

**CHENANGO-DELAWARE-OTSEGO
WORKFORCE INVESTMENT
BOARD**

**WORKFORCE INVESTMENT ACT
NON-CRIMINAL COMPLAINTS
AND GRIEVANCES PROCEDURE**

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I. INTRODUCTION

The Workforce Investment Act (WIA) and the Rules and Regulations (667.600) require the establishment of a complaint/grievance procedure by each Local Area, State and direct recipient of funds under Title I. This requirement's guidelines are also outlined in the Workforce Development System Technical Advisory No. 00-40 and 00-40.1. The information must be provided to the participants, other interested parties affected by the local Workforce Investment System, including One-Stop partners and service providers. The procedure must also have a process that allows an individual alleging a labor standard violation to submit the grievance to a binding arbitration process if a collective bargaining agreement covering the parties to the grievance provides for it. The purpose of the procedure is to ensure that a complaint is resolved promptly and that the complainant is advised of all steps taken to resolve the complaint.

II. GUIDELINES AND DEFINITIONS

A complaint may be either WIA related or non-WIA related. A WIA related complaint is a written and signed statement by a WIA participant, a staff member, or "other interested person" who alleges that the Governor, Local Area or other subcontractor has violated the Act and/or WIA Rules and Regulations and/or a WIA grant and/or WIA agreement.

If some of the allegations of a complainant are WIA related and the remainder of the allegations are not related to WIA, then the complainant has at least two (2) complaints that must be treated separately and differently. (See General Process below: F., WIA related complaints; and G., Non-WIA related complaints.) If there is uncertainty as to whether a complaint is WIA related, then treat it as WIA related and seek technical assistance (See General Process below: D. 1. a.& b. Local Area Complaint Resolution Officer).

Complaints are to be resolved at the lowest level possible: i.e. the level closest to the reason for the complaint. Each Local Area, State, and direct recipient of funds under Title I of WIA must establish and maintain a procedure for grievances and complaints.

III. GENERAL PROCESS

A. Non-criminal complaints must be made within one year of the alleged occurrence.

B. The three levels of complaint resolution are:

1. Local – Local Area level (includes all subrecipients within the Local Area)
2. State – Governor's level
3. Federal – Secretary of the United States Department of Labor level

C. The identity of the complainant(s) and any people who furnish information to, or are assisting in, an investigation of a complaint should be kept confidential to the maximum extent possible, consistent with applicable law and fairness in handling the complaint.

D. Local Area

1. Designated Complaint Resolution Officer will:

- a. The Local Area shall designate a staff member to be the Local Area Complaint Resolution Officer to ensure the availability, coordination and timeliness of all elements of the complaint resolution procedure.

b. The Local Area Complaint Resolution Officer will:

- 1) advise and assist the Program Complaint Resolution Officer of each of the interested parties; i.e., One-Stop partners, service providers.
- 2) monitor each One-Stop partner's/service provider's implementation of the complaint procedure.
- 3) ensure that WIA related complaints are written, signed, logged, and filed; and information and documentation pertaining to it are safeguarded and filed as appropriate.
- 4) ensure that non-WIA related complaints are logged, and the complainant is referred to the appropriate agency or agencies and the referral is documented in the complaint log.
- 5) identify need, and provide technical assistance in complaint resolution.
- 6) make arrangements with Local Area Hearing Officer(s) for all WIA complaint hearings in the Local Area.

c. Each One-Stop partner/service provider of a Local Area shall designate a staff member to be the Program Complaint Resolution Officer to serve as a first reference point for any aggrieved party. See Page 12 for listing of Program Complaint Resolution Officers. The Program Complaint Resolution Officer will conduct an impartial investigation. The investigation should provide sufficient evidence to support or disprove the complaint or to resolve the issues raised. The Program Complaint Resolution officer will prepare and maintain a separate file of the information gathered on each complaint. The Program Complaint Resolution Officer will inform the complainant of the status of the complaint and notify the complainant of the next step in the elevation of the complaint. Employers may operate their own grievance system or may utilize the WIA complaint resolution procedure. Employers shall inform participants of the grievance procedure that participants are to follow. Employer grievance systems shall provide for, upon complainant request, a review of an employer's decision by the Local Area and the Governor. Employers opting to use their own grievance system must provide copies of the procedures to the Local Area for review and comment. The review will ensure that WIA guidelines and requirements are not compromised.

2. Complainants will receive complaint information and assistance from an appropriately trained subrecipient staff member when the Program Complaint Resolution Officer is not available.

