



Cape & Islands

WORKFORCE INVESTMENT BOARD

GRIEVANCE PROCEDURES MANUAL

SEPTEMBER 6, 2000

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GRIEVANCE PROCEDURES

I. Notice of How to File a Formal Grievance

A copy of the notice of “How to File a WIA Complaint/Grievance” (Attachment A) should be made available to every applicant (program and employment), participant, employee, one-stop partner, service provider, other interested parties and members of the public. This document outlines the grievance procedure. This notice shall be given to individuals seeking intensive and training services under WIA Title I at the time they are seeking eligibility determination. This notice shall be given to employees as part of their Human Resources Manual. This notice will be given to service providers as part of their contract for services. This notice will be given to all one-stop partners once they sign an MOU establishing their partner status. This notice shall be displayed in the Resource Room and made available to any person/entity who expresses an interest in grievance information. Verification of participant, employee, service provider and one-stop operator receipt of this document (Attachment B) shall be maintained in an appropriate file. “How to File a WIA Complaint/Grievance” (Attachment A) shall be posted in a conspicuous place at all Cape Cod & Islands Workforce Investment Board facilities, and at appropriate subrecipient and service provider sites.

II. Types of Grievances Covered by This Policy

This policy specifically addresses two kinds of grievances/complaints that may arise in the administration of any WIA funded program or activity and that do not involve alleged criminal activity.

- A. **Violations of WIA** - non-criminal complaints of violations of a violation of the Workforce Investment Act rules, regulations, grants or other agreements.

- B. **Violations of Labor Standards** - complaints of violations of labor standards.

Criminal Complaints - All information and complaints alleging criminal fraud, waste, abuse or other criminal activity under WIA must be reported immediately to the Department of Labor’s Office of Inspector General. [20-CFR 667.630]

Violations of Nondiscrimination Provisions of WIA - Questions about or complaints alleging a violation of the nondiscrimination provisions of WIA section 188 may be directed or mailed to the Director, Civil Rights

Center, U.S. Department of Labor, Room N4123, 200 Constitution Avenue, NW, Washington, D.C. 20210, for processing.

III. Designation of Grievance Officer

The WIA Grievance Officer is the President of JTEC or his/her designee.

IV. Grievances Filed in Writing

Grievances/complaints shall be in writing and contain the following information: (Grievance Form is Attachment C).

- A. complainant's full name, address, business and home telephone number, or other means of contact;
- B. a statement that the complainant wishes to initiate a formal grievance;
- C. the name of the agency against which the complaint is filed (the respondent), and the names of the individuals involved, including any witnesses;
- D. a clear and concise statement of the facts, including pertinent dates, constituting the alleged violation, and where known, the provisions of the Workforce Investment Act of 1998 law, regulations, policies or other agreements or the Labor Standards believed to be violated;
- E. information disclosing whether proceedings involving the same general subject matter have been commenced or concluded before any other agency or court; and
- F. signature of complainant or his/her authorized representative.

Complainants may elect to file their complaint initially by submitting the complaint to the Division of Career Services (DCS) Complaint Specialist. Complaints initially filed at the state level may not later be filed at the local level. However, complaints may be filed at the state level after initial filing at the local level when a decision is not provided within the specified time period or when the complainant is not satisfied with the local level decision. Grievances and complaints from WIA participants initially filed at the state level may be referred to the local level for an informal resolution prior to processing by DCS.

The filing of a complaint at the state level does not preclude the Cape & Islands Workforce Investment Board from attempting to reach an informal resolution with the complainant while the complaint is processed by DCS.

When a grievance is filed at the local level, the President of JTEC or his/her designee shall review the complaint with the complainant to ensure that the complaint is accurately and fully completed. The President of JTEC or his/her designee, shall review the grievance procedure with the complainant and inform him/her of available alternative or additional processes, including when and how to access them. If an informal resolution can be agreed upon between all parties, the agreement is detailed in a Memorandum of Agreement (Attachment D) and signed by the Complainant, Respondent and President of JTEC. Each party of the agreement is given a copy of the signed document and the original is placed in the grievance file. All complaints received are entered into the Complaint Log. The log contains the following information and is updated by the President of JTEC or his/her designee throughout the grievance process:

- name and address of the complainant and respondent;
- basis for and a description of the complaint;
- date the written complaint was filed;
- dates and corresponding actions taken to process the complaint (e.g. investigations, informal resolution, notice of hearing sent, hearing conducted etc.);
- the disposition of the complaint; and
- other pertinent information.

