



**WORKFORCE INVESTMENT NETWORK
LOCAL WORKFORCE INVESTMENT AREA (LWIA) 13**

DATE:	May 6, 2014
POLICY NUMBER:	2014:03
SUBJECT:	WIN (LWIA 13) COMPLAINT AND GRIEVANCE PROCEDURES
PURPOSE:	To provide uniform procedures for filing and resolving complaints and grievances regarding Workforce Investment Act Programs.
REPLACES:	N/A
REVISION NUMBER:	N/A

I. BACKGROUND

WIN serves as the administrative and fiscal entity for Workforce Investment Act Programs for Local Workforce Investment Area 13, serving Shelby and Fayette Counties. In accordance with 20 CFR 667.600, each local area, state and direct recipient of funds under Title I WIA must establish and maintain a procedure for addressing grievances and complaints.

A grievance or complaint is a statement of dissatisfaction that is filed wherever it is believed that a violation of any policy, procedure, regulation, statute, or contract has occurred. A grievance may be filed by an applicant, participant, customer, subcontractor, subgrantee or other interested party regarding any workforce program overseen by the Workforce Investment Network.

During Orientation and/or prior to enrollment for WIA Services, clients will be given a copy of LWIA 13 Guide to WIA Grievance Procedures brochure and be asked to sign an Acknowledgement of Receipt of LWIA 13 Guide to WIA Grievance Procedures, attached as Exhibits B and C, respectively. The original Acknowledgement will be placed in the client's case file and upon request, a copy will be provided to the client. WIN's Complaint and Grievance Procedure will be made readily and visibly available at each Career Center and on WIN's website: www.workforceinvestmentnetwork.com.

Please note that these procedures do not apply in cases involving alleged discrimination, fraud or criminal activity. For a description of the procedures that apply to those complaints, see Section VI below.

II. GRIEVANCES COVERED BY THESE PROCEDURES

These procedures cover WIN applicants, customers, participants, employees or other interested parties affected by WIA programs, including:

- A. Job Seekers who have been denied access to a WIA intensive or training service for reasons other than unlawful discrimination.
- B. WIN Program participants who have been denied an education, training or support service, in whole or in part, or whose request for same has been delayed, or whose education, training or support service has been changed, reduced, or terminated, for reasons other than unlawful discrimination.
- C. On-the-Job Training, Customized Training, or other Training Providers (pursuant to WIA Title I) whose eligibility has been wrongfully denied or terminated for reasons other than unlawful discrimination.
- D. A regular employee or WIA program participant who has been displaced by a WIA program participant for reasons other than unlawful discrimination.
- E. A Career Center partner or WIA service provider has been adversely affected by the WIN Career Center system for reasons other than unlawful discrimination.
- F. Any party that is adversely affected by a decision or action made by the WIN System, including decisions by One-Stop Partners and Service Providers, in connection with the WIA Title I Program administered by WIN, for reasons other than unlawful discrimination.

III. GRIEVANCES NOT COVERED BY THESE PROCEDURES

- A. WIA programs are not entitlement programs. This means that even if one fits the description of individuals who may be eligible to receive services under those programs, he or she still may be denied access to the program or denied a specific service allowable under the program rules. This is not considered a violation of the law and may happen because:
 - 1. The local area may not have sufficient funds to enroll participants into a program or provide participants with a service at the time that he/she applies or needs the service. If a freeze in funding for the program or service at issue is imposed by the local Board, the State of Tennessee or the Federal government, there would be no grounds upon which to file a formal grievance. A copy of the applicable local, state or federal action freezing such funds will be provided, upon request.
 - 2. Local areas have the flexibility to decide the types and mix of services to offer in their localities. These decisions are made locally by the Local Workforce Investment Area 13 Board ("Board"). For example, the Board may have decided not to offer a particular benefit or service in LWIA 13. In such instances there would be no grounds upon which to file a formal grievance. A copy of the applicable policy or Board decision will be provided, upon request.

