Hearing

When informal resolution is unsuccessful or upon the request of the complainant, a formal hearing before an impartial hearing officer will be provided within 30 days of the complaint filing date. The following elements will be included in the hearing process:

- Written notice of the formal hearing will be sent to both the complainant and the respondent. The notice will include the following:
 - Date, time and place of the hearing
 - Purpose of the hearing
 - Name and address of the Hearing Officer
 - Issues to be decided
 - Manner in which the hearing will be conducted
- A written decision will be rendered by both the Hearing Officer and the R4WDB designee within 60 calendar days of the date of the initial filing of the complaint.
- The hearing will take place in the locale of the complainant and respondent.
- The R4WDB designee has the final decision superceding that of the Hearing Officer.
- Hearings shall be conducted by an impartial hearing officer who shall be named by the R4WDB designee. In order to meet the requirements of impartiality, individuals selected as hearing officers may have neither direct nor indirect involvement with the ordinary application or, operation, and/or administration of the recipient's WIOA program.
- Both parties will be informed of his/her right to be represented by an attorney or other representative designated by the complainant.
- Both parties may bring witnesses and/or evidence to the hearing and question witnesses and examine evidence.
- Both parties may have access to documents relevant to the issues produced by the Service Provider.

- Interested parties supporting the complainant's position and/or affected by the outcome of the hearing may attend and will be notified to attend by the service Provider.
- Sections of WIOA or Federal regulations that are relevant will be provided by the Service Provider.
- The complainant may amend the complaint or withdraw it in writing prior to the hearing.
- Both complainant and respondent will have the opportunity to request rescheduling of the hearing for a reasonable cause.

The formal hearing itself will:

- Have due process observed to ensure fairness.
- Allow the formal hearing officer to have complete independence in obtaining facts and making decisions.

The Hearing Officer will:

- Prepare and review a file of the case prior to the hearing
- Direct parties to appear at the hearing
- Conduct the hearing
- Receive evidence
- Dispose of procedural requests
- Question witnesses and parties
- Evaluate facts and evidence
- Render a decision
- Make a complete record including any material relevant to appeal or review. The formal hearing officer will tape (audio) the proceedings in order to have a verbatim record of the proceedings.
- Determine order of proof
- Present relevant facts if the complainant does not pursue relevant questions.
- Attempt to resolve issues before the hearing ends. The decision of the hearing officer will be given in writing to the respondent and to the complainant within 60 days of the initial filing of the complaint. The formal hearing officer's decision will include, at a minimum:
 - Synopsis of the facts
 - Statement of the reason for the decision
 - Statement of applicable remedies
 - Names of people attending the hearing
 - Statement that the R4WDB designee will review the hearing officer's decision and render a written administrative decision within 60 days of the initial filing of the complaint. The R4WDB designee's decision may concur, approve or disapprove with the hearing officer's decision. The R4WDB designee's decision is binding unless appealed to the State EO Officer. The R4WDB designee's written decision will include:
 - Summary of facts
 - Statement of the decision(s) and reason(s)
 - State of remedy(ies)
 - Statement indicating that this decision constitutes the final action of the R4WDB designee
 - Instructions on how to file an appeal with the State EO Officer, including time frame

A transcript of the hearing will be kept by the hearing officer and copy of the tape will be provided the complainant and subrecipient/Service Provider upon request.

APPEAL

For local complaints, grievances may be appealed to the Indiana Department of Workforce Development when no decision is reached within 60 days or either party is dissatisfied with the local hearing decision.

- Such appeals should be made within ten (10) days of receipt of the adverse decision or within ten (10) days after expiration of the 60-day period with no decision. The appeal should be sent to the Indiana Department of Workforce Development; ATTN: **Associate Chief of Workforce Programs; 10 N. Senate Avenue; Indianapolis, IN 46204.**
- For all complaints, the Indiana Department of Workforce Development will issue a determination within 60 days of the filing of the grievance.

- Appeals of state-level decisions must be filed within 60 days of the receipt of the decision being appealed. Appeals must be submitted by certified mail, return receipt required, to the Secretary; U. S. Department of Labor; Washington, DC 20210; Attention: ASET. A copy of the appeal must be simultaneously provided to the Region V Administrator; U. S. Department of Labor; Employment and Training Administration; 230 S. Dearborn, 6th Floor; Chicago, IL 60604-1505; and the opposing party.
- A final decision on the appeal will be made no later than 120 days after receiving the appeal.



Customer Service Record
 State Form 43001 (8/2/14)
 INDIANA DEPARTMENT OF WORKFORCE DEVELOPMENT

OFFICE: _____ NAME OF CONTACT: _____ QUARTER ENDING: _____ Complainant Name & Address: _____		Date Filed	Related To						Refer To	Pending			Resolved			Disposition	
			Other Agency Complaint	Discrimination (Enter Number)	UI Services	WIA Title 1 Training	Job Services - Non-Migrant Season Farm Workers	Job Services - Migrant Season		Name of Referral Agency (e.g., EEOC, OSHA, etc.)	Local Level	State Level	Referral Agency Level	Local Level	State Level		Referral Agency Level

Enter Number in Discrimination Column (if applicable)
 1. Race 2. Color 3. Religion 4. Sex 5. National Origin 5. Age 7. Disability 8. Political Affiliation or Belief 9. Citizenship 10. Participation in WIA Title 1