

July 13, 2000

WIA Region 2 ISSUANCE 01-00

TO: All Program Operators

FROM: Sharon Hays, Interim Director

SUBJECT: Complaint and Grievance Procedures for WIA

PURPOSE: To provide Complaint and Grievance Procedures for the Workforce Investment Act Programs.

SUBSTANCE: Attached hereto is the NEMO Workforce Investment Board's Complaint and Grievance Procedures under the Workforce Investment Act (WIA). As the Department of Labor has not yet issued final Federal Regulations for WIA, this document may be subject to change.

ACTION: The Complaint and Grievance Procedures are to be used by sub-contractors effective immediately.

CONTACT: If you have any questions regarding this issuance, please contact me at (660) 327-5125.

Sharon Hays, Interim Director

**Workforce Investment Act (WIA)
(Region 2 - Northeast)**

NEMO WORKFORCE INVESTMENT BOARD

COMPLAINT and GRIEVANCE PROCEDURES

Welcome to the Workforce Investment Act (WIA) Programs. If you are enrolled in a WIA program or if you are employed as a staff person in an agency administering a WIA program, you cannot be denied benefits or services, be segregated or treated any differently from other participants or staff, nor be discriminated against in any way on the basis of race, color, religion, sex, national origin, age, handicap, political affiliation or belief, citizenship (beneficiaries only) or WIA participation.

This pamphlet describes the complaint and grievance process for non-criminal, criminal and discrimination complaints about WIA programs and activities operated by the Northeast Missouri Workforce Investment Board as well as complaints arising from actions taken by its One-Stop operator(s), One-Stop partners and/or service providers on investigations, audits, procurements, or monitoring reports. If you believe that you have been unjustly denied any benefit or service allowed under the Workforce Investment Act, or have reason to believe a violation of the Act, its regulations or any agreement under the Act has occurred, a complaint may be filed as outlined in these procedures. Complainants are encouraged to attempt to resolve the alleged violation at the local level by following the grievance procedures of his/her employer or worksite. You cannot be penalized in any way for filing a complaint or for talking to your employer. However, if this does not work, the WIA complaint and grievance procedures are outlined below.

COMPLAINANTS RIGHTS

Non-Criminal Complaints

WIA requires that non-criminal complaints be filed within one (1) year of the date of occurrence. An opportunity for informal resolution and impartial hearings must be conducted within 60 days of the receipt of the complaint if resolution cannot be reached during the initial investigation or review.

Discrimination Complaints

Any complaint alleging discrimination based on the grounds of race, color, religion, sex, national origin, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in WIA must be filed within 180 days of the alleged incident with the Division of Workforce Development, Attention EEO Officer, P. O. Box 1087, Jefferson City, Missouri 65102-1087, or if the complainant chooses, directly with the Directorate of Civil Rights at Civil Rights Center (CRC), Room N-4123, 200 Constitution Avenue NW, Washington, D. C. 20210. DWD will investigate the complaint and provide an opportunity for a hearing within thirty (30) days of the receipt of the written complaint. DWD will issue a written decision within (60) days of the initial filing. If this decision does not satisfactorily resolve the issue, the complainant may file with the Department of Labor, Directorate of Civil Rights within thirty (30) days of the date of initially filing the complaint, whichever is earlier.

Criminal Complaints

Complaints alleging criminal fraud, waste, abuse or other criminal activities must be filed directly and immediately with the Office of Inspector General - Investigations, 200 Constitution Ave. NW,

Washington D. C. 20510-55514. The Employment and Training Administration must be copied on all complaints that are filed alleging fraud, waste, abuse or other criminal activities. The Hotline number is 1-800-347-3756. The DWD Equal Opportunity Officer can assist in reporting to the Office of Inspector General.

DWD and the NEMO Workforce Investment Board maintains procedures which may be used for resolution of complaints arising from actions such as audit disallowance's and the imposition of sanctions taken by DWD or the NEMO WIB Administrative Entity, respectively, with respect to audit findings, investigations, or monitoring reports. Such complaints must be filed in writing and addressed to the Division of Workforce Development, P. O. Box 1087, Jefferson City, MO 65109, Attention: EEO Officer or, respectively, to the NEMO Workforce Investment Board, Paris, Missouri 65275, Attention: EEO Officer.