3. Under WIA there are eligibility requirements and prioritization criteria. Individuals who are seeking services but do not meet the eligibility or prioritization criteria cannot be served with WIA funds. The priority criteria can be provided, upon request. Unless one disputes the fact that he/she does not meet the eligibility or prioritization criteria, no grounds for a formal grievance exist.
4. Managerial discretion or a policy that has been adopted may restrict access to a program or service or limit the availability of the program or service. In such instances, there would be no grounds upon which to file a formal grievance. A copy of the applicable policy will be provided, upon request.

Note: If an individual is denied services for one of these enumerated reasons, he or she may still follow the informal grievance procedures prescribed, but may not be entitled to a hearing.

B. Criminal Fraud and Abuse

WIN does not hear complaints related to criminal fraud and abuse, 20 CFR 667.630 describes the process for reporting complaints and/or reports of criminal fraud and abuse. Complaints or reports involving criminal fraud, waste, abuse, or other criminal activity must be reported immediately to the USDOL (U.S. Department of Labor) Office of Inspector General, Office of Investigations, Room S5514, 200 Constitution Avenue NW, Washington, D.C. 20210.

The complaints or report may also be mailed to the Regional Inspector General at USDOL South East Regional Inspector General for Investigations, Office of Investigations, Sam Nunn Atlanta Federal Center, 61 Forsyth Street SW, Suite 6T1, Atlanta, Georgia 30303 with a copy simultaneously provided to the USDOL, Employment and Training Administration, France Perkins Building, 200 Constitution Avenue, Suite 200, Washington, DC 20210.

Reports or complaints alleging criminal fraud and abuse may also be reported through USDOL's Hotline at Hotline@oig.dol.gov (email) at 1-800-347-3756 (voice) or 800-877-8339 (Federal Relay Service – for TTY/TDD).

C. Discrimination or Health and Safety Complaints

WIN does not hear complaints related to discrimination, and health and safety pursuant to these Grievance Procedures. For information regarding complaints in relation to discrimination and/or health and safety, please refer to Article VI below.

IV. GRIEVANCE/COMPLAINT REVIEW AND HEARING PROCEDURES

This section provides standard procedures for filing and resolving grievances regarding a WIA Title I program. It is the responsibility of all WIA Title I Career Center Partners and Service Providers to establish a climate in which an individual's grievances may be presented, discussed and given fair and timely consideration. WIN will attempt to informally resolve grievances arising out of a program provided by a LWIA 13 partner or service provider. Note: Grievances about the programs or services of one of WIN's co-located partners (such as Unemployment Compensation, etc.) may need to be processed in accordance with the rules and procedures in place for that particular organization or entity.

The confidentiality of the grievance and any actions resulting from it will be safeguarded, to the greatest extent possible.

The following procedures have been adopted to provide a mechanism to address grievances. Grievances must be submitted, in writing, within thirty (30) days of the alleged violation, except for grievances alleging discrimination, fraud or criminal activity.

A. Informal Resolution

1. The informal resolution process is generally the most expedient way to obtain a remedy. The informal resolution process involves the following four (4) steps. WIN encourages the informal resolution of grievances and complaints, wherever possible, and an individual must exhaust the informal resolution process before he or she may proceed to a Complaint Hearing pursuant to subsection C below.

2. The informal resolution will proceed as follows:

Step One: Speak with the Career Center staff person about the problem and attempt to resolve the misunderstanding through an open and frank discussion of the matter. When the Career Center staff person is the subject or target of the complaint, the Complainant should proceed to Step 2 below.

Step Two: The Complainant may request a meeting with the staff person's immediate supervisor. The immediate supervisor will meet with the individual within three (3) business days of the request.

Step Three: If the problem remains unresolved, the individual may request a meeting with the applicable department Manager by completing the LWIA 13 Written Grievance Form attached hereto as Exhibit A and submitting same pursuant to the instructions. The grievance form can be obtained from any of the Career Centers located in Shelby and Fayette Counties, or the WIN website at www.workforceinvestmentnetwork.com. The applicable department Manager will set a meeting within five (5) business days after receipt of the Grievance Form. The applicable department Manager will tender a decision within a maximum of seven (7) working days after the meeting.

The Performance and Quality Assurance Manager shall maintain a detailed Complaint Log on a regular basis. The Complaint Log shall include, but not limited to, the Complainant's name, specific complaint, date of complaint, how the complaint was resolved, and the method of communicating the resolution to the Complainant.

