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Grievance/Complaint Policy and Procedure

This policy establishes a complaint process for all programs and services operated by Michigan Works! Region 7B Consortium (Region 7B). Complaints are divided into two categories, each with a specific process described herein. The two categories of complaints are: (1) Non-Discrimination Complaints and (2) Discrimination complaints. Section 1 of this policy applies to Non-Discrimination Complaints. Section 2 of this policy applies to Discrimination Complaints. For complaints specific to Trade programs please see the Trade Addendum.

Dissemination

This policy applies to all entities/recipients (as defined in 29 CFR Part 38.4 [zz]) receiving financial assistance under Title I of the WIOA, One-Stop partners, programs, and activities that are part of the One-Stop delivery system, and the employment practices of recipients and/or One-Stop partners in connection with programs and activities that are being conducted as part of the WIOA Title I or the One-Stop delivery system. Applicable programs include, but are not limited to: Workforce Innovation and Opportunity Act (WIOA), Temporary Assistance for Needy Families (TANF), Food Assistance Employment & Training (FAE&T), General Funds/General Program (GF/GP), Trade Adjustment Act (TAA), Offender Success (OS), and Employment Services (ES). This policy is included in all MOU's, One-Stop Partner Contracts, including OJT contracts. Participants sign and date acknowledgement at the intake process. A copy is posted in each office resource room, on our website and at the front desk for dissemination.

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Special Requirement

Known or suspected fraud, abuse, or criminal conduct under the WIOA shall be reported in accordance with the incident report guidelines issued by TIA.

Pursuant to the PRWORA Regulation 45 CFR 2671.70 a complaint may be filed by an affected individual if 1) a recipient of TANF is placed in a position when any other individual is on layoff from the same or any substantially equivalent job or 2) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult receiving TANF assistance. In this situation, either party to the complaint, the TANF recipient, or the displaced employee, may appeal the local decision to TIA.

A complaint may be filed by a regular employee displaced by a WIOA participant who is placed in an employment activity operated with WIOA funds. In addition, a complaint may be filed by a WIOA participant in an employment activity if the participant is displaced.

Region 7B complaint procedures allow an individual alleging a labor standards violation to submit the complaint to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the complaint so provides.

Depending on the nature of the complaint, TANF and FAE&T program applicants shall be handled in accordance with Region 7B or Michigan Department of Health and Human Services (DHHS).

Complaints involving Wagner Peyser activities must be resolved in accordance with Employment Services (ES). An ES-related complaint that meets any of the following criteria: 1) it alleges a violation of ES regulations by the service deliverer, through an act or omission, and the complaint is filed within 12 months of the alleged incident. ES regulations pertain to such areas as employer relations, counseling, occupational analysis, labor market information, and services to special populations, including veterans, migrant and seasonal farm workers, youth, minority groups, persons with disabilities and older workers. 2) a job seeker alleges a violation of the terms and conditions of a job order, or a violation of employment-related laws, after a referral to the employer by ES. 3) the alleged incident must occur within 12 months of the application to the employer, and it must be reported to the Region 7B within 12 months of occurrence. If your complaint meets any of the above ES-related criteria, please contact the Michigan Works! Service Center Staff so that your complaint can be processed in accordance with the appropriate procedure and forms.

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Section 1: Nondiscrimination Complaints

Filing

All Nondiscrimination Complaints shall be filed in writing within (1) one year of the alleged violation and contain, to the extent practicable, the following information: 1) the full name, address and telephone number of the complainant; 2) the full name, address, and telephone number of the respondent(s); 3) a clear and concise statement of the facts as alleged, including the pertinent dates, constituting the alleged violation; 4) the provision of the act, regulations, grant, contract or other agreement under the act believed to have been violated; 5) relieve requested and sent to:

Michigan Works! Region 7B Consortium
Mark L. Berdan, Executive Director
402 N. First St.
Harrison, MI 48625

Rejection

Region 7B may reject the complaint for any of the following reasons: 1) lacks merit; 2) the complainant fails to state a grievable issue; 3) there is no relief that can be granted; 4) the complainant fails to comply with the procedures prescribed in this policy. Region 7B will inform the complainant in writing of the reason(s) the complaint was rejected. The notification must be issued within 60 days from the date the complaint was filed and will include the opportunity to appeal to the Talent Investment Agency (TIA).

