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Henry McMaster
Governor

Cheryl M. Stanton
Executive Director

STATE INSTRUCTION NUMBER 16-16

TO: Local Workforce Development Board Chairs
Local Workforce Area Signatory Officials
Local Workforce Area Administrators

SUBJECT: Grievance and Complaint Procedures Under WIOA

ISSUANCE DATE: May 31, 2017

EFFECTIVE DATE: Immediately

Purpose: To establish the procedures for the timely investigation and resolution of grievances and complaints alleging violations of the Workforce Innovation and Opportunity Act (WIOA) under Section 181 of WIOA. *These procedures do not apply to discrimination complaints brought under Section 188 of WIOA and/or 29 CFR part 38.* Such complaints must be handled in accordance with the procedures set forth in State Instruction Number 16-15. Nothing in these procedures precludes a grievant or complainant from pursuing a remedy authorized under another Federal, State, or local law.

Policy: Section 181 of the Workforce Innovation and Opportunity Act (WIOA) and 20 CFR 683.600 state that each State, local area, and direct recipient receiving funds under Title I must establish and maintain a procedure for the filing of grievances and complaints alleging violations of the requirements of the title by participants and other interested parties.

Action: Each Local Workforce Development Board (LWDB) must ensure that the Grievance and Complaint Procedures are communicated to all program staff, operators, and service provider staff in its area. The LWDB must take appropriate steps to ensure program staff, operators and service provider staff, within its purview, comply with the enclosed Grievance and Complaint procedures. The Grievance and Complaint Information Form must be made available to any and all interested individuals, as effectively to individuals with disabilities as it is to others, and in appropriate languages to ensure meaningful access to LEP individuals.

The Grievance and Complaint Information Form is available for local areas to access, link, and/or print as needed: (<https://www.scworks.org/docs.asp>).

Inquiries: Questions may be directed to Stephani Frese at sfrese@dew.sc.gov or 803-737-2381.

A handwritten signature in cursive script that reads "Patricia Sherlock".

Patricia Sherlock, Director
Policies and Procedures

Attachment

South Carolina Department of Employment and Workforce
Office of Equal Opportunity
PROCEDURE FOR FILING GRIEVANCES AND COMPLAINTS

The grievance and complaint process allows for resolution of allegations of violations of the requirements of Title I of the Workforce Innovation and Opportunity Act at the most local level possible. Each Local Workforce Development Area has the ability to designate a representative to investigate and resolve allegations at the SC Works Center level.

WHO MAY FILE A GRIEVANCE/COMPLAINT

Any individual or other interested party who alleges violations of the requirements of WIOA Title I or who wishes to complain about his or her treatment during the registration, application, and certification process or as a WIOA program participant. Individuals and other interested parties may include businesses, applicants, registrants, service providers, one-stop providers, eligible training providers, or customers of the SC Works Centers.

NOTE: An individual wanting to file a complaint of discrimination must file with either the State-level Equal Opportunity (EO) Officer or the U.S. Department of Labor Civil Rights Center (USDOL CRC). See State Instruction Letter 16-15 for the procedures related to complaints of discrimination.

PROCESSING A GRIEVANCE/COMPLAINT

A. Local Workforce Development Area (LWDA) Grievance/Complaint Procedures

1. The LWDA EO Coordinator or designee shall serve as reviewer and shall provide individuals and other interested parties with the name, address, and telephone number of the local staff to whom grievances and complaints shall be directed. Each LWDA has the ability to designate a representative to investigate and resolve allegations at the SC Works center level; however, the LWDA EO Coordinator remains responsible for the integrity of the process.
2. Any party wanting to file a grievance/complaint first must do so within 180 calendar days of the alleged violation with the LWDA EO Coordinator or designee by completing and submitting the Grievance and Complaint Information Form:
[\(<https://www.scworks.org/docs.asp>\)](https://www.scworks.org/docs.asp).
3. Upon receipt of the grievance/complaint, the local EO Coordinator or designee will provide written notice to the grievant/complainant and other affected parties within 10 calendar days. The written notice must include the following:
 - a. A summary of the allegations submitted;
 - b. The date, time, and place of the meeting or hearing with the reviewer;
(NOTE: the local area may provide for an informal resolution of a grievance or complaint, which, if provided, may be completed before the hearing date.)
 - c. Notice that the grievant/complainant may be represented by an attorney;
 - d. Notice that the grievant/complainant may present testimonial (personal statement and witnesses) and documentary evidence and that this will be the only opportunity to present such evidence;
 - e. Notice that if the LWDA EO Coordinator or designee does not reach a decision within 60 calendar days, the grievant/complainant may appeal to the State-level EO coordinator;
 - f. Notice that individuals in grievance/complaint investigations are protected from retaliation. LEP Individuals and individuals with disabilities are permitted to have

translators, interpreters, readers and/or a representative of their choice during the grievance process.

