

Oklahoma Employment Security Commission



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OKLAHOMA EMPLOYMENT AND TRAINING ISSUANCE #01-2011

TO: WIA Board Staff
Workforce Center Managers
Area Managers

FROM: Richard J. Gilbertson, Director

DATE: January 13, 2011

SUBJECT: Grievance Processing Procedures

Background: The Workforce Investment Act of 1998 (WIA) requires that all recipients of WIA funds have a grievance process in place. Legal Authority: WIA § 181(c); 20 CFR §667.600; 2010 Rules of the Oklahoma Employment Security Act – 240:21-11-1 through 240:21-11-34.

Purpose: To provide guidance and policy direction to local Workforce Investment Boards and Local Workforce Areas for establishing grievance procedures for complaints alleging violations — other than discrimination complaints which are governed by 29 CFR Part 37, or Title I of WIA Subtitle C, Job Corps.

Message: Local areas receiving a WIA allotment shall establish and maintain procedures for grievances or complaints filed by participants and other interested or affected parties in which violations of the WIA are alleged. Nothing in this OETI precludes a grievant or complainant from pursuing any other remedy authorized under another Federal, State, or local law. Please ensure that your organization is in compliance with the requirements of the WIA.

1. WIA Requirements

- A. Each local area and direct recipient of funds under Title I of WIA must establish and maintain a procedure for grievances and complaints in accordance with 20 CFR §667.600.
- B. Required Notice of Grievance Procedures to Participants and Other Interested Parties

Each local area must:

- (1) Provide information about the content of the grievance and complaint procedures to participants and other interested parties affected by the local Workforce Investment System, including One Stop partners and service providers;
- (2) Require every entity to which it awards Title I funds to provide the information referenced in (B) (1) of this OETI to participants receiving Title-I funded services from such entities;
- (3) Make reasonable efforts to assure that the information referred to in this OETI is written and understood by affected participants and other individuals, including, but not limited to, youth, persons with disabilities, and those who are limited-English speaking individuals. Such efforts must comply with the language requirements of 29 CFR 37.35 regarding the provision of services and information in languages other than English.

2. Grievance Procedures — Local area procedures must provide the following:

- A. A process for dealing with grievances and complaints from participants and other interested parties affected by the local Workforce Investment System, including One-Stop Partners and service providers;
- B. An established time limit for filing grievance;
- C. An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint;
- D. A process which allows an individual alleging a labor standards violation to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides;
- E. A written response to the grievant, notifying him/her of the determination, as well as information on filing an appeal with the State.
- F. An opportunity for a local level appeal to a State entity when:
 - (1) No decision is reached within 60 days; or
 - (2) Either Party is dissatisfied with the local hearing decision.
- G. If an individual elects to file his or her grievance with OESC, the grievance must be filed within 20 days from the date of the violation(s) which is the basis of the grievance.

3. Contents of a grievance — Each grievance shall be in writing and should:

- A. Be signed by the grievant or his authorized representative;
- B. Contain the grievant's name and address (or specify another means of contacting him or her);
- C. Identify the individual against whom the grievance is filed, if applicable;
- D. List the date(s) on which the acts which are the basis of the grievance occurred, or if continuing, when such acts began and describe the continuing nature;
- E. List the names and addresses of persons who may have knowledge of the facts of the grievance;
- F. Describe the grievant's allegations in sufficient detail to allow the Director of Workforce Integrated Programs to determine whether:
 - (1) The Director of Workforce Integrated Programs has jurisdiction over the

- grievance;
 - (2) The grievance was timely filed; and
 - (3) The grievance has apparent merit, i.e., whether the allegations if true, would violate any Title I of WIA.
- G. Referral of a grievance filed with OESC — The Director of Workforce Integrated Programs may refer a grievance, originally filed with the OESC, to the local area if there is likelihood that it could be resolved at that level. If the referred grievance is not resolved within ten (10) days from the date of receipt by the local area, the Director of Workforce Integrated Programs will attempt to resolve the issue informally.

4. Appeals to the OESC from Grievance Decisions of a Local Area

- A. Filing grievance with local area — A participant or affected party may file a grievance with the local area. It will be resolved according to the procedures of the local area, established pursuant to 20 CFR §667.600(c).
- B. Appeals with OESC — An appeal may be filed with the Director of Workforce Integrated Programs from a grievance decision issued at the local area if:
 - (1) No decision is reached within 60 days from the date the grievance is received at the local area level; or
 - (2) Either party is dissatisfied with the local area hearing decision.
- C. Time limit for filing an appeal with OESC
 - (1) If the local area does not render a decision within sixty (60) days from the date of receipt of the grievance, an appeal must be filed with the Director of Workforce Integrated Programs within thirty (30) days from the expiration of the sixty (60) day time period.
 - (2) If the local area renders a decision that a party is dissatisfied with, the appeal must be filed with the Director of Workforce Integrated Programs within thirty (30) days of the date the local area mails the decision to the party by certified mail.

5. Informal and Formal Resolutions of Grievances

- A. Informal Resolution — The Director of Workforce Integrated Programs or his or her designee will attempt to resolve any grievance or appeal informally by meeting with the parties in person or discussing the grievance with the parties by telephone. If the grievance is not resolved informally within fifteen (15) days from the receipt of the grievance or appeal, the Director of Workforce Integrated Programs will forward the grievance or appeal to the Assessment Board.
- B. Hearing — The Assessment Board will conduct the hearing pursuant to its rules at 240:10-11-20 through 240:10-11-31. The hearing process will be completed within sixty (60) days from the date the grievance was received by the Director of Workforce Integrated Programs.
- C. Remedies — The remedies that may be imposed under this grievance procedure are enumerated in WIA §181(c)(3).
- D. Appeal to the U.S. Secretary of Labor (Secretary) or investigation by the Secretary — The Secretary will investigate an allegation of a violation as set forth above if:
 - (1) A decision relating to such violation has not been reached within sixty (60) days after the date of filing of the grievance and either party appeals to the Secretary; or

(2) A decision relating to such violation has been reached within sixty (60) days and the party to which such decision is adverse appeals such decision to the Secretary.

6. Decision of the Secretary — The Secretary will make a final determination relating to an appeal no later than 120 days after receiving such appeal.

7. The grievance or appeal must be sent to:

Oklahoma Employment Security Commission
Attn: Director, Workforce Integrated Programs Division
P.O. Box 52003
Oklahoma City, OK 73152-2003

ACTION REQUIRED: Please distribute this issuance to appropriate staff and include it as part of your permanent records.

RESCISSIONS: This document rescinds OETI #09-2002

CONTACT INFORMATION: Please contact Tami Decker at tdecker@oesc.state.ok.us or Jackie Younge at jackie.younge@oesc.state.ok.us for technical assistance.

JY/jy

“Equal Opportunity Employer (EOE)/Program.”
“Auxiliary aids and services are available upon request to individuals with disabilities.”