Step Four: If the meeting with the department Manager does not result in a satisfactory remedy, then the individual may proceed to request a complaint hearing by complying with subsection (C) below.

B. Grievance Contents Required¹

The grievance shall satisfy the following requirements:

1. Be submitted in writing;

¹ The LWIA 13 Written Grievance Form satisfies the content requirements.

2. Be signed and dated;
3. Include your name, a contact address, and a contact telephone number;
4. Be signed by the person filing the grievance or his/her representative and should be an original, if possible. If you are faxing your grievance, mail the original within two (2) days of the fax.
5. Include a statement regarding the law and/or policy you think was violated and/or the reason you think you are entitled to the service or benefit which has been denied, delayed, reduced, changed, or terminated.
6. State the remedy you are seeking.
7. Grievances should be no longer than five (5) pages, not including any exhibits or attachments you want to be reviewed.
8. If the complainant has a disability which requires an accommodation, or is a non-English speaker and require an interpreter, include with the grievance a written statement indicating the accommodation needed. WIN will attempt to make reasonable accommodations.

C. Complaint Hearing

To request a complaint hearing, the individual must complete Section II of the LWIA 13 Written Grievance Form and file the Form with the Executive Director within forty-five (45) calendar days of the alleged violation, but not more than ten (10) business days after the department Manager's decision. The Written Grievance Form must be hand delivered, faxed or mailed to:

Workforce Investment Network
Attn: WIN Executive Assistant
480 Beale Street
Memphis, Tennessee 38103
Fax: (901) 636-6844

D. Hearing Guidelines

1. When requesting a hearing, the Grievance Form will be date stamped and forwarded to the Executive Director. The date and time of the hearing will be scheduled within ten (10) business days from receipt of the request for a hearing and all pertinent parties will be notified of the scheduled hearing via a written notice.
2. The notice will also advise of the following:
 - a. The purpose of the hearing and a statement of the issues raised in the grievance;
 - b. Pertinent sections of the WIA, or any other federal regulations, program law, rule, contract or policies involved;

3. The complainant may present witnesses and ask that WIN staff and/or contractors be present at the hearing. WIN will do its best to assure that the contractor or staff whom you request be present at the hearing appear on the appointed date. However, witnesses and staff need not be present for a decision to be rendered;
4. The complainant may be represented at the hearing by an attorney or other representative;
5. The grievance may be dismissed if the complainant or his/her representative fails to appear for the hearing without good cause;
6. Grievances alleging a labor standards violation may be submitted to arbitration if the applicable collective bargaining agreement provides for the use of such;
7. The hearing will be conducted informally and unnecessary technicalities will be avoided. The decision will be based upon the facts and evidence presented at the hearing;
8. A written decision will be rendered within fifteen (15) days of the hearing or sixty (60) calendar days after the receipt of the initial grievance, whichever is sooner. The decision will be sent to the complainant by certified mail; and
9. The parties (complainant and WIN) can agree to an extension of the sixty (60) day time period if either party needs more time and the other party agrees.

V. Appeals

- A.** The decision may be appealed to the Tennessee Department of Labor and Workforce Development (TDLWD) if:
 1. Complainant is dissatisfied with or has been adversely affected by WIN's decision; or
 2. A hearing was not conducted within sixty (60) calendar days from receipt of the grievance; or
 3. A hearing was conducted, but a decision was not been issued within the mandated sixty (60) calendar day time period.
- B.** The appeal should be concise (if possible, not to exceed five (5) pages which does not include exhibits and attachments) and shall be sent by certified mail, return receipt to the TDLWD State EO Officer for WIA, 220 French Landing Drive, 4th Floor, Nashville, Tennessee 37243.
- C.** The appeal request shall contain the following:
 1. The full name, address, phone number, and any other means of contacting the complainant;
 2. The full name and address of the respondent against whom the complaint is made, and names of any witnesses;
 3. A clear and concise statement of the facts, including the pertinent dates, constituting the alleged violation;

