**EQUAL OPPORTUNITY**

**Chapter 7.2: Program Complaints**

**Summary**
This chapter identifies DEED’s compliance with Element 7.2 of the Nondiscrimination Plan, which requires that recipients of Workforce Innovation and Opportunity Act (WIOA) Title I funds establish and maintain a procedure for grievances and complaints. These WIOA program complaint procedures account for DEED’s responsibilities.

**Relevant Laws, Rules, or Policies**
[20 CFR 667.610](http://www.doleta.gov/dinap/pdf/wiafinalregsall.pdf)
[29 CFR 38](https://www.govinfo.gov/content/pkg/FR-2016-12-02/pdf/2016-27737.pdf)
[Minnesota State Statutes: Section 16C.05, Subdivision 5](https://www.revisor.mn.gov/statutes/?id=16C.05)

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**Policy**

DEED, local area, and direct recipients of funds under WIOA Title I will establish and maintain a procedure for program grievances and complaints in accordance with the procedures set forth below.

**Legal Federal Requirements**

WIOA Final Rules and Regulations - 20 CFR 667.600 through 667.645, mandate that each local area, State, and direct recipient of funds under WIOA Title I:

1. Establish and maintain a procedure for grievances and complaints according to the requirements of the section;
2. 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 CareerForce partners and service providers;
3. Make reasonable efforts to ensure the content of the grievance and complaint procedures are understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals.

**Timing**

WIOA Title I (Adult, Dislocated Worker, Youth) program complaints are generally filed by an applicant/participant at the local level with the WIOA Title I program provider.

* A complaint must be filed within one year of the alleged occurrence.
* The complaint should be resolved at the local level within sixty (60) days of the filing of the complaint or grievance.
* If the complaint has not been resolved at the local level, or the local level fails to issue a decision within sixty (60) days, the complainant has sixty (60) days to appeal to the State/DEED level.
* If the State fails to issue a decision within sixty (60) days, or if the complainant is dissatisfied with the State's decision, and if the complainant is receiving federal funds, the State's decision, or lack thereof, may be appealed beyond the State level to the Secretary of Labor.

*Note:* The 60-day period is the time allowed for the WIOA Title I Program Provider to resolve or issue a decision at the local level regarding a program complaint. If the WIOA Title I Program Provider sub-contracts to another WIOA Title I Program Provider the 60 days must be met collectively at the local level.

**Program Complaint Procedures**

A WIOA Title I program complaint contains only a program issue. It is processed as a program complaint under the Employment and Training Regulations (20 CFR 667.600). When the complaint concerns discrimination (including both program issues and a prohibited basis/factor), the Equal Opportunity Officer (EOO) must be advised of the existence of the complaint. A discrimination complaint is processed under 29 CFR 38. See WIOA EO Policy Manual 7.1 Discrimination Complaints.

***Verbal (Informal) Program Complaint***

The WIOA Program Complaint Procedures address complaints regarding only the operation of the WIOA Title I program.

1. An informal attempt at resolution should take place at the local level before the filing of a formal written complaint. The WIOA Title I Equal Opportunity (EO) Officer is designated by the State as the responsible entity for WIOA Title I Program complaint resolution at the local level.
2. Upon receipt of a complaint, the LWDA EO Officer should meet with the complainant and/or the complainant's representative to discuss the issue.
3. The LWDA EO Officer reviews the case and its facts before a meeting with the complainant so that an appropriate resolution can occur if possible.

*Note:* Although the complainant should be encouraged to attend the meeting, the complainant's failure to do so should not preclude the complainant's right to request a hearing on the subject.

If there is a mutually satisfactory resolution to which all parties agree, the LWDA EO Officer should write a brief report for the file stating the issues and resolution. The matter will then be considered closed.

If a resolution does not result from the informal procedure, the complainant will be provided a hearing, upon the complainant's request, within the sixty (60) day period allowed for the resolution of the complaint. The complaint must be submitted in writing to the LWDA EO Officer for the complaint to move forward.