The opportunity for an informal resolution of the complaint will be allowed. If the complaint is settled through the informal resolution process, a written decision shall be issued to the complainant (s) within 60 days of the filing of the complaint.

An opportunity for a hearing will be provided for a related complaint that are not informally resolved or withdrawn. Should a hearing be held, it shall be conducted within 30 days from date the complaint was filed, and a decision shall be rendered no later than 60 days from the date the complaint was filed.

Hearing

If a hearing is conducted, written notice to the involved parties will be provided. The notice shall include the date, time, place of the hearing and outline the process to present evidence including witnesses. The notice of the hearing shall indicate the issues to be decided. Notice shall be given not less than 10 days prior to the scheduled hearing date. At a minimum, the hearing process shall include: 1) a hearing officer; 2) an opportunity for each party to present witnesses and evidence;

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3) an opportunity for each party to ask questions of all witnesses providing testimony at the hearing; 4) a record of the hearing and; 5) a list of all evidentiary exhibits presented at the hearing.

At the discretion of the hearing officer, there may be an opportunity to exchange evidentiary information prior to the hearing.

Determination

A written decision shall be issued by the hearing officer and shall include the following information: 1) date time and place of the hearing; 2) name and address of the complainant; 3) name and address of the respondent; 4) names and addresses of all witnesses called by the parties; 5) information sufficient to identify all evidence presented; 6) a reiteration of the issues raised; 7) a determination of the facts; 8) an analysis of the issues as they relate to the facts; 9) a decision addressing each issue; 10) a statement regarding the opportunity to appeal the decision to Talent Investment Agency (TIA).

Appeal

The process to appeal a Region 7B decision to TIA including: 1) if the response to the complaint is not received within 60 days from the filing of the complaint, or 2) should either party be dissatisfied with a decision shall be in writing and shall be filed no later than 10 days from receipt of the adverse local decision, or 10 days from the date a decision was due but not issued. The appeal shall contain, to the extent practicable, all the following information: 1) the full name, address and telephone number of the complainant(s); 2) the full name address, and telephone number of the respondent(s); 3) a clear and concise statement of the facts as alleged, including the pertinent dates constituting the alleged violation; 4) the provision of the act, regulations, grant, contract or other agreements under the act believed to have been violated; 5) the relief requested. The appeal of a Region 7B complaint decision shall be submitted by certified mail, return receipt requested to:

Talent Investment Agency
Matt Shilling
Victor Office Center
201 N. Washington Square
Lansing, MI 48913

Within 15 days from the date the appeal is received by TIA, the parties will be contacted to submit all relevant information and documentation generated at the local hearing to TIA.

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TIA may take any of the following actions: 1) reject the appeal for any of the following reasons: a) it lacks merit; b) the appeal does not state a grievable issue; c) there is no relief that can be granted; d) the complainant fails to comply with the applicable procedures prescribed. 2) allow an opportunity for a hearing within 30 days of the receipt of the appeal of Region 7B's decision unless the appeal is rejected by TIA, the parties agree to waive a hearing or the complainant withdraws the appeal. Notice of a hearing will be provided in writing and include the date, time and place of the scheduled hearing and of the opportunity to present evidence, including witnesses.

The notice shall indicate the issues to be decided. Notice shall be given not less than 10 days prior to the scheduled hearing.

At a minimum, the hearing process shall include: a) a hearing officer; b) an opportunity for each party to present witnesses; 3) an opportunity for each party to ask questions of all witnesses providing testimony at the hearing; 4) a record of the hearing and a list of all evidentiary exhibits presented at the hearing.

A written decision shall be issued no later than 60 days after the filing of the appeal and shall include the following: 1) if a hearing is held, the date, time and place of the hearing; 2) name and address of the complainant; 3) name and address of the respondent; 4) if a hearing is held, the names and address of all witnesses call by the parties; 5) if a hearing is held, the information sufficient to identify all evidence presented; 6) a reiteration of the issues; 7) a determination of the facts; 8) an analysis of the issues as the relate to the fact; 9) a decision addressing each issue.

