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## SUBJECT

Program Complaint Handling Procedures

## CITES/ REFERENCES

### Cites / References / Attachments

[Tennessee Warning Notice/Use of Data/WIA Title I Equal Opportunity Information](#)

[WIA Title I Program Complaint Form](#)

[WIA Title I Program Complaint Log](#)

[Minnesota State Statutes: Section 16C.05, Subdivision 5](#)

[WIA Final Rules and Regulations - 20 CFR 667.610](#)

[WIA Final Rules and Regulations - 29 CFR 37](#)

**Effective Date:** July 2, 2005

**Updated:** 1 July 2013 (State update)

### Contact

SBETC Executive Director

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6.2 Program Complaint Handling Procedures	6.6 Initial and Continuing Notice Document
6.3 Discrimination Complaint Handling Procedures (rescinded 24 June 1996)	6.7 Limited or Non-English Speaking Ability
6.4 Designation of Equal Opportunity Officer	6.8 Discrimination Complaint Handling Procedures

## WIA Equal Opportunity Policy Manual Nondiscrimination and Equal Opportunity Provisions (29 CFR 37)

### Chapter 8: Complaint Processing Procedures

#### Section 8.2: *Program Complaint Policy and Procedures* (20 CFR 667.600)

### Summary

This policy identifies SBETC's compliance with Element 8 of the Methods of Administration which requires that recipients of Workforce Investment Act (WIA) Title I funds develop, publish, and maintain a written policy setting forth the *program* complaint resolution procedures prescribed by the regulations, including the means by which the complaint processing procedures are made available to individuals with disabilities. These WIA *program* complaint procedures implement SBETC'S responsibilities.

### Federal Requirements

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

- establish and maintain a procedure for grievances and complaints according to the requirements of the section;

- 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 WorkForce Center (WFC) partners and service providers;
- 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.

### **Policy**

It is the policy of the SBETC to comply with the WIA and all applicable rules and regulations, and the Wagner-Peyser Act and all applicable rules and regulations.

### **Applies to**

Each local area, State, and direct recipient of funds under WIA Title I, except for Job Corps which is governed in 29 CFR 37.35.

### **Timing**

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

- 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 WIA Title I Program Provider to resolve or issue a decision at the local level regarding a program complaint. If the WIA Title I Program Provider sub-contracts to another service provider, the 60 day period must be met jointly by the WIA Title I Program Provider and the sub-contractor – the 60 day period must be met collectively at the local level.

### **Program Complaint Procedures**

A WIA Title I program complaint contains only a program issue. It is processed as a program complaint under Employment and Training Regulations (20 CFR 667.600). When the complaint concerns discrimination (including both an issue 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 37.

#### **1. Verbal (Informal) Program Complaint**

- The WIA Program Complaint Procedures address complaints regarding **only the operation of** a WIA Title I program. The WIA Title I Program Provider, SBETC is designated by the State as the responsible entity for WIA Title I Program complaint resolution at the local level.
- An informal attempt at resolution should take place at the local level prior to the filing of a formal written complaint. An informal attempt at resolution should take place at the local level prior to the filing of a formal written complaint. This should begin with the Career Planner's attempt to resolve the issue directly with the client. If the client remains dissatisfied and wishes to pursue a resolution, the complaint will be submitted to the Program Manager.
- Upon receipt of a complaint, the SBETC Program Manager is designated as the impartial staff member to meet with the complainant and/or the complainant's representative to discuss the

issue. The Program Manager is the person pre-designated by SBETC to initially explore all complaints.

- The SBETC Program Manager reviews the case and its facts prior to a *meeting* with the complainant so that an appropriate resolution can occur if possible.
  - 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 Program Manager will write a brief report for the file (Program Complaint Log) stating the issues and resolution. The matter will then be considered closed.
- If a resolution does not result, the Program Manager will prepare and submit to the Executive Director a brief report including a summary of the complaint as well as the attempt to resolve the complaint. The Executive Director will review the complaint and meet with the complainant and other individuals as necessary in an attempt to resolve the issue. If SBETC sub-contracts to another service provider the 60 day period must be met jointly by SBETC and the sub-contractor
- 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 resolution of the complaint. The complaint must be submitted in writing to the SBETC Executive Director.