3. Hearing Officer

The Local Area shall designate a Hearing Officer to:

- a. regulate the course of the hearing
- b. assure that all relevant issues are considered
- c. rule on the introduction of evidence and testimony
- d. take any other action, consistent with due process, that is necessary to ensure an orderly, impartial and fair hearing
- e. attempt to resolve the dispute by conciliation at any time prior to the conclusion of the hearing
- f. cause the hearing to be recorded.

The Hearing Officer will prepare a written decision, based upon the entire record, including all evidence or oral testimony, presented at the hearing. See Attachment A for a sample form for the Hearing Officer to use.

The written decision will be mailed to the complainant, the respondent, the Local Area Complaint Resolution Officer in accordance with the specified periods of time.

4. No person may act as Complaint Resolution Officer and Hearing Officer on the same complaint.

E. Participant Rights

Local Area One-stop shall post complaint resolution process and shall provide a copy of it or a written summary upon request of any participants. (See Attachment B)

F. WIA-Related Complaints shall be written and signed and logged by the Program Complaint Resolution Officer. (See Attachment C for sample Complaint Log)

G. Non-WIA Related Complaints shall be logged by the Program Complaint Resolution Officer and referred to the appropriate agency or agencies. Follow-up is not required on non-WIA related complaints.

IV. COMPLAINT PROCESS

A. Non-criminal complaints must be made within one year of the alleged occurrence. WIA related complaints shall be logged and recorded. If needed, the complainant should be given assistance in the filing of the complaint. The staff of the WIA office or program taking the complaint shall provide this assistance. If a complainant is joined by several other complainants in filing a formal complaint, their names should appear on the complaint as well.

B. When a WIA related complaint is filed and this complaint is also a violation of another law or collective bargaining agreement, the grievance procedures of that law or agreement may be used instead of, or in addition to the WIA Complaint Resolution procedure. The Complaint Resolution Officer* shall see that the complainant is informed of the status of the complaint. The complainant maintains a right to a hearing.

* If the WIA related complaint alleges a violation by the Local Area, then the Complaint Resolution Officer performs the actions outlined for the Program Complaint Resolution Officer.

C. Resolution – Local Level: Local Area

1. Initial Investigation

a. When a complaint has been identified as WIA related, the complainant must be informed of the WIA complaint system and his/her rights within it.

b. If the complaint received in writing is signed by the complainant and includes enough information for the Program Complaint Resolution Officer to initiate an investigation, the document shall be treated as if it were a properly completed resolution form filed in person by the complainant. The Program Complaint Resolution Officer should send an acknowledgement to the complainant and shall begin to investigate the complaint. If the complaint has not provided sufficient information to investigate the complaint, the Program Complaint Resolution Officer shall request additional information from the complainant.

c. During the initial discussion with the complainant:

- 1) make every effort to obtain all the information perceived to be necessary to investigate the complaint
- 2) explain the need to maintain contact during the complaint investigation
- 3) offer to assist the complainant through the provision of appropriate WIA services; and
- 4) find out from the complainant what the complainant needs in order to consider the complaint resolved (what relief is sought)

d. Informal Resolution

Document all steps taken to resolve the complaint. The methods used in the complaint investigation may include, but are not limited to, analyzing the complaint and available background material, interviewing, examining records, obtaining documents, obtaining written statements, observing and meeting with the complainant and respondent, separately and/or both at the same time. The objective of these efforts is a settlement between the complainant and the respondent.

2. Complaint Resolution

This occurs when at least one of the following is true:

- Complainant indicates satisfaction with the outcome
- Complainant chooses not to elevate the complaint to the next level for review
- Complainant (or complainant's authorized representative) fails to respond to a written request by the Program Complaint Resolution Officer or Local Area Complaint Resolution Officer within 10 calendar days
- A final determination has been made by the responsible agency on a referred WIA related complaint

3. Hearing

If the complaint is not resolved within 29 calendar days, then on the 30th calendar day, the complainant shall have a previously scheduled hearing. If circumstances warrant it, a hearing may be scheduled at any time within 30 days of a filed complaint. The complainant shall receive written notice of the date, time or place of the hearing, seven days prior to the hearing date. (See Attachment D for sample notice). The hearing may be cancelled or postponed beyond the 30 days, at the request of the complainant. A request for cancellation shall be transmitted to the Hearing Officer through the Program Complaint Resolution Officer, with the complainant's written and signed attestation that the complaint has been resolved or withdrawn. A written decision must be issued to the complainant within 60 days of the filing of the complaint. Complainants not in receipt of a written decision within 60 days of the filed complaint have the right to request a review by the Governor. The request must be filed within 15 days from the date on which the complainant should have received a written decision. The complainant also has the right to request a review by the Governor of an adverse decision by the Local Area. Such request must be filed within 10 days of the receipt of the adverse decision.