In any case where the alleged violation of the Act or regulation is also an alleged violation of another law, regulation or agreement, nothing in this process shall preclude an individual or organization from filing a complaint or grievance with the other authority. Assistance in filing the complaint or appeal may be obtained by contacting NEMO Workforce Investment Board.

Prohibition Against Reprisal

No person, organization or agency may discharge or in any manner discriminate or retaliate against any person or deny to any person a benefit to which that person is entitled because such person has filed any complaint, instituted or caused to be instituted any proceeding under or relate to the Act, has testified or is about to testify in any proceeding or investigation, or has provided information or assisted in any investigation.

Confidentiality Of Information

The identity of any person who has furnished information relating to or assisting in the investigation of a possible violation of the ACT shall be kept confidential to the extent possible, consistent with a fair determination of the issues.

Complaint Filing

Local procedures (Step 1 of 2 of this pamphlet) must be exhausted to the State. Likewise, State level procedures must be exhausted before escalating the complaint to the Department of Labor (when applicable).

Your complaint must be submitted in writing and signed. It should include: Your name, address, and telephone number, a description of the complaint incident(s), names of those responsible (or organization responsible), when, where, and what acts are the basis of the complaint, and relief that is sought. Complaints should be filed immediately after the complaint incident so that your rights will not be jeopardized due to untimely filing and so that the complaint may be promptly resolved. All time frames in this pamphlet refer to calendar days.

Grievance Originating From Non-Participants

In addition to participant grievances, complaints alleging a violation of the Act, federal regulations, the State's contracts and issuance's, grants, or other agreements as well as those arising from actions such as the procurement of goods and/or services, audit disallowance's, or the imposition of sanctions taken by the Governor with respect to audit findings, investigations or monitoring

reports may be resolved through these procedures.

WIA permits program operators, contractors, grantees, sub-grantees, sub-recipients, to complain through their employer's grievance Steps 1 and 2 or this brochure. If the employer's procedure is used, the time frames and steps contained therein will be adhered to.

For all non-employment related grievances or if a participant is unable to satisfactorily resolve any employment related grievance with his/her employer, the participant must utilize the procedure contained in this brochure to seek further resolution.

Step 1

Any organization or individual who has a complaint arising in connection with the WIA programs should contact the NEMO Workforce Investment Board. If a review is requested, the complainant will file the grievance in writing with NEMO WIB. NEMO WIB has seven (7) days from the date the written grievance is received to investigate and provide a written decision to the complainant and respondent.

Step 2

If the decision fails to satisfactorily resolve the grievance the complainant has five (5) days from the receipt of NEMO WIB's decision to present a written request for an impartial hearing appealing the decision. NEMO WIB must ensure that an impartial hearing is conducted by a qualified hearing officer, within eighteen (18) days of that request. The complainant and respondent will be provided with a written notice of the date, time and place of the hearing that all parties have the opportunity to present evidence and to be represented by an attorney, and the appeal process outlined in Step 3 of these procedures. If possible, a licensed attorney, authorized to take sworn statements, will be utilized to conduct impartial hearings. In any case, the impartial hearing must be conducted within thirty (30) days of when the written grievance was originally received.

Employers must have a grievance procedure relating to the terms and conditions of employment for participants funded under the Act. Employers may operate their own procedure or may utilize the local area's. Employers shall inform participants which procedure to follow when the participant's begins employment. Participants may request a local area review of an employer's decision with appeal rights to DWD should the local area render a disputed decision.

The hearing officer is to present a written decision to NEMO WIB within fourteen (14) days of the hearing. A written decision must be issued within sixty (60) days of the original filing of the grievance. If the NEMO WIB fails to issue this written decision to the complainant within (60) days from the date the complaint was originally filed, the complainant has the right to request a State review under the procedures outlined in Step 3.

The complaint should contain the following:

- 1) The full name, address, and telephone number of the person making the complaint:
- 2) The full name and address of the respondent against whom the complaint is made;
- 3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.

Step 3

If the decision fails to satisfactorily resolve the grievance, the complainant may request in writing a review by the Division of Workforce Development, PO Box 1087, Jefferson City, 65109. This written request must be filed not more than fifteen (15) days after the complainant received the written decision from the program operator or if no decision is rendered, within fifteen (15) days of the date on which the decision should have been received (sixty days from date initially filed). The review process performed by DWD may be conducted by; (a) its own staff, (b) a licensed attorney through an impartial hearing, or (c) any other means of independent review or investigation. DWD will provide a written final decision to the complainant within thirty (30) days of the date the request for review was received.