V. Local Receipt of Grievance

Complaints covered by this policy shall be submitted to the President of JTEC and shall be acknowledged in writing (Attachment E).

The President of JTEC or his/her designee shall:

- provide notice to all parties of the specific charges;
- protecting the confidentiality of complainants to the extent possible, and, when consent has been provided for the release of the

complainant's identity, ensure that such disclosure is made under conditions which will promote the continued receipt of confidential information;

- advise complainants and respondents of their right to due process including the right to:
 - be represented by an attorney or other individual of his/her choice,
 - present evidence,
 - question others who present evidence, and
 - receive an impartial decision made strictly on recorded information;
- advise all parties that no person, organization or agency may discharge or in any manner retaliate against any person because that person has filed a complaint, instituted any proceeding related to the WIA Regulations, testified or is about to testify in a proceeding or investigation, or has provided information or otherwise assisted in an investigation;
- provide the Chairman of the WIB with a copy of the grievance;
- establish a hearing within 45 days of the filing of the written grievance or complaint;
- notify an individual alleging a labor standards violation that he/she may submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides;
- notify all parties of the right to appeal the decision of the Complaint Specialist of Division of Career Services (DCS);
and
- implement corrective action and/or sanctions when warranted.

VI. Hearing

A hearing on the grievance shall be conducted within forty-five (45) days of the filing of the grievance. The hearing shall be recorded and shall be informal as may be reasonable and appropriate. To the extent practicable, the hearing shall conform to the Informal/Fair Hearing Rules, 801 CMR 1.02 and 1.03. A written notice (Attachment F) of the date, time and place of the hearing shall be sent to interested parties.

The hearing officer will be the President of JTEC or his/her designee

unless the complaint is specifically against the President of JTEC in which the impartial individual will be selected by the Chairperson of the JTEC Board of Directors.

The hearing officer shall compile an official record of the hearing, which shall include the complaint and any supporting materials, all real and documentary evidence and briefs submitted by the parties and investigators for consideration by the hearing officer, a record of any requests made by the parties prior to or after the hearing, along with rulings made by the hearing officer on such requests, and a tape recording of the hearing.

If the hearing officer is the President' of JTEC's designee, he/she will provide the President of JTEC with a written report and recommendation. The recommendation shall be based on a preponderance of the evidence, and shall include a determination of every issue of fact or law necessary to support the recommendation, as well as an explanation of the reasons for the recommendation. The recommendation shall be based only on information which the parties have had the opportunity to challenge through the hearing process.

VII. Decision

The decision must be in writing (Attachment G), and must:

- a. be signed by the President of JTEC or the hearing officer if he/she is the President of JTEC's designee;
- b. be dated;
- c. be issued within fourteen (14) days of the hearing of the grievance;
- d. include a synopsis of the facts, a conclusion as to the application of the law, and a statement of the remedies to be applied; and provide
- e. notice of right to appeal to the Division of Career Services (DCS).

In the event that the findings or conclusions in the decision differ from the hearing officer's report and recommendation, all such differences shall be fully explained in the decision. The President of JTEC shall send a copy of the decision, along with the hearing report to:

- a. the complainant and the respondent with a copy of "Notice of Right to Appeal" (Attachment H); and

- b. place a copy in the case file.

A copy of the decision will be sent to the Chairman of the WIB.

VIII. Timeframes and Appeals

- A. The complainant must file a written complaint at the local level within thirty (30) days of the alleged violation.
- B. An attempt will be made by the President of JTEC or his/her designee to informally resolve the complaint within the first fifteen (15) days following receipt of the written grievance.
- C. If an informal resolution cannot be accomplished, a formal hearing will be scheduled within forty-five (45) days of the receipt of the grievance.
- D. A written determination, signed by the President of JTEC, will be issued within fourteen (14) days of the hearing.
- E. An appeal of the written decision by either party may be made to the Division of Career Services within ten (10) days of receipt of the local decision.
- F. An appeal may also be made to the Division of Career Services within fifteen (15) days from the date a decision was due, if a decision has not been made within sixty (60) days of the receipt of the grievance.

Note: All references to “days” within this document and its attachments refer to calendar days.

**VERIFICATION OF RECEIPT OF
“HOW TO FILE A FORMAL COMPLAINT/GRIEVANCE”**

I have received a copy of “How to File a WIA Complaint/Grievance”.