In general, TIA's decision is final. However, if a decision is not issued by the due date, a WIOA related appeal may be reviewed by the Secretary of the United States Department of Labor (USDOL) if appealed within 60 days after the date the decision was due. A WIOA related decision may also be appealed by the adversely affected party to the USDOL within 60 days of the receipt of TIA decision. An appeal must be submitted to the Secretary of the USDOL by certified mail, return receipt requested, to:

Secretary
U.S. Department of Labor
Attention: ASET
Washington, DC 20210

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A copy of the appeal must also be sent simultaneously to:

Regional Administrator
Employment and Training Administration
U.S. Department of Labor
230 South Dearborn Street, Room 628
Chicago, IL 60604

And
Talent Investment Agency
Matt Shilling
Victory Office Center
201 N. Washington Square
Lansing, MI 48913

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Section 2: Discrimination Complaints

Prohibition against Discrimination [29 CFR Part 38.5 and 29 CFR Part 38.35]

Complaints alleging discrimination must be filed in writing within 180 days of the alleged violation. It is against the law for the Region 7B, recipient of Federal financial assistance to discriminate on the following bases, against any individual in the United States, on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the WIOA on the basis of the individual's citizenship status or participation in any WIOA Title I–financially assisted program or activity.

Complaint Procedures Applicability [29 CFR Part 38.2]

CRC discrimination processes apply to any recipient, as defined in 29 CFR Part 38.4(zz); to programs and activities that are part of the One-Stop delivery system and that are operated by the One-Stop partners, to the extent that the programs and activities are being conducted as part of the One-Stop delivery system; and as provided in 29 CFR Part 38.18, to the employment practices of a recipient and/or One-Stop partner, to the extent that the employment is in the administration of or in connection with programs and activities that are being conducted as part of the WIOA Title I or the One-Stop delivery system.

The term “recipient” means any entity to which financial assistance under Title I of WIOA is extended, directly from USDOL or through the Governor or another recipient. The term excludes any ultimate beneficiary of the WIOA Title I-financially assisted program or activity.

In addition, One-Stop partners, as defined in section 121(b) of WIOA, are treated as “recipients,” and are subject to the nondiscrimination and equal opportunity requirements, to the extent that they participate in the One-Stop delivery system.

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Who May File a Discrimination Complaint [29 CFR Part 38.69]

1. Any person or the person's representative who believes they, or any specific class of individuals, has been or is being discriminated against on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity) , national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of WIOA, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity, or,
2. Either the person, or any specific class of individuals, has been or is being retaliated against, may file a complaint.

Where to file a Discrimination Complaint [29 CFR Part 38.69]

Any person or their representative may file a written complaint if they are being discriminated against on any covered basis or if they have been or are being retaliated against. ***Discrimination Complaints must be filed within 180 days of the alleged discrimination or retaliation.*** If a complaint is filed directly with the Civil Rights Center (CRC) Director, the Director may extend the 180 days filing time for good cause shown.

A complainant may file a discrimination complaint with either:

Director
Civil Rights Center (CRC)
U.S. Department of Labor
200 Constitution Avenue NW, Room N-4123
Washington, DC 20210

A complainant may file a discrimination complaint by completing and submitting CRC's Grievance Information and Privacy Act Consent Forms. The forms are available electronically on the CRC's Website, and in hard copy via postal mail upon request, <https://www.dol.gov/oasam/programs/crc/>.

OR

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Robert Caillier, Equal Opportunity Officer (EEO)
Region 7B Consortium
402 N. First Street
Harrison, MI 48625

Required Contents of a Discrimination Complaint [29 CFR Part 38.70]

Each discrimination complaint must be filed in writing, either electronically or in hard copy, and must contain the following information:

1. The complainant name, mailing address, and, if available, email address (or another means of contacting the complainant).
2. The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination).
3. A description of the discrimination allegations. This description must include enough detail to allow the EEO or the CRC Director, as applicable, to decide whether:
 - a. Region 7B or CRC, as applicable, has jurisdiction over the complaint;
 - b. The discrimination complaint was filed in time; and
 - c. The discrimination complaint has apparent merit; in other words, whether the discrimination allegations, if true, would indicate noncompliance with any of the nondiscrimination and equal opportunity provisions of WIOA or this part.
4. The written or electronic signature of the complainant or the written or electronic signature of the complainant's representative.

Region 7B Discrimination Complaint Procedures [29 CFR Part 38.72]

Upon receiving a written complaint, Region 7B procedures follow:

1. Provide an initial, written notice to the complainant that contains the following information:
 - a. An acknowledgment that Region 7B has received the complaint; and
 - b. Notice that the complainant has the right to be represented in the complaint process;
 - c. Notice of rights of the protected classes; and
 - d. Notice that the complainant has the right to request and receive, at no cost, auxiliary aids and services, language assistance services, and that this notice will be translated into the non-English languages as required in §§ 38.4(h) and (i), 38.34, and 38.36.

