

January 25, 2001

LWIA #2                   ISSUANCE 01-00, Change 2

TO:                         All Program Operators

FROM:                     Sharon Hays, Interim Director

SUBJECT:                 To transmit Change 2, on LWIA #2 Issuance 01-00; Complaint and  
Grievance Procedures for WIA

SUBSTANCE:             In response to implementing the nondiscrimination and equal opportunity  
provisions of the Workforce Investment Act of 1998; Final Rule. The  
attached Complaint and Grievance procedure has been modified to  
identify the local EEO officer of the NEMO Workforce Investment Board  
and to provide the correct address for the NEMO Workforce Investment  
Board.

ACTION:                 The revised Complaint and Grievance Procedures are to be used by  
sub-contractor's effective immediately.

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

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Sharon Hays  
Interim Director

## **Workforce Investment Act**

### **NEMO Workforce Investment Board**

(Local Workforce Investment Area #2)

#### **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 procedures for programs and activities conducted by the Northeast Missouri Workforce Investment Board (NEMO WIB) as well as complaints arising from actions taken by One-Stop operator(s), One-Stop partners and/or service providers on investigations, audits, procurements, or monitoring reports.

Four types of complaints are covered by this pamphlet. They are: 1) Discrimination Complaints; 2) Program Complaints; 3) Labor Standard Complaints; and 4) Criminal Complaints.

#### **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.

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## **COMPLAINANTS RIGHTS**

### **DISCRIMINATION COMPLAINTS**

Applicants, eligible applicants, participants, applicants for employment, employees and members of the public, including those with disabilities, and unions or professional organizations holding collective bargaining or professional agreements with the NEMO WIB (or its sub-contractors) may file discrimination complaints using the following procedures. Exhaustion of the state's administrative remedies is recommended for expediency in complaint resolution.

### **EQUAL OPPORTUNITY IS THE LAW**

It is against the law for the NEMO Workforce Investment Board, recipient of Federal financial assistance, to discriminate on the following basis:

Against any individual in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIA Title I financially assisted program or activity.

The NEMO WIB shall not discriminate in any of the following areas:

Deciding who will be admitted, or have access to any WIA Title I financially assisted program or activity; providing opportunities in or treating any person with regard to, such a program or activity; or making

employment decisions in the administration of, or in connection with, such a program or activity.

## **WHAT TO DO IF YOU BELIEVE YOU HAVE EXPERIENCED DISCRIMINATION**

If you think that you have been subjected to discrimination under a WIA Title I financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either:

### LOCAL:

Casie Baumann, Equal Opportunity Officer  
NEMO Workforce Investment Board, Inc.  
111 E. Monroe  
Paris, MO 65275  
Phone: (660) 327-5125  
Fax: (660) 327-5128

### FEDERAL:

The Director, Civil Rights Center (CRC)  
US Department of Labor  
200 Constitution Avenue NW, Room N-4123  
Washington, D.C. 20210

If you file your complaint with the NEMO Workforce Investment Board, you must wait either until the NEMO WIB issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center.

If the NEMO WIB does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with CRC. However, you must file your CRC complaint within 30 days of the 90 day deadline (in other words, within 120 days after the day on which you filed your complaint with the NEMO WIB).

If the NEMO WIB does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint with 30 days of the date on which you received the Notice of Final Action.

## **PROGRAM COMPLAINTS**

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 work site. 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.

## **NON-PARTICIPANT COMPLAINTS**

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 of this brochure. If the employer's procedure is used, the time frames and steps contained therein will be adhered to.

## **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.

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 Casie Baumann, Equal Opportunity Officer at the NEMO Workforce Investment Board. If a review is requested, the complainant will file the grievance in writing with the NEMO WIB. The 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 the NEMO WIB's decision to present a written request for an impartial hearing appealing the decision. The 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 so 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 WIA. Employers may operate their own procedure or they may utilize those of the local area. 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 the 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 Juanita Davis, EO Officer, Division of Workforce Development, 421 E. Dunklin, PO Box 1087, Jefferson City, 65102. This written request must be filed not more than fifteen (15) days after the complainant received the written decision from the NEMO WIB 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.

## **LABOR STANDARDS COMPLAINTS**

Complainants may:

- a) Exhaust the non-criminal administrative process by submitting the complaint directly to the Division of Workforce Development (DWD) for review and disposition within sixty (60) days; or
- b) Submit the grievance to a binding grievance procedure if a collective bargaining agreement covering the parties so provide. If sixty (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.

## **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 WIB 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, which pertain to audit findings, investigations, or monitoring reports. Such complaints must be filed in writing and addressed to Juanita Davis, EO Officer, Division of Workforce Development, P. O. Box 1087, Jefferson City, MO 65109, or, respectively, to Casie Baumann, EO Officer, NEMO Workforce Investment Board, 111 E. Monroe, Paris, Missouri 65275.

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## **NON-WIA REMEDIES**

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 EO Officer at the NEMO Workforce Investment Board.

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.

## **PROHIBITION AGAINST REPRISAL**

No person, organization or agency may discharge or in any manner discriminate or retaliate against any person or deny 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 related 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 WIA shall be kept confidential to the extent possible, consistent with a fair determination of the issues.

## 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.

For further information or assistance, please contact:

**Casie Baumann, Equal Opportunity Officer  
NEMO Workforce Investment Board  
111 East Monroe  
Paris, MO 65275  
(660) 327-5125**

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## 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.

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Signature

Date

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Signature of WIA Staff Issuing Pamphlet