

FloridaWorks Standard Operating Procedure (SOP)

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SOP Number:	Subject: Grievance and Complaint
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POLICY

The Board established grievance procedures in accordance with WIA Section 188 and 667, Chapters 414 and 445 of the Florida Statutes and AWI guidance papers ["FINAL GUIDANCE Grievance/Complaint And Hearing/Appeal Procedures Under The Workforce Investment Act \(WIA\), Trade Adjustment Assistance \(TAA\), Welfare Transition \(WT/TANF\), Food Stamp Employment And Training \(FSET\) And Wagner-Peyser \(WP\) Programs"](#)

A grievance or complaint may be filed by a participant, subgrantee, subcontractor or other interested person regarding grant activities. A grievance is a statement of dissatisfaction which is filed with the Board through the AE whenever it is believed that a violation of any policy, procedure, regulation, statute, contract or other agreement has occurred which affects the interest of the filing party(s). Grievances must be filed with the AE of the Board in writing 60 days of the alleged violation, except for grievances alleging fraud or criminal activity.

A. Grievance/Complaint Review and Hearing Procedures

The following procedures are used to meet federal requirements to resolve grievances and AWI Grievance and Complaint guidance

The Board's AE shall appoint an employee to act as the Grievance Officer who shall attempt to settle the grievance "informally" for up to thirty (30) days. If unsuccessful, the grievance shall be referred to the Board and dealt with through the hearing procedure that follows.

After the Board has received and reviewed the complaint, they shall designate a Hearing Officer, schedule a hearing, and notify the grievant/complainant by certified mail, return receipt, at a minimum of fifteen (15) calendar days prior to the hearing. The hearing notice shall advise the following:

1. date, time, and place of the hearing;
2. purpose of the hearing and a statement of the issues in the grievance or complaint;
3. pertinent sections of the policy, procedure, regulation, statute, contract, other agreement, AWI Grievance and Complaint guidance, or any other federal regulations involved;
4. procedures to be followed in the hearing;
5. advise as to where further information or assistance may be obtained;
6. opportunity to amend the complaint prior to a hearing and the opportunity for an informal settlement prior to the hearing;
7. affected parties may present witnesses or documentary evidence at the hearing;
8. affected parties may be represented at the hearing by an attorney or other representative; and
9. the parties will receive the Board's decision within sixty (60) calendar days from receipt of the grievance or complaint.

The hearing shall be conducted according to the procedures established by the Board. However, a complainant who alleges a labor standard violation may submit the complaint for binding arbitration if the collective bargaining agreement covers the parties involved.

The hearing shall be conducted informally; unnecessary technicalities shall be avoided. To insure that the rights of all parties are safeguarded, the hearing procedures shall include the following:

1. The right of all parties to be represented by counsel or other representatives of their choosing, or to be self represented;
2. The right of all parties to present their views to the hearing board, either orally or in writing; and
3. The right of all parties to present evidence.

The hearing officer shall take necessary action to insure that the hearing proceeds in an equitable, orderly and expeditious manner. The hearing officer may at any time during the course of the hearing question the parties and their witnesses on any facts that it deems material and relevant to the alleged improper action. The hearing officer may attempt to negotiate a settlement between the parties at any time prior to the conclusion of the hearing.

The decision should be written in clear, simple non-technical language and should include the following information:

1. A statement that a hearing was held in which the involved parties, their representatives and witnesses were given an opportunity to present oral or written evidence in support of their position;
2. A clear and concise statement of the issues;
3. The findings of fact, based on the entire record as disclosed at the hearing;
4. The opinion and reasons for the decision, based on the findings of fact, conclusion of law, and the evidence adduced at the hearing; and
5. A statement of the grievant's right to request in writing a review of adverse decisions, if applicable.

All parties shall be furnished a copy of the recommended decision. The entire hearing shall be recorded electronically, on tape. Any party requesting a copy of the transcription shall pay all costs incurred in furnishing a copy of the transcription.

Where possible, when not in conflict with the public records law, the identity of any person who has furnished information relating to, or assisted in an investigation of a possible violation of the Act will be held in confidence.