## 2. *Written (Formal) Program Complaint*

- A WIA Title I *written* program complaint may be filed at the WIA 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 by agency staff or the complainant's representative.
- A WIA Title I program complaint may be submitted in other formats as long as:
  - The written complaint contains the following:
    - Complainant name, address and phone number;
    - Basis of the complaint; and
    - Brief written statement of the allegations.
  - The written complaint must be signed and dated by the complainant or the complainant's representative.
- Upon receipt of written program complaint by a complainant or the complainant's representative, SBETC Executive Director:
  - Logs the complaint on the *WIA Title I Program Complaint Log*, and
  - Sends a copy of the complaint to the Minnesota Department of Employment and Economic Development (DEED), Workforce Development Division (WDD), Office of Diversity and Equal Opportunity (ODEO).
- Record Retention: All records regarding complaints and actions taken on complaints (including logs) must be maintained for a period of not less than six (6) years from the date of resolution of the complaint (Minnesota Statutes, Section 16C.05, Subd. 5).

## 3. *Local Decision, SBETC*

- 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. In order to meet the requirements of impartiality, the individual selected must have neither direct nor indirect involvement with the ordinary operation and/or administration of the WIA Title I program.
- The hearing should:

1. Avoid unnecessary technicalities (e.g., legal requirements that would be appropriate in court proceedings).
  2. Provide the flexibility to adjust to the circumstances presented.
  3. Give full regard to the requirements of due process to ensure a fair and impartial hearing.
- The hearing officer:
    1. Commences the hearing by summarizing the record, the issues, and the manner in which the hearing will be conducted.
    2. Ensures that everyone involved understands the proceedings.
      - a. The explanations are to be adapted to the needs of the specific situation.
    3. 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.
    1. The hearing officer determines the order of proof.
    2. 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.
  - It is important that the hearing officer obtains 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 WIA Title I Program Provider 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, a statement of the issues 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;
      - 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:
      - a. The opportunity to withdraw the hearing request in writing before the scheduled hearing.
      - b. An opportunity to request rescheduling and the WIA Title I Program Provider reserves the right to reschedule the hearing for reasonable cause.
      - c. An opportunity to 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 prior to the conclusion of the hearing.
      - b. Prepares and submits to all parties a written decision on each complaint.
        - i. 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.

#### 4. DEED (State) Decision

- If the WIA Title I program complaint **has not been resolved** at the WIA Title I Program Provider level, DEED's Workforce Development Division (WDD), upon receiving an appeal from the complainant, reviews the complaint and documentation, conducts an investigation, and upon completion, offers a resolution.

*Note:* Non-WIA Title I program complaints shall be submitted to the non-WIA Title I funding source. *Only* WIA Title I program complaints can be appealed to the DEED WDD Equal Opportunity Officer.

- A complainant may file an appeal with DEED's WDD EOO if:
  1. The complainant is dissatisfied with the WIA Title I Program Provider decision, or
  2. The WIA Title I Program Provider failed to issue the administrative decision within sixty (60) days of the complaint filing date.
- WIA Title I Program Provider responsibilities in the appeal process shall include, but are not limited to, providing 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 WIA 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 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 WIA Title I Program Provider's decision to be accepted for review and a decision made by DEED. If no decision is provided by the WIA Title B 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:

Susan Tulashie, Equal Opportunity Officer  
Department of Employment and Economic Development  
Workforce Development Division  
1st National Bank Building  
332 Minnesota Street, Suite E200  
St. Paul, MN 55101-1351
- If the complainant was not provided an opportunity for a hearing at the local level, the hearing will be scheduled by the DEED EOO.
- The DEED EOO 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 to the WIA 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 WIA Title I complainant is **federally funded**.

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

#### 5. Secretary (DOL) Appeal

- A WIA Title I complainant who receives federal funds can appeal to the Secretary of Labor if: (1) the State fails to issue a decision in 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:

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

A copy of the appeal must be *simultaneously* provided to:

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

AND

3. Kathleen Zavala, Executive Director  
 Stearns-Benton Employment & Training Council  
 1542 Northway Drive  
 St. Cloud, MN 56303

AND

4. Susan Tulashie, Equal Opportunity Officer  
 Department of Employment and Economic Development  
 Workforce Development Division  
 1st National Bank Building  
 332 Minnesota Street, Suite E200  
 St. Paul, MN 55101-1351

**DEED Contact:**

Susan Tulashie  
 Tel: (651) 779-5087  
 Fax: (651) 779-5240  
 MN Relay: 7-1-1 or 1-800-627-3529

Alternate formats such as Braille, audio-visual and large print are available upon request.