4. At the conclusion of the investigation, the LWDA EO Coordinator or designee shall issue a decision to the grievant/complainant. If an informal resolution was agreed upon, the decision must summarize the resolution. If no informal resolution was reached, the decision must also contain the following:
 - a. The reasons supporting the decision;
 - b. A brief description of the investigation process used to reach the decision;
 - c. Notice that the grievant/complainant may appeal to the State-level EO Coordinator within 15 calendar days of receipt of the decision using the Grievance and Complaint Information Form found at <https://www.scworks.org/docs.asp>; and
 - d. Notice that the grievant/complainant may seek a remedy authorized under another Federal, State, or local law.
5. If the grievant/complainant disagrees with the decision, or if the LWDA EO Coordinator or designee does not issue a decision within 60 calendar days, the grievant/complainant will have 15 days of the date the decision was received (or was due) to file a request for review by the State-level Equal Opportunity Coordinator.

B. State-Level Grievance/Complaint Procedures

1. The State-level EO Coordinator will review:
 - a. Appeals of decisions made at the local area level during the grievance and complaint process;
 - b. Grievances or complaints alleging a violation of the requirements of WIOA filed by parties who have no recourse to the grievance and complaint procedure of a local area but are affected by the South Carolina workforce programs; and
 - c. Grievances and complaints from providers of training services who are denied eligibility by a LWDB, denied eligibility as a provider of on-the-job training by an SC Works Center operator or whose eligibility is terminated, or are otherwise adversely affected by a LWDB.

2. Each direct grievance or complaint must be filed in writing within 180 calendar days of the alleged violation. Each appeal must be filed in writing within 15 calendar days from the date on which the Notice of Final Action is received.

A party wanting to file a grievance/complaint or wanting to appeal the decision of a LWDA may do so by completing and submitting the Grievance and Complaint Information Form: (<https://www.scworks.org/docs.asp>).

NOTE: Appeals must be accompanied by all documentation submitted to the LWDA when filing the original complaint. Only information received by the local area during the initial investigation will be allowed as evidence in the appeal process.

3. Upon receipt of a grievance/complaint, the State-level EO Coordinator will provide all affected parties with a written acknowledgment within 10 calendar days. This correspondence must include the following:
 - a. A summary of the allegations submitted;
 - b. The date, time, and place of the meeting or hearing with the reviewer;
(NOTE: the local area may provide for an informal resolution of a grievance or complaint, which, if provided, may be completed in a meeting before the hearing date.)
 - c. Notice that the grievant/complainant may be represented by an attorney; and
 - d. For grievances/complaints filed directly with the State EO Coordinator, notice that the grievant/complainant may present witnesses and documentary evidence and a hearing will be held within 60 days, if an informal resolution has not been reached.
 - e. For appeals from decisions of the local EO Coordinator or designee, notice that the State-level EO Coordinator will make a decision (Notice of Final Action) based on the already-presented evidence.
 - f. Notice that if the State-level EO Coordinator does not issue a state-level Notice of Final Action within 60 calendar days, the party may appeal to the USDOL;
 - g. Notice that individuals in grievance/complaint investigations are protected from retaliation and are permitted to have translators, interpreters, readers and/or a representative of their choice during the grievance process.

4. At the conclusion of an investigation, the state-level EO Coordinator or designee shall issue a Notice of Final Action to the grievant/complainant. If an informal resolution was agreed upon, the Notice of Final Action must summarize the resolution. If no informal resolution was reached, the Notice of Final Action must contain the following:
 - a. The reviewer's decision and the reasons supporting the decision;
 - b. A brief description of the investigation process used to reach the decision;
 - c. Notice that the grievant/complainant may appeal to the United States Department of Labor within 60 calendar days of receipt of the Notice of Final Action; and
 - d. Notice that the grievant/complainant may seek a remedy authorized under another Federal, State, or local law.
5. If the grievant/complainant does not receive a Notice of Final Action within 60 days after filing an appeal with the State-level EO Coordinator or if the grievant/recipient disagrees with the Notice of Final Action, the individual may appeal to the USDOL-CRC.

