



**RIVERSIDE COUNTY
ECONOMIC DEVELOPMENT AGENCY
WORKFORCE DEVELOPMENT CENTER**

POLICIES AND PROCEDURES

Date: August 28, 2003

Number: 14-02

SUBJECT: PROGRAM GRIEVANCES AND COMPLAINT RESOLUTION

PURPOSE: To establish procedures for addressing program grievances and complaints.

REFERENCES: Workforce Investment Act (WIA) Section 181 (c)
Title 20 Code of Federal Regulations (CFR) Section 667.600, 610
Employment Development Department (EDD) Directive WIAD03-12
Riverside County Economic Development Agency/Workforce Development Division (EDA/WDD) Policy & Procedure 14-01

DEFINITIONS:

Days: Consecutive calendar days, including weekends and holidays.

Grievance or Complaint: A written expression by a party alleging a violation of the WIA, regulations promulgated under the WIA, recipient grants, subagreements, or other specific agreements under the WIA. All complaints, amendments, and withdrawals shall be in writing. These procedures are intended to resolve matters, which concern actions arising in connection with the WIA Title I grant program.

A program complaint or grievance is based upon a dispute or claim of program violation in the administration or operation of the program stemming from program applicants and participants, contracted service providers, subcontractors and subrecipients, and other interested parties.

A grievance or complaint differs from a discrimination complaint which is based upon an allegation of a violation of the nondiscrimination and equal opportunity provisions as outlined in Title 29 CFR Part 37. Such discrimination complaints shall be processed in accordance with EDA/WDD Policy 14-01.

Hearing Officer: An impartial party who shall preside at a hearing on a grievance or complaint.

Participant: An individual who has been determined eligible to participate in, and who is receiving services under a program authorized by the WIA.

Recipient: An entity to which a WIA grant is awarded directly from the Department of Labor (DOL) to carry out a program under Title I of the WIA. The State is recipient of funds awarded under WIA Sections 127(b)(1)(C), 132(b)(1)(B), and 132(b)(2)(B).

Subrecipient: An entity to which a subgrant is awarded and which is accountable to the recipient (or higher tier subrecipient) for the use of the funds provided.

POLICY:

EDA/WDD adopts as policy EDD Directive WIAD03-12 and requires staff to provide applicants and participants with EDA/WDD's grievance/complaint procedures at the start of services, activities, programs or employment, by providing such individuals with the Formal Grievance/Complaint Notification letter SPDU 448-05 (<http://www.rceda-webzone.com/Default.aspx?tabid=128>). There is also a Spanish language version that shall be provided in appropriate circumstances, as well as a Braille version which is available upon request.

Contracted service providers and employers shall develop and maintain procedures for resolution of complaints involving terms and conditions of the participant's services, activities, programs or employment. The vendor, service provider or employer and EDA/WDD shall provide each participant with a copy of its Complaint and Hearing Procedures upon enrollment in the services, activities, programs or employment. The contracted vendors, service providers, employers and EDA/WDD staff shall also be responsible for documenting in writing, that each participant received a copy of such document.

In the event a WIA participant or contracted staff believes they have cause for a grievance/complaint, EDA/WDD staff shall ensure the appropriate procedures have been taken with the service provider, agency or individual against whom the complaint is made prior to initiating EDA/WDD's grievance and program complaint resolution policy and procedures.

Discrimination/Retaliation

EDA/WDD staff, contracted service providers, vendors or employers shall not discriminate or retaliate against any person or deny to any person a benefit to which that person is entitled under the service specified in this Agreement, because such person has filed any complaint, instituted or caused to be instituted any proceeding under or related to the Act, has testified, or is about to testify in any such proceeding or investigation, or has provided information or assisted in any investigation.

PROCEDURES:

Notice to Affected Parties

Initial and continuing notice of the local grievance and complaint procedures and instructions on how to file a complaint must be:

- Posted in a public location and be made available to any interested parties and members of the public.
- Made available to limited-English speaking individuals. A copy of a written description of the local grievance and complaint procedure shall include (1) notification that the participant has the right to file a grievance or complaint at any time within one year of the alleged violation; (2) instructions and timeline for filing a grievance or complaint; and (3)

notification that the participant has the right to receive technical assistance. Such information shall be modified, as needed, whenever the procedures are changed.

- Included in each participant's file. A copy of acknowledgement of receipt shall be signed by the participant.

Riverside County EDA/WDD has the responsibility to provide technical assistance to the complainants, including those grievances or complaints against EDA/WDD. Such technical assistance includes providing instructions on how to file a grievance or complaint, providing relevant copies of documents such as the WIA, regulations, local rules, contracts, etc., and providing clarifications and interpretations of relevant provisions. This requirement shall not be interpreted as requiring EDA/WDD to violate rules of confidentiality.