Recipient’s Signature

Date

HOW TO FILE A WIA COMPLAINT/GRIEVANCE

COMMONWEALTH OF MASSACHUSETTS

WORKFORCE INVESTMENT ACT (WIA)

I. Who May File

This policy specifically addresses two kinds of grievances/complaints that may arise in the administration or operation of any WIA funded program or activity and that do not involve alleged criminal activity.

A. **Violations of WIA** - non-criminal complaints of violations of a violation of the Workforce Investment Act rules, regulations, grants or other agreements.

B. **Violations of Labor Standards** - complaints of violations of labor standards.

Criminal Complaints - All information and complaints alleging criminal fraud, waste, abuse or other criminal activity under WIA must be reported immediately to the Department of Labor's Office of Inspector General. [20-CFR 667.630]

Violations of Nondiscrimination Provisions of WIA - Questions about or complaints alleging a violation of the nondiscrimination provisions of WIA section 188 may be directed or mailed to the Director, Civil Rights Center, U.S. Department of Labor, Room N4123, 200 Constitution Avenue, NW, Washington, D.C. 20210, for processing.

II. Where to File

The complaint must be filed with Kristina E. Dower, President of JTEC at:

Job Training & Employment Corporation
88 North Street
Hyannis, MA 02601

or at the state level with:

Division of Career Services
Employment Service Policy and Systems Department
Charles F. Hurley Building
19 Staniford Street 1st Floor
Boston, MA 02114
Attn: Complaint Specialist

Grievance forms are available from Mr. Albert J. Roy at Career Opportunities, 372 North Street, Hyannis, MA 02601.

Grievances which involve violation of WIA section 143, Fair Labor Standards may be submitted to binding arbitration. These grievances shall follow the process defined by the applicable collective bargaining agreement, if the complainant elects to pursue that process instead to follow the WIA Grievance Procedure.

III. When to File

Complaints must be filed within thirty (30) days of the alleged violation.

IV. Contents of Complaint

Each complaint shall be filed in writing by completing a Grievance Form (Attachment B) which shall contain the following information:

- A. complainant's full name, address, business and home telephone number, or other means of contact;
- B. a statement that the complainant wishes to initiate a formal grievance;
- C. the name of the agency against which the complaint is filed (the respondent), and the names of the individuals involved, including any witnesses;
- D. a clear and concise statement of the facts, including pertinent dates, constituting the alleged violation, and where known, the provisions of the Workforce Investment Act of 1998 law, regulations, policies or other agreements or the Labor Standards believed to be violated;

- E. information disclosing whether proceedings involving the same general subject matter have been commenced or concluded before any other agency or court; and
- F. signature of complainant or his/her authorized representative.

V. Right to Representation

Each complainant and respondent has the right to be represented by an attorney or other individual of his/her choice at his/her expense.

VI. Process

- A. An attempt will be made by the President of JTEC or his/her designee to informally resolve the complaint within the first fifteen (15) days following receipt of the written grievance.
- B. If an informal resolution cannot be accomplished, a formal hearing will be scheduled within forty-five (45) days of the receipt of the grievance.
- C. A written determination, signed by the President of JTEC, will be issued within fourteen (14) days of the hearing.
- D. An appeal of the written decision may be made to the Division of Career Services (DCS) within ten (10) days of receipt of the local decision.
- E. An appeal may also be made to the Division of Career Services if a decision has not been made within sixty (60) days of the receipt of the grievance.

Note: All references to "days" refer to calendar days.

GRIEVANCE FORM

AGENCY: _____

ADDRESS: _____

=====

COMPLAINANT

NAME: _____

ADDRESS: _____

TELEPHONE: _____

RESPONDENT (the agency or person against whom you are complaining)

NAME: _____

ADDRESS: _____

TELEPHONE: _____

=====

DETAILS OF GRIEVANCE

Include relevant names, dates, locations of incidents, and state which regulations or policies you believe have been violated, if known. (If additional space is required, attach a sheet of paper with complainant's signature)

DATE OF ALLEGED ILLEGAL TREATMENT

OTHER PROCEEDINGS

Have you filed an action in any court or other agency based on the incident noted in your grievance? If so, where? What results?

SIGNATURE OF COMPLAINANT

=====

FOR AGENCY USE ONLY

SIGNATURE OF AGENCY
GRIEVANCE OFFICER

Date Grievance Received