RESOLUTION OF GRIEVANCES AND COMPLAINTS

Grievance and complaint resolution may result in a request that the respondent voluntarily take corrective action, which may include the following:

- Rewriting policies;
- Reinstatement to program or employment;
- Benefits or other services denied; or
- training to ensure more even application of policy.

NOTE: It is the responsibility of the S.C. Department of Employment and Workforce's Office of Equal Opportunity to provide technical assistance and evaluate progress made toward completion of corrective actions.

REMEDIES THAT MAY BE IMPOSED AT THE LOCAL AND STATE LEVEL

According to WIOA Section 181(c)(3) remedies that may be imposed under this section for a violation of any requirement of this title are:

- a. Suspension or termination of payments under this title;

- b. The prohibition of placement of a participant with an employer that has violated any requirement under this title;
- c. Where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and
- d. Where appropriate, to other equitable relief.

RECORDKEEPING

All records pertaining to grievances and complaints, investigations, or any other such actions shall be retained for a minimum of three years from the date of the resolution.

Information pertaining to the identity of any persons providing information related to or assisting in a grievance/complaint investigation shall be maintained in as confidential manner as possible. If it is necessary that a person's identity be disclosed, the person shall be protected from retaliation. The information may only be used for purposes of:

- a. recordkeeping and reporting;
- b. determining the extent to which an entity is operating its WIOA-funded programs or activities in a nondiscriminatory manner; or
- c. other use authorized by the nondiscrimination and equal opportunity provisions of WIOA.

INTIMIDATION AND RETALIATION ARE PROHIBITED

The DEW Office of Equal Opportunity prohibits intimidation and retaliation against individuals for filing a grievance/complaint; opposing a prohibited practice; furnishing information; assisting or participating in any manner in an investigation, review, hearing, or any other activity related to the administration of, exercise or authority under, or privilege secured by, the provisions of 20 CFR 683.600.

REMINDER OF SIGNIFICANT TIME FRAMES

- **When the grievant/complainant files the Grievance and Complaint Information Form at the local level, the Local EO Coordinator/Officer (LEOC) will issue a written Notice of Final Action on complaints within 60 days of the date on which the complaint is filed. This time period includes a formal hearing, if the issue is not resolved informally before the date of the hearing.**
- **If the grievant/complainant files with both the LWDA and the State-level Equal Opportunity Coordinator, the grievant/complainant will be informed that the LWDA has 60 days to process the grievance/complaint and that the State-level Equal Opportunity Coordinator will not investigate the complaint until the 60 day period has expired and the grievant/complainant files an appeal.**
- **If by the end of 60 days from the date on which the grievance/complaint was filed with the LWDA, the LWDA fails to issue a decision letter or the grievant/complainant is dissatisfied with the decision, the grievant/complainant may file a grievance/complaint appeal with the State-level Equal Opportunity Coordinator within 15 days of the date the decision was due or the decision letter was received.**
- **The State-level Equal Opportunity Coordinator will issue a written Notice of Final Action on complaints within 60 days of the date on which the appeal is filed. This time period includes a formal hearing, if the issue is not resolved informally before the date of the hearing.**
- **If by the end of 60 days from the date on which the grievance/complaint appeal was filed, the State-level Equal Opportunity Coordinator fails to issue a decision letter or the grievant/complainant is dissatisfied with the decision, the grievant/complainant may file a grievance/complaint with the U. S. Department of Labor within 60 days of the expiration of the 60 day period.**

RELEVANT CONTACT INFORMATION

Office of Equal Opportunity / State-level EO Coordinator
South Carolina Department of Employment and Workforce
PO Box 908
Columbia, SC 29202

Form: <https://www.scworks.org/docs.asp>

Regional Administrator
Employment and Training Administration, U.S. Department of Labor
Sam Nunn Atlanta Federal Center
Room 6M12 – 61 Forsyth Street, S.W.
Atlanta, GA 30303