

MISSISSIPPI DEPARTMENT of EMPLOYMENT SECURITY
State Policy Number 12
PROGRAMMATIC NON-DISCRIMINATION GRIEVANCES AND COMPLAINTS
Workforce Innovation and Opportunity Act

I. SCOPE AND PURPOSE:

This policy sets forth the State's procedures for grievances or complaints alleging violations of the requirements of the Workforce Innovation and Opportunity Act (WIOA) from participants and other interested or affected parties based on the guidance set forth at WIOA section 181 (c) and 20 CFR 683.600-650 (*All references to 20 CFR hereafter are from the Notice of Proposed Rulemaking published in the Federal Register on 04/16/2015*).

II. REQUIREMENTS:

A. General Requirements [*WIOA Section 181 (c) and 20 CFR 683.600 (a - b)*]

Each local area, State, and direct recipient of funds under Title I of WIOA must establish and maintain a procedure for grievances and complaints.

Each local area, State, and direct recipient 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 that every entity to which it awards Title I funds must provide information about the content of the grievance and complaint procedures to participants receiving Title I-funded services from such entities; and
- 3) Make reasonable efforts to assure that the information about the content of the grievance and complaint procedures will be understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals.

B. Local Area Requirements [*20 CFR 683.600 (c)*]

Local area procedures must provide:

- 1) 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;
- 2) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint;

- 3) 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; and
- 4) An opportunity for a local level appeal to a State entity when:
 - No decision is reached within 60 days; or
 - Either party is dissatisfied with the local hearing decision.

C. State Requirements [20 CFR 683.600 (d)]

State procedures must provide:

- 1) A process for dealing with grievances and complaints from participants and other interested parties affected by the Statewide Workforce Investment programs;
- 2) A process for resolving appeals from the local area level;
- 3) A process for remanding grievances and complaints related to the local WIOA programs to the local area grievance process;
- 4) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint; and
- 5) An opportunity for appeal to the Secretary under the circumstances described in Section 683.610 (a).

D. Direct Recipients [20 CFR 683.600 (e)]

Procedures of direct recipients must provide:

- 1) A process for dealing with grievances and complaints from participants and other interested parties affected by the Statewide Workforce Investment programs;
- 2) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint.

E. Denial or Termination of Eligibility as a Training Provider [20 CFR 683.630 (b)]

- 1) State procedures must allow providers of training services the opportunity to appeal:
 - Denial of eligibility by a Local Board or the designated State agency under WIOA section 122 (b), (c), or (d);
 - Termination of eligibility or other action by a Local Board or State agency under WIOA section 122 (f); or
 - Denial of eligibility as a provider of on-the-job training (OJT) or customized training by a One-Stop operator under WIOA section 122 (h).
- 2) Such procedures must provide an opportunity for a hearing and prescribe appropriate time limits to ensure resolution of the appeal.
- 3) A decision under this state appeal process may not be appealed to the Secretary.

F. Remedies *[WIOA section 181 (c) (3)]*

Remedies that may be imposed under this section for a violation of any requirement of this title shall be limited:

- 1) to suspension or termination of payments under this title;
- 2) to prohibition of placement of a participant with an employer that has violated any requirement under this title;
- 3) where appropriate, the reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and
- 4) where appropriate, to other equitable relief.

III. POLICY AND PROCEDURES:

A. Local Area Level Grievances and Complaints

The State requires local areas to establish and maintain a policy and procedures for grievances and complaints. The local area process must allow participants and other interested parties affected by the local Workforce Investment System an opportunity for an informal resolution and the option to have a hearing to be completed within 60 calendar days of the filing of the grievance or complaint. The Local Boards shall notify the Mississippi Department of Employment Security (MDES) of any grievance or complaint filed at the local area level within 10 calendar days and provide a copy of the final decision regarding the grievance or complaint to MDES within 5 calendar days of the decision. The decision made at the local area level may be appealed to the State as described below (C. Local Area Level Appeals to the State).

B. State Level Grievances and Complaints

Grievances and complaints from participants and other interested parties affected by the Statewide Workforce Investment programs must be made in writing and filed with MDES within one year of the alleged incident. Grievances and complaints should be addressed to:

Mississippi Department of Employment Security
Office of Grant Management
WIOA Grievances and Complaints
P.O. Box 1699
Jackson, MS 39215-1699

Grievances and complaints should include the following information:

- The name, address, and telephone number of the participant or other affected party filing the grievance or complaint;
- The name and address of the designated State agency to which the grievance or complaint is being submitted;
- A statement documenting the nature of the grievance or complaint and noting all relevant parties; and
- A signature and date signed.

MDES will review the grievance or complaint and notify the involved parties within 15 calendar days of the receipt of the grievance or complaint. MDES will provide the involved parties an opportunity for an informal resolution. If the grievance or complaint cannot be resolved informally, MDES, within 30 calendar days of receipt of the grievance or complaint, will schedule a hearing before a designated hearing officer. MDES will notify the involved parties at least 10 calendar days prior to a scheduled hearing.

The hearing notice will include:

- The date of the notice;
- The name and address of the participant or other affected party filing the grievance or complaint and all other involved parties;
- A statement documenting the nature of the grievance or complaint and noting all relevant parties;
- The date, time, and place of the hearing; and
- The name, address, and telephone number of the contact person issuing the notice.

The hearing shall be conducted in an informal manner with strict rules of evidence not being applicable. Parties shall have the right to present written and/or oral testimony and arguments; the right to call and question witnesses; the right to request and examine records and documents relevant to the issues; and the right to be represented.