***Written (Formal) Program Complaint***

A WIOA Title I written program complaint may be filed at the WIOA Title I Program Provider level within one year of the alleged occurrence. 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 from agency staff or the complainant's representative. See below for a link to the WIOA Title I Program Complaint Form.

A WIOA Title I program complaint may be submitted in other formats as long as the written complaint contains the following:

1. Complainant name, address, and phone number;
2. Basis of the complaint; and
3. Brief written statement of the allegation(s).

The written complaint must be signed and dated by the complainant or the complainant's representative.

Upon receipt of a written program complaint by a complainant or the complainant's representative, the LWDA EO Officer:

1. Logs the complaint on the WIOA Title I Program Complaint Log (linked below), and
2. Sends a copy of the complaint to the Office of Diversity and Equal Opportunity (ODEO).

**Records Retention**

All records regarding complaints and actions taken on complaints (including logs) must be maintained for not less than six (6) years from the date of the resolution of the complaint (Minnesota Statutes, Section 16C.05, Subd. 5).

**Local Decision**

* A local decision must be rendered within sixty (60) days of the date the complaint was filed.
* A hearing before an impartial hearing officer shall be provided (upon request of the complainant) within the sixty (60) days allowed for resolution. Choose an impartial mediator who is a neutral and impartial third party, acceptable to both parties, and will assist the parties in resolving their dispute.
* The hearing should:
* Avoid unnecessary technicalities (e.g., legal requirements that would be appropriate in court proceedings).
* Provide the flexibility to adjust to the circumstances presented.
* Give full regard to the requirements of due process to ensure a fair and impartial hearing.
* The hearing officer:
* Commences the hearing by summarizing the record, the issues, and the way the hearing will be conducted.
* Ensures that everyone involved understands the proceedings (explanations are to be adapted to the needs of the specific situation).
* Takes testimony under oath or affirmation to assure the veracity of the hearing.
* The burdens of proof are to be reasonable, flexible, and depend upon the circumstances of the case involved.
* The hearing officer determines the order of proof.

Generally, the party making the complaint is obligated to establish his or her case, and the party's information should be given first to explain the basis of their complaint.

The hearing officer must obtain the fullest information for the record. If the parties involved, or their representatives, do not know how to ask the right or pertinent questions, to ensure their right to due process, the hearing officer must step in to elicit all material and relevant facts.

Each LWDA EO Officer must provide the following elements in the hearing process:

1. Both the complainant and respondent (program staff) must receive timely written notice of the hearing. At a minimum, the written notice shall state:

a. Date, time, and location of the hearing;
b. Name and address of the hearing officer;
c. The purpose of the hearing and a statement of the issue(s) to be heard;
d. The importance of attending the hearing and the disadvantage of not attending;
e. Complainant's rights in the process, including the rights to present testimony, to bring witness and records, to be represented, and to present oral arguments;
f. Advice about where further information or assistance can be obtained. This should include an address and/or phone number of a person who can answer inquiries; and
g. Information on the complainant's right to appeal the local decision. (See Step 4 below.)

2. The hearing site shall be in a location accessible to all parties.

3. The complainant has an opportunity to:

a. Withdraw the hearing request in writing before the scheduled hearing.
b. Request rescheduling and the WIOA Title I Program Provider reserves the right to reschedule the hearing for reasonable cause.
c. Be represented by an attorney or other representative of the complainant's choice throughout the complaint process.

4. The hearing officer:

a. Can attempt to negotiate a resolution of the issue at any time before the conclusion of the hearing.
b. Prepares and submits to all parties a written decision on each complaint.\*The decision must include a statement indicating the complainant's right to appeal the local decision.

*Note:* The local decision can be appealed if there is no decision reached within sixty (60) days or if either party is dissatisfied with the local decision. The State has sixty (60) days to investigate and to issue a decision.