4. State Appeal

State level appeals should contain the same basic elements necessary for the Local Area level. These are: complainant name, address, and phone number; Respondent's name, address, and phone number; Nature of the complaint; Signature of the complainant; Date signed; Information regarding the decision rendered at the local level.

Information should be sent to:

New York State Workforce Investment Act Hearing Officer
New York State Department of Labor
State Office Building Campus
Building 12 Room 446
Albany, New York 12240

CDO Workforce One-Stop System
Non-Criminal Complaints and Grievances Procedure
Decision by the Hearing Officer

Complainant Name:

Respondent Name:

Hearing Date:

Hearing Attendees:

Statement of Issue(s):

Finding of Facts:

Opinion & Reason for Decision:

If you do not agree with this decision, you have the right to request a State level review of the findings. State level appeals must be submitted in writing within ten (10) days of the receipt of this filing to:

New York State Workforce Investment Act Hearing Officer
New York State Department of Labor, State Office Building Campus
Building 12, Room 446
Albany, New York 12240

Your appeal to the State level should contain the following information: Your name, address, and phone number; Respondent's name, address, and phone number; Nature of the complaint (who, what, where, when, and how information, as applicable); Your signature; Date signed; and information regarding the decision rendered at the local level.

Hearing Officer Signature:

Hearing Officer Name:

Date:

CDO Workforce One-Stop System
Non-Criminal Complaints and Grievances Procedure
Approved by the CDO Workforce Investment Board: November 14, 2007

INTRODUCTION

The Workforce Investment Act (WIA) and the Rules and Regulations (667.600) require the establishment of a complaint/grievance procedure by each Local Area, State and direct recipient of funds under Title I.

As a customer, service provider, or interested party, this document serves to inform you of the procedure whereby you may settle any difference or non-criminal complaint that may arise, free from coercion, restraint, interference, discrimination or reprisal.

PROCEDURE

This is a multi-stage procedure, whose goal shall be to settle complaints on as low an administrative level as possible.

Time extensions beyond those noted below may be arrived by mutual agreement of the parties concerned. Should either party not adhere to the following timetable, choose not to elevate a request to the next level, fail to respond to a written request by the Program Complaint Resolution Officer within ten calendar days, or agree to satisfaction with the outcome of a complaint, the complaint will be considered resolved.

You will have up to one (1) year from the date of the incident to file the complaint. Your identity and anyone who furnishes information or assists in the investigation of the complaint will be kept confidential to the maximum extent possible, consistent with applicable law and fairness in handling the complaint. Once a complaint has been filed, the timeframes outlined in this procedure are as follows.

STEP 1: When you file your written complaint, the **Program Complaint Resolution Officer (PCRO)** will gather facts, and will attempt to resolve your complaint. If your complaint can be resolved in a way that is mutually acceptable to all parties involved, the PCRO will notify each party in writing of the agreed upon resolution

The PCRO's name, address, and telephone number are as follows: See Attached List or ask the Center Manager for assistance.

STEP 2: If your complaint alleges a violation by the Local Area, then the Local Area Complaint Resolution Officer (LACRO) performs the actions as outlined for the Program Complaint Resolution Officer. The **Local Area Complaint Resolution Officer's** name, address, and telephone number are as follows:

Mr. Kevin Price, Executive Director,
CDO Workforce Investment Board

12 Dietz St.
Oneonta, NY 13820
(607) 432-4800

STEP 3. If you are unable to resolve your complaint, you may request a formal hearing. This hearing must be scheduled on or before the thirtieth (30) day of your initial complaint.

a. You will receive by Certified Mail, notification of the date, time, and place of the hearing and will be advised that:

- The hearing may be rescheduled if you so request and the PCRO agrees.
- You have the right to be represented by an attorney, as may the PCRO.
- You may produce witnesses and/or documentary evidence, as may the PCRO.
- You and/or your attorney/representative, as may the PCRO, will be allowed to cross-examine opposing witnesses or parties in accordance with the procedurally equitable agenda explained before the hearing by the Hearing Officer.
- You may withdraw your complaint prior to the hearing. This would constitute an admission of no contest.
- You will receive a final written decision within sixty (60) days of the filing of your complaint. The decision will include a synopsis of facts, a statement of reason for the decision, a statement of remedies to be applied, a statement that all applicable procedures have been followed, and an explanation of the appeal procedure noted below.

STEP 4. If by the 60th day of the initial filing of your complaint, you have not received your written final decision, you may file a request for review by the Governor. The request must be filed within fifteen (15) days from the date on which you should have received the written decision. If you do not agree with your written final decision, you may file a request for review by the Governor. The request must be filed within ten (10) days from the date on which you receive the adverse decision. The Governor will have 30 days to issue a decision.