Process for Filing an Appeal of Board Decision or Lack of Action

If the grievant/complainant is dissatisfied with or has been adversely affected by the Hearing Officer's decision, or if a hearing was not conducted within the sixty (60) calendar days from the receipt of the grievance/complaint, or if a hearing was conducted, but a decision was not issued within the mandated sixty (60) calendar day timeframe, then the complaint or decision may be appealed to the Agency for Workforce Innovation (AWI).

The appeal should be concise (if possible, not to exceed five pages which does not include exhibits and attachments) and shall be sent by certified mail, return receipt to:

AWI Office of General Counsel
107 East Madison Street, MSC 110
Tallahassee, Florida 32399-4128

The appeal request shall state the facts, laws, procedures, etc. that the grievant/complainant believes to be relevant for review. The appeal must be filed in accordance with AWI rule 60BB-1 "Workforce Programs' Grievance, Complaint, Hearing and Appeal Procedures" with AWI within thirty (30) calendar days of receipt of the Board's Hearing Officer's decision or within thirty (30) calendar days after the required 60 calendar day timeframe for the Board to act has elapsed. The request shall include the Grievant's address where official notices will be mailed.

The state can remand the grievance back to the Board to hold another hearing or impose other remedies to resolve the grievance.

B. Notification of Participant's Right to File a Complaint or Grievance

The Agency for Workforce Innovation (AWI) regulations mandates that complaint/grievance and hearing procedures be in place for complaints under the Welfare Transition, Workforce Investment Act and/or Wagner-Peyser Programs, which allege a violation of participants' rights. Participants/customers/applicants have the right to file a complaint or grievance if they believe that they have been treated unfairly in connection with any workforce program overseen by Board.

At the completion of WTP Orientation and/or WIA eligibility for assisted core services, the One Stop Career Center career advisor shall:

- a. Present the Complaint and Grievance Policy to each individual;
- b. Require that the individual sign the Acknowledgement of Receipt of Grievance Procedures, place the original in the case file, and if the individual requests a copy provide one to him/her.

Informal Resolution

If the individual has a complaint or grievance, and requests an informal resolution, the career counselor will meet with the individual and try to resolve the complaint

This is the first step in the grievance resolution. The customer must try and work things out informally before a grievance can be filed.

1. Customers:
 - a. First speak with the case manager about the problem. If the problem is not resolved then they may ask for a meeting with the program manager and/or the center manager.
 - b. A form is available for customer's to fill out when asking for a meeting with a program manager or center manager but is not required in order for a meeting to be granted. Filling out the request form will assure that customer's request is handled properly and in a timely fashion. The customer may submit the form to their case manager or to any of the supervisors in the center.
 - c. A meeting with the program manager and/ or the center manager will be set within 3 working days of the receipt of the request in accordance with the following timetable:
 1. The case manager must meet with the customer within 24 hours or the next business day if there is an intervening weekend.
 2. If the matter is not resolved the customer may take the matter to the program manager who must meet with the customer within 24 hours or the next business day if there is an intervening weekend.
 3. If the matter is still not resolved the customer may request a meeting with the center manager. The center manager must meet with the customer within three business days.

4. If the issue is still not resolved at the informal level the customer may proceed further by filing a request for an informal resolution meeting with the Board Equal Opportunities Officer.

C. Complaints of Alleged Discrimination

Complaints of alleged discrimination on the grounds of race, color, national origin, age, sex, religion, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I-financially assisted program or activity, in violation of Section 188 of the Act, may be filed with either the:

Equal Opportunity Officer
Agency for Workforce Innovation
Office for Civil Rights MSC 150
107 East Madison Street
Tallahassee, Florida 32399-4129

Director, Civil Rights Center
United States Department of Labor
200 Constitution Avenue, NW – Room N-4123
Washington, D.C. 20210

Discrimination complaints must be filed agent within 180 days of the alleged discrimination, unless the deadline for filing is extended by the Director of the Civil Rights Center. Additional information is available from the above complaint-investigation offices, on line at: www.floridajobs.org/civilrights/ocr_complaint.html, or from the Board Equal Opportunities Officer.