**DEED (State) Decision**

If the WIOA Title I program complaint has not been resolved at the WIOA Title I Program Provider level, the Employment & Training Programs (ETP) division, upon receiving an appeal from the complainant, reviews the complaint and documentation, conducts an investigation, and upon completion, offers a resolution.

*Note:* Non-WIOA Title I program complaints shall be submitted to the non-WIOA Title I funding source. Only WIOA Title I program complaints can be appealed to the DEED WIOA EO Compliance Manager.

A complainant may file an appeal with the WIOA EO Compliance Manager if:

1. The complainant is dissatisfied with the WIOA Title I Program Provider decision, or
2. The WIOA Title I Program Provider failed to issue the administrative decision within sixty (60) days of the complaint filing date.

WIOA Title I Program Provider responsibilities in the appeal process shall include, but are not limited to:

1. Provide DEED with a completed copy of the complaint file and a copy of the hearing decision. This information is to be forwarded to DEED upon notice that the appeal request has been received and accepted for review by DEED.

*Note:* A WIOA Title I Program Provider may also appeal a decision using the same procedures as an individual complainant.

All appeals to DEED must contain the following information:

1. Name, address, and telephone number of the person making the complaint.
2. Name and address of the respondent against whom the complaint is made; and
3. A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.

An appeal must be filed within sixty (60) days of the WIOA Title I Program Provider's decision to be accepted for review and a decision made by DEED. If no decision is provided by the WIOA Title I Program Provider within sixty (60) days of the date the complaint was filed, the complainant has sixty (60) days to appeal to DEED. (A total of 120 days from the date the complaint was first filed.) Appeals received outside this time frame risk not being processed.

State (DEED) appeals are to be forwarded to:

Karen Lilledahl, WIOA EO Compliance Manager

Minnesota Department of Employment and Economic Development

1st National Bank Bldg., E200

322 Minnesota Street

St. Paul, MN 55101
651-259-7097

If the complainant was not provided an opportunity for a hearing at the local level, the hearing will be scheduled by the DEED EO Officer.

The DEED EO Officer will issue a decision within sixty (60) days of the date the appeal is received at the Department level. Copies of the decision will be sent to the complainant and the WIOA Title I Program Provider. The decision will contain:

1. Synopsis of the facts,
2. Reason(s) for the decision,
3. Remedy as applicable, and
4. Statement explaining further appeal rights to the Secretary of Labor if the WIOA Title I complainant is receiving federal funding.

*Note:* Non-federally funded complainants do not have appeal rights beyond the State level. The State's decision is considered final.

**Secretary (DOL) Appeal**

A WIOA Title I complainant who receives federal funds can appeal to the Secretary of Labor if the State fails to issue a decision within sixty (60) days from the receipt of the appeal, or (2) a party wishes to appeal an adverse decision.

*Note:* applicants/participants receiving federal funds have appeal rights beyond the State level with a program complaint. Applicants/participants receiving state funds have no appeal rights beyond the State level with a program complaint.

Appeals to the Secretary of Labor contesting an adverse decision must be filed within sixty (60) days of the receipt of the decision being appealed. Appeals must be made within 120 days of the filing of the complaint with the State or the filing of the appeal of a local complaint with the State where the State fails to issue a decision within sixty (60) days.

Appeals to the Secretary of Labor must be submitted by certified mail, return receipt requested, to:

Secretary
U.S. Department of Labor
Washington, D.C. 20210
Attention: ASET

A copy of the appeal must be simultaneously provided to:

Byron Zuidema
Regional Administrator
U.S. Department of Labor
230 South Dearborn Street
Chicago, Illinois 60604

and

Karen Lilledahl, WIOA EO Compliance Manager
Minnesota Department of Employment and Economic Development

1st National Bank Bldg., E200

322 Minnesota Street

St. Paul, MN 55101

Alternate formats are available to individuals with disabilities by calling 651-259-7094 or emailing DEED.ODEO@state.mn.us