Your appeal should contain the same basic elements as your local complaint. These are: Your name, address and phone number; Respondent's name, address and phone number; Nature of the complaint; Your signature; Date signed; Information regarding the decision rendered at the formal hearing.

You should send the information to:

NYS Workforce Investment Act Hearing Officer
New York State Dept. of Labor
State Office Building Campus, Bldg. 12, Room 446
Albany, New York 12240

If you are an employer, you may operate your own grievance system, or you may utilize the grievance system established by the CDO Workforce One-Stop Career System. You must inform all participants early of the grievance procedures they are to follow, should they need them. If you opt to use your own grievance system, you must provide copies of the grievance procedure for review and comment by the PCRO to ensure that WIA guidelines and requirements are not compromised. Your system must provide for, upon request by the complainant, a review of an employer's decision by the Local Area and the Governor, if necessary. The procedure must also have a process that allows an individual alleging a labor standard violation to submit the grievance to a binding arbitration process if a collective bargaining agreement covering the parties to the grievance provides for it.

One-Stop System Attachment C
Non-Criminal Complaints and Grievances Procedure
Program Complaint Resolution Officer:
Complaint Log

Complaint Number	Date Received	Complainant Name	Complainant Against	Referred To	Date Referred	Disposition And Date
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CDO Workforce One-Stop System
Non-Criminal Complaints and Grievances Procedure
Hearing Notice
(E X A M P L E)

Date
Complainant Name
Complainant Address
City, State ZipCode

In compliance with Rules and Regulations (Section 667.600) of the Workforce Investment Act of 1998 "Subpart F - Grievance Procedures, Complaints, and State Appeals Processes" you are hereby notified that a hearing has been scheduled for the following:

DATE OF HEARING:
TIME OF HEARING:
LOCATION OF HEARING:

The purpose of this hearing is to provide you and/or your attorney, and/or your designated representative with the opportunity to address your grievance/complaint with the CDO Workforce One-Stop Career System, as outlined in the "Non-Criminal Complaints and Grievances Procedure." If you have any questions regarding the hearing, I have attached for your information the hearing guidelines that will be followed.

(Short and plain statement of the matters asserted)

Sincerely,

John Doe
Complaint Resolution Officer

CC: Party(ies) involved
WIB Chairperson
Hearing Committee members

CDO Workforce One-Stop System
Non-Criminal Complaints and Grievances Procedure

Hearing Guidelines

1. The hearing shall be recorded.
2. The complainant may be represented by an attorney or other designated representatives.
3. To the extent possible, consistent with a fair determination of the issues, the identity of any person who has furnished information related to an investigation to a WIA related problem, shall be kept confidential.
4. Within the limitations of the Freedom of Information Act, the complainant has a right of access to relevant records and documents that the program and/or Local Area maintains.
5. The complainant and respondent have the right to an opportunity to present evidence relevant to the complaint, to call witnesses, and cross-examine other parties and their witnesses.

<u>Program Complaint Resolution Officers*</u>

DATE

Program	Officer Name	Address/Telephone
Office of Employment and Training	Gary Waffle, Director	1 O' Hara Drive Norwich, NY 13815 (607) 334-2201
NYS Department of Labor	Steve Geer, Manager	12 Dietz St., Oneonta, NY 13820 (607) 432-4800
Experience Works	Local Designated Experience Works Reg. Supervisor	
Department of Social Services	County DSS Commissioner (w/in CDO Area)	Chenango: 337-1552 Delaware: 746-2325 Otsego: 432-
VESID	Richard Bohman, District Manager	44 Hawley St., Binghamton, NY 13901 (607) 721-8400
Bridge Program (Morrisville State College)	Amy Barsha	Morrisville State College
Catskill Center for Independence	Chris Zachmeyer, Executive Director	PO Box 1247 Oneonta, NY 13820 (607) 432-8000
Adult and Continuing Education and Literacy Programs (Afton Central School Adult and Continuing Education program)	June White, Director	PO Box 5 Afton, NY 13730 (607) 639-2811

* Designated Program Complaint Resolution Officers may be modified upon notification of the Program Administrator

Grievance Procedure Timeline

Customer has 365 Days to File Complaint

Day 1

Receipt by PCRO of Written Complaint

Day 2-29

(from initial complaint)

Resolution by PCRO 13

By Day 30

(from initial complaint)

Previously Scheduled Hearing

By Day 60

(from initial complaint)

Written Decision by Hearing Officer

By Day 70

(10 days from receipt of decision)

To Appeal Adverse Decision

By Day 75

(15 days from scheduled receipt date)

To Appeal

Lack of Decision

By Day 100

(30 days from receipt of appeal)

Governor's Decision

By Day 105

(30 days from receipt of appeal)

Governor's Decision