Following completion of the hearing, the hearing officer will present the findings of fact to the State Review Panel. The State Review Panel shall be made of members designated by the Executive Director or his designee. The State Review Panel will review the findings of fact presented by the hearing officer. The State Review Panel may accept, reject, or modify the hearing officer's recommendation and shall issue a written decision to the involved parties within 60 calendar days of receipt of the grievance or complaint.

Statewide procedures provide for an appeal to the U.S. Department of Labor (DOL) when:

- No decision is reached within 60 calendar days; or
 - Either party is dissatisfied with the State hearing process.
-

Grievances or complaints filed at the State level may be remanded to the local area level if it is determined that the alleged incident is related to the local WIOA programs. Once the local area grievance or complaint process has been completed, an appeal of the local area's decision may be made to the State.

C. Local Area Level Appeals to the State

Appeals must be made in writing and filed with MDES within 15 calendar days of the receipt of the local area level decision or 15 calendar days from the date on which the decision should have been received (60 calendar days after filing the original grievance or complaint with the local area). Appeals should be addressed to:

Mississippi Department of Employment Security
Office of Grant Management
WIOA Grievances and Complaints
P.O. Box 1699
Jackson, MS 39215-1699

Appeals should include the following information:

- The name, address, and telephone number of the participant or other affected party filing the appeal;
- A copy of the original grievance or complaint filed at the local area level, documenting the nature of the alleged incident and noting all relevant parties;
- A copy of the original decision reached at the local area level, including documentation of the date on which the decision was received;
- The grounds on which the appeal is sought; and
- A signature and date signed.

The involved parties will be notified within 15 calendar days to verify the receipt of an appeal and the course of action that will be followed. MDES may affirm, modify, set aside, or remand any decision made at the local area level or, at its sole discretion, direct that additional evidence be taken.

If a hearing was held at the local area level, MDES shall request a record of the hearing. A hearing officer will review the record of the local area level hearing. If the local area level hearing is determined to be sufficient, a State level hearing will not be held. The hearing officer will present the findings of fact to the State Review Panel. The State Review Panel will review the findings of fact presented by the hearing officer. The State

Review Panel may accept, reject, or modify the local area's decision and will issue a written decision to the involved parties within 60 calendar days of receipt of the appeal.

If a hearing was not held at the local area level, MDES shall instruct the local area to hold a hearing within 30 calendar days of receipt of the appeal. If the local area fails to hold a hearing within the required timeframe, MDES will schedule a State level hearing before a hearing officer. MDES will notify the involved parties at least 10 calendar days prior to a scheduled hearing.

The hearing notice will include:

- The date of the notice;
- The name and address of the participant or other affected party filing the appeal and all other involved parties;
- A statement documenting the nature of the appeal, including: information about the original grievance or complaint filed, the original decision reached at the local area level, and the grounds on which the appeal is being sought;
- The date, time, and place of the hearing; and
- The name, address, and telephone number of the contact person issuing the notice.

The hearing shall be conducted in an informal manner with strict rules of evidence not being applicable. Parties shall have the right to present written and/or oral testimony and arguments; the right to call and question witnesses; the right to request and examine records and documents relevant to the issues; and the right to be represented.

Following completion of the hearing, the hearing officer will present the findings of fact to the State Review Panel. The State Review Panel will review the findings of fact presented by the hearing officer. The State Review Panel may accept, reject, or modify the hearing officer's recommendation and shall issue a written decision to the involved parties within 60 calendar days of receipt of the appeal.

Statewide procedures provide for an appeal to DOL when:

- No decision is reached within 60 calendar days; or
- Either party is dissatisfied with the State hearing process.

D. Appeals of the Denial or Termination of Eligibility as a Training Provider

The State requires local areas to establish and maintain a policy and procedures for appeals by training providers that have had their eligibility denied or terminated by the Local Board. The local area process must allow training providers an opportunity for an informal resolution and the option to have a hearing to be completed within 60 calendar

days of the filing of the appeal. The Local Boards shall notify MDES of any appeal filed at the local area level within 10 calendar days and provide a copy of the final decision regarding the appeal to MDES within 5 calendar days. Training providers may appeal the local area's decision to MDES by following the procedures described above (C. Local Area Level Appeals to the State).

Training providers that have had their eligibility denied or terminated at the State level may file an appeal by following the procedures described above (B. State Level Grievances and Complaints).

The Reporting and Performance Unit in the Office of Grant Management (OGM) at MDES is responsible for making initial and subsequent eligibility determinations for training providers at the State level. The review of an appeal and the final decision made at the State level regarding an appeal is the responsibility of the State Review Panel, which is independent of the Reporting and Performance Unit.

Decisions made at the State level regarding the denial or termination of an entity's eligibility as a training provider may not be appealed to DOL (CFR 667.640 (b) (3)).

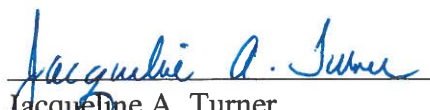
E. State Level Appeals to the U.S. Department of Labor

Appeals must be made in writing and filed with DOL within 60 calendar days of the State level decision or the date on which the decision should have been received (60 calendar days after the original grievance, complaint, or appeal was received by MDES). DOL will make a final decision no later than 120 calendar days after receiving a formal appeal. DOL will only investigate grievances, complaints, or appeals arising through the established procedures. Appeals should be addressed to:

Regional Administrator
U.S. Department of Labor/ETA
Atlanta Federal Center 61 Forsyth St. Rm. 6M12
Atlanta, GA 30303

IV. EFFECTIVE DATE:

This policy is effective July 1, 2015.



Jacqueline A. Turner
Deputy Executive Director, CFO