

Governor's Workforce Investment Division Policy No. 2-00, Change 3

Subject: WIA GRIEVANCE AND COMPLAINT POLICY REVISION

Effective Date: December 17, 2003

Purpose: To set forth procedures for participants, service providers, and other interested or affected parties to file grievances or complaints alleging violations of the Workforce Investment Act of 1998 (WIA) or related policies and procedures. This issuance also applies to appeals by service providers regarding denial or removal of a program or provider from the list of approved WIA training providers. **This issuance does not apply to allegations of discrimination based on race, color, religion, sex, national origin, age, disability, or political affiliation or belief.** Such discrimination issues are covered under 29 CFR Part 37, and were addressed in Governor's Workforce Investment Division Information Notice 2-00.

References: WIA Sections 122(g) and 181(c); 20 CFR 667, Subpart F.

Background: The WIA requires that training providers submit an initial eligibility application and annually submit a subsequent eligibility application to each Local Workforce Investment Board (LWIB) where the provider wishes to provide training. Such applications must contain program costs, performance, and other information established by the LWIB for each of the training provider's programs. Programs must meet LWIB and State performance standards to be placed on the State's approved training provider list, and must annually meet established performance standards in subsequent years to remain on the list. Training programs or providers may be removed from the list of approved WIA training providers for not meeting established performance standards, intentionally providing inaccurate information, or substantially violating any requirements under the WIA.

The WIA requires the State to establish procedures for training providers to appeal the denial or removal of a provider or program from the approved provider list by a LWIB or the State. Appeal procedures must provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

The WIA also requires each state and local area receiving funds under the Act to establish and maintain a grievance and complaint procedure for participants and any other interested or affected parties alleging violations of the WIA. Each such procedure must provide an opportunity for a hearing and be completed within sixty (60) days of the filing of the grievance or complaint.

Policy: This issuance sets forth West Virginia's state level procedures for all grievances, complaints, or issues of service provider eligibility, including those activities funded under statewide workforce investment programs. This policy will henceforth refer to all grievances, complaints, or service provider eligibility issues collectively as complaints. In this context complaints cover issues raised by participants, local Workforce Investment Boards (LWIB) and staff, One-Stop Center staff and partners, service providers, and other interested or affected parties. Such parties may file a complaint concerning any aspect of the implementation of the WIA when they feel the provisions of the Act, its accompanying regulations, or applicable policies or procedures have not been followed.

State level complaints will be initiated by contacting the Governor's Workforce Investment Division (GWID) in writing. Faxed complaints or letters in any form shall meet the definition of "in writing". Verbal complaints or electronic mail submissions will not be accepted for investigation. The written complaint should specify, to the greatest extent possible, the issue(s) involved, the provision(s) of the Act or other applicable policies or procedures at issue, and the remedy sought to satisfy the complaint. While not required, complainants may wish to use the Workforce Investment Act Complaint Form attached to this policy as a means of providing the necessary information for initiating a state-level complaint. This form will be made available through the GWID office, as well as through LWIB offices and One-Stop Centers.

Pertinent Contact Information for the GWID is as follows:

Governor's Workforce Investment Division
1900 Kanawha Boulevard East
Building 6, Room B-617
Charleston, WV 25305-0311
Phone: (304) 558-7024
Fax: (304) 558-7029

Upon receipt of a written complaint, GWID staff will log the complaint and establish a file to track progress and resolution. An initial determination will be made as to whether it is appropriate for the complaint to continue through the state-level WIA complaint process described in this issuance. If the complaint is determined to be appropriate for the state-level WIA complaint process, GWID will send written notification of receipt of the complaint and begin its investigation of the matter. If the complaint is determined inappropriate for the state-level WIA complaint process (e.g., a complaint involving issues of discrimination or the actions of a state agency or other entity that is not related to WIA activities), the complaining party will be notified of this determination and directed to the appropriate agency or process. Issues determined to be related to LWIB or local WIA programs or activities will be remanded to the LWIB grievance/complaint process if it is determined that the local process has not yet been exhausted. Complainants who have exhausted the local grievance process and are unsatisfied with the resolution of their claim, or who have not received a decision on their claim within sixty (60) days of initiating the local process, may appeal to the state and begin the state-level WIA complaint process.

The appropriate GWID staff shall investigate all complaints determined appropriate for state level review. Investigations may include, but are not limited to interviewing parties involved, reviewing pertinent documentation, conducting informal conferences or conference calls, and conducting on-site visits. GWID shall attempt to resolve the complaint, by bringing the parties together to reach a mutually agreeable resolution to the complaint or researching the WIA and other appropriate rules and regulations to make an initial determination as to whether a violation has occurred. Within thirty (30) days of receipt of the complaint, the GWID will either arrive at a documented mutually agreeable resolution of the matter or render a finding on the complaint.

The findings will include a description of the issues involved, a review of any documentation, interviews or other information impacting the finding, reference to the WIA or any other applicable laws, regulations, or policies impacting the finding, and a conclusion based on the information presented. Parties will be notified of the option and process to appeal the decision to the Executive Committee