4. The provisions of the Act, Regulations, policy, grant or other agreements under the Act believed to have been violated;
 5. Settlement or corrective action desired by the complainant;
 6. The signature of the complainant or his/her authorized representative;
 7. A statement disclosing whether the 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 status of the case.
- D.** The appeal must be filed with TDLWD within ten (10) calendar days of receipt of WIN's adverse decision or within ten (10) calendar days from the date upon which WIN should have rendered a decision.
- E.** The state can remand the grievance back to WIN, as appropriate, to resolve the grievance. In addition, TDLWD can hold another hearing or impose other remedies to resolve the grievance. The Commissioner of the TDLWD shall issue a written decision within thirty (30) calendar days, which shall be final.
- F.** Under WIA regulations, 20 CFR Section 667.610, if the State has not issued a decision on a matter that does not deal with allegations of unlawful discrimination within the required 30 calendar-day timeframe, you can file an appeal to the United States Department Of Labor. The request for Review/Appeal must be submitted by certified mail, return receipt to: Secretary, U.S. Department of Labor, Employment and Training Administration, France Perkins Building, 200 Constitution Avenue, Suite 200, Washington, DC 20210. The Secretary of the U.S. Dept. of Labor shall act within ninety (90) days after receipt of the request. A copy of the appeal must be simultaneously provided to WIN and the TDLWD.

VI. Complaints Related to Discrimination or Health and Safety

A. Discrimination

The procedures for filing a complaint of discrimination are separate and distinct from the grievance procedures outlined elsewhere in this document. A complaint of alleged discrimination may be filed by any person, including (but not limited to) any employee, applicant for employment, or customer of a Career Center, Career Center operator, training provider, or other program or activity that is offered through the Career Center system, who feels that he or she, or any specific "class of individuals" (group of people), has been subjected to unlawful discrimination by a program or activity offered through the Career Center system. Discrimination on the basis of race, color, disability, religion, sex, national origin, age, political affiliation or belief, participation in any WIA Title I financially assisted program or activity, or on the basis of citizenship or status as a lawfully admitted immigrant authorized to work in the United States is prohibited under federal and/or state laws.

Additional information regarding LWIA 13's nondiscrimination policy is contained in the LWIA 13 Equal Opportunity and Nondiscrimination Complaint Procedures, Policy No. 2014:04. Said policy may be obtained at: www.workforceinvestmentnetwork.com or from the WIN Equal Opportunity Officer.

B. Health and Safety Issues

Health and Safety standards which have been established under both federal and/or state law and apply to the working conditions of employees are also applicable to participants of programs and activities under WIA Title I. **WIN does not hear complaints related to health and safety.** Complaints related to a health or safety matter may be filed with:

Tennessee Department of Labor and Workforce Development
Division of Occupational Safety and Health
220 French Landing Drive
Nashville, Tennessee 37243
Phone: (800) 249-8510
Fax: (615) 253-1623

OR

U.S. Department of Labor
Occupational Safety and Health Administration
200 Constitution Avenue, N.W.
Washington, DC 20210
<http://www.osha.gov/as/opa/worker/index.html>
Phone: (800) 321-OSHA (6742)
TTY 1: (877)-889-5627

IMPORTANT: A copy of a health and safety complaint filed with the U.S. Department of Labor must also be sent to WIN at the following address:

Workforce Investment Network
480 Beale Street
Memphis, Tennessee 38103
Attn: Performance and Quality Assurance Manager

For more information regarding health and safety issues, go to the U.S. Occupational Safety and Health Administration's Website at <http://www.osha.gov> or The Tennessee Division of Occupational Safety and Health at www.state.tn.us/labor-wfd/tosha.html.

VII. EFFECTIVE DATE. This policy shall be effective upon the date indicated on the first page of this document, and remain in effect until further notice.

VIII. INQUIRIES. Please contact WIN Deputy Director of Operations regarding this Policy.

Exhibits (incorporated by reference):

- A. LWIA 13 Written Grievance Form
- B. LWIA 13 Guide to WIA Grievance Procedures Brochure
- C. Acknowledgement of LWIA 13 Grievance Procedures Brochure

The Career Center System is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. TTY: (800) 848-0299.