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2. Provide a written statement of the issue(s), provided to the complainant, that includes the following information:
 - a. A list of the issues raised in the complaint; and
 - b. For each such issue, a statement whether Region 7B will accept the issue for investigation or reject the issue, and the reasons for each rejection.
3. Allow for a period for fact-finding or investigation of the circumstances underlying the complaint.
4. Allow a period during which Region 7B attempts to resolve the complaint. The methods available to resolve the complaint include alternative dispute resolution (ADR).
5. Provide a written Notice of Final Action to the complainant within 90 days of the date on which the complaint was filed, that contains for each issue raised in the complaint, a statement of either:
 - a. Region 7B's decision on the issue and an explanation of the reasons underlying the decision; or
 - b. A description of the way the parties resolved the issue; and
 - c. Notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action was received if the complainant is dissatisfied with the recipient's final action on the complaint.
6. Region 7B's ADR/Mediation procedures provides that:
 - a. The complainant may attempt ADR/Mediation at any time after the complainant has filed a written complaint with the Region 7B, but before a Notice of Final Action has been issued.
 - b. The choice whether to use ADR/Mediation or the customary process rests with the complainant.
 - c. A party to any agreement reached under ADR/Mediation may file a complaint with the CRC Director in the event the agreement is breached. In such circumstances, the following rules will apply:
 - The non-breaching party may notify with the Director within 30 days of the date on which the non-breaching party learns of the alleged breach;
 - The Director must evaluate the circumstances to determine whether the agreement has been breached. If the Director determines that the agreement has been breached, the complaint will be reinstated and processed in accordance with the Region 7B's procedures.
 - If the parties do not reach an agreement under ADR/Mediation, the complainant may file a discrimination complaint with the CRC Director as described in 29CFR Part 38.69 through 38.71.

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Region 7B's Obligations When It Determines That It Has No Jurisdiction over a Discrimination Complaint [29 CFR Part 38.74]

If Region 7B determines that it does not have jurisdiction over a discrimination complaint, Region 7B will notify the complainant in writing within five business days of making such determination. This Notice of Lack of Jurisdiction will include:

1. A statement of the reasons for that determination; and
2. Notice that the complainant has a right to file a discrimination complaint with CRC within 30 days of the date on which the complainant receives the Notice.

If the Complainant is Dissatisfied after Receiving a Notice of Final Action [29 CFR Part 38.75]

If Region 7B issues the Notice of Final Action before the 90-day period ends, but the complainant is dissatisfied with Region 7B's decision on the complaint, the complainant or the complainant's representative may file a discrimination complaint with the CRC Director within 30 days after the date on which the complainant receives the Notice.

If Region 7B Fails to Issue Notice of Final Action within 90 Days after the Discrimination Complaint was Filed [29 CFR Part 38.76]

If, by the end of 90 days from the date on which the complainant filed the discrimination complaint, Region 7B has failed to issue a Notice of Final Action, the complainant or the complainant's representative may file a discrimination complaint with the CRC Director within 30 days of the expiration of the 90-day period. In other words, the complaint must be filed with the CRC Director within 120 days of the date on which the complaint was filed with the Region 7B.

Both the complainant and Region 7B have the right to be represented by an attorney or other individual of their choice. [29 CFR Part 38.71]

Intimidation and Retaliation Prohibited [29 CRF Part 38.19]

1. Region 7B will not discharge, intimidate, retaliate, threaten, coerce or discriminate against any individual because the individual has:

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- a. Filed a discrimination complaint alleging a violation of Section 188 of WIOA or this part;
 - b. Opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of WIOA or this part;
 - c. Furnished information to, or assisted or participated in any manner in, an investigation, review, hearing, or any other activity related to any of the following:
 - (i) Administration of the nondiscrimination and equal opportunity provisions of WIOA or this part;
 - (ii) Exercise of authority under those provisions; or
 - (iii) Exercise of privilege secured by those provisions; or
 - d. Otherwise exercised any rights and privileges under the nondiscrimination and equal opportunity provisions of WIOA or this part.
2. The sanctions and penalties contained in Section 188(b) of WIOA or this part may be imposed against any recipient that engages in any such retaliation or intimidation, or fails to take appropriate steps to prevent such activity.

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