Nota bene: local or state level resolutions cannot be characterized as an alternative to the federal process and the complainant should be aware that he/she has a 180 day time limit from the alleged violation to file discrimination complaints with the Secretary of Labor.

Appeals To The Secretary Of Labor

Should DWD fail to issue a written final decision within thirty (30) days of the request, the complainant may request from the Secretary of Labor a determination as to whether reasonable cause exists to believe that the Act, or its regulations have been violated. This request must be filed within fifteen (15) days of the date the final decision should have been issued from DWD.

The complaint should contain the following:

- 1) The full name, address, and telephone number of the person making the complaint;
- 2) The full name and address of the respondent against whom the complaint is made;
- 3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation;
- 4) The provision of the Act, regulations, grant, or other agreements under the Act believed to have been violated;
- 5) A statement disclosing whether proceedings involving the subject of the request have been commenced or concluded before any Federal, State, or local authority and, if so, the date of such commencement or conclusion, the name and address of the authority and style of the case; and
- 6) A statement of the date the complaint was filed with DWD, the date on which DWD should have issued a final decision, and an attestation that no decision was issued.

A request will be considered to have been filed when the Secretary receives from the complainant a written statement sufficiently precise to evaluate the complaint and the grievance procedure utilized by the State and NEMO WIB.

Equal Opportunity is the Law

The recipient is prohibited from discriminating on the grounds of race, color, religion, sex, national

origin, age disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in programs funded under the Workforce Investment Act, or as amended, in admission or access to, opportunities or treatment in, or employment in the administration of or in connection with, any WIA-funded program or activity. Persons, who think that they have subjected to discrimination under a WIA-funded program or activity, may file a complaint with the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, D. C. 20210. If you elect to file your complaint with the Division of Workforce Development, you must wait until the Division of Workforce Development issues a decision or until 60 days have passed, whichever is sooner, before filing with the Directorate of Civil Rights. If the Division of Workforce Development has not provided you with a written decision within 60 days of the filing of your complaint, you need not wait for a decision to be issued, but file a complaint with the Directorate of Civil Rights within 30 days of the expiration of the 60-day period. If you are dissatisfied with the Division of Workforce Development's resolution of your complaint, you may file a complaint with the Directorate of Civil Rights. Such complaints must be filed within 30 days of the date you received notice of the Division of Workforce Development's proposed resolution.

During each presentation to orient new participants and/or new employees to its WIA funded program or activity, all local areas and their subrecipients must include a discussion of participants' and/or employees' rights to file a complaint with DWD or DCR. Communications with individuals with disabilities must be as effective as communications with others.

Labor Standards Complaints

Complainants may (a) exhaust the non-criminal administrative process by submitting the complaint directly to the Division of Workforce Development for review and disposition within 60 days or (b) submit the grievance to a binding grievance procedure if a collective bargaining agreement covering the parties so provide. If 60 days expires with no decision (or an adverse decision is rendered), the complaint may be submitted to the Department of Labor which may change, reverse or issue a final decision.

Violation of Relocation Prohibitions

Relocation complaints under Section 181 (d) should be filed directly with the U. S. Department of Labor, Employment and Training Administration, 911 Walnut Street, Kansas City, Missouri 64106 (816) 426-3796 for investigation.

U.S. Department of Labor

The Department of Labor may investigate any action or complaint, when it deems appropriate, and issue final determinations that are binding on all parties involved.

Non-WIA Remedies

Complaints may be filed against state, local area or other subrecipients for violation of WIA and a federal, state, or local law with respect to non-WIA cause of action. The complainant may institute a civil action or pursue other remedies authorized under federal, state or local law without exhausting these administrative grievance procedures. For further information or assistance, please contact:

**NEMO Workforce Investment Board
120 West Monroe
Paris, MO 65275
660-327-5125**

ACKNOWLEDGEMENT OF RECEIPT

(For WIA program participants and staff only. Please sign, detach and return this receipt to be placed in the participant or personnel file.) I acknowledge that I have received a copy of the NEMO Workforce Investment Board's Complaint and Grievance Procedures.

Signature

Date

Signature of WIA Staff Issuing Pamphlet