Form and Filing of Grievance or Complaint

Grievances or complaints must be filed within one year of the alleged violation. All grievances or complaints, amendments and withdrawals must be in writing. Once an individual believes a grievance or complaint exists, it must be recorded formally. In order for the claim to gain status as a grievance/complaint, the Formal Grievance Notification form (SPDU 448-05) shall be completed and submitted to Riverside County EDA/WDD. Oral complaints, telephone calls, or anonymous messages are not adequate to bring the matter to the level of a grievance. At all levels of the grievance or complaint process, complainants have the right to be represented, at their own expense, by a person (s) of their choosing.

The official filing date of the grievance or complaint is the date the written grievance or complaint is received by EDA/WDD, its service providers, One-Stop partners or subrecipients. EDA/WDD shall issue a written decision within sixty (60) days of the filing of the grievance or complaint.

The following elements must be present for completion of the Formal Grievance Notification form:

- The full name, mailing address, and telephone number of the complainant;
- The full name, mailing address, and telephone number of the respondent;
- A clear and concise statement of the facts and dates describing the alleged violation;
- The provisions of the WIA, the WIA regulations, grant or other agreements under the WIA, believed to have been violated;
- Grievances or complaints against individuals, including staff or participants, shall indicate how those individuals did not comply with the WIA law, regulation or contract;
- The specific remedy sought by the complainant; and
- Signature and date.

The absence of any of the requested information shall not be a basis for dismissing the grievance or complaint.

A grievance or complaint may be amended to correct technical deficiencies at any time up to the time of the hearing. Grievances or complaints may not be amended to add new issues. The one-year time period in which a grievance or complaint may be filed is not extended for grievances or complaints that are refiled with amendments. Grievances or complaints may be withdrawn at any time prior to the issuance of the hearing officer's decision. EDA/WDD shall send a copy of the grievance or complaint to the respondent.

Informal Resolution

EDA/WDD shall notify the complainant and the respondent of the opportunity for an informal resolution. Respondents must make good faith efforts to resolve all grievances or complaints prior to the scheduled hearing. Where a complaint alleges a violation of WIA Title I, grant or any agreements under WIA, EDA/WDD must assure that every grievance or complaint not resolved informally or not withdrawn is given a hearing, regardless of the grievance or complaint's apparent merit or lack of merit.

Notice of Hearing

The hearing notice shall be in writing and contain the following information:

- The date of the notice;
- The name of the complainant and respondent;
- The date, time, and place of the hearing before an impartial hearing officer;
- A statement of the alleged violations. These statements must accurately reflect the content of the grievance or complaint as submitted by the complainant. However, clarifying notes may be added to assure that the grievance or complaint is addressed accurately.
- The name, address, and telephone number of the contact person issuing the notice.

Conduct of Hearings

An impartial hearing officer shall conduct the hearing. The State suggests that LWIAs seek impartial hearing officers from among the staff of legal offices or personnel departments of municipalities or counties that will not be directly affected by, or will not implement the final resolution of, a specific grievance or complaint.

The hearing will be conducted in an informal manner with strict rules of evidence not being applicable and according to the procedures established by the LWIAs. Both parties will have the right to present written and/or oral testimony and arguments; the right to call and question witnesses in support of their position; the right to examine records and documents relevant to the issues; and the right to be represented. The hearing will be recorded electronically or by a court reporter.

Decision

The hearing officer shall mail a written decision to both parties by first class mail. The hearing officer's decision shall contain the following information:

- The names of the parties involved;
- A statement of the alleged violation(s) and issues related to the alleged violation;
- A statement of the facts;
- The hearing officer's decision and the reasons for the decision;
- A statement of corrective action or remedies for violations, if any, to be taken; and
- Notice of the right of either party to request a review of the decision by the State Review Panel within 10 days of the receipt of the decision.

Timelines

The following steps shall take place within the timelines specified:

- Within ten (10) days of filing - If the complaint has been resolved through the informal resolution process, EDA/WDD shall attempt to contact the complainant and have him or her provide a written withdrawal of the complaint within 10 days of the receipt of the notice of resolution;
- Within ten (10) days of filing – If the complaint or grievance is not resolved during the informal resolution process, the complainant and the respondent must be notified in writing of the hearing within 10 days prior to the date of the hearing;
- Within thirty (30) days of filing – Hearings on any grievance or complaint shall be conducted by an impartial hearing officer within 30 days of filing of a grievance or complaint. The hearing shall be recorded electronically or by a court reporter.
- Within sixty (60) days of filing – Not later than 60 days after the filing of the grievance or complaint, the hearing officer shall mail a written decision to both parties by first class mail.

EDA/WDD shall maintain copies of notices/correspondence in the complainant's file.

Appeals

If a complainant does not receive a decision at the LWIA level within 60 days of the filing of the grievance or complaint, or receives an adverse decision, the complainant then has the right to file an appeal with the State. Appeals of local level process and decisions shall be submitted to the following address:

Chief, Compliance Review Division, MIC 22-M
Employment Development Department
P.O. Box 826880
Sacramento, CA 94280-0001

Please refer any questions or concerns regarding this Policy to the Planning and Operations Unit of the Workforce Development Center at 951.955.3100.

Loren Sims, Planning and Operations Manager

ls/mr/sk/sc

Revisions

(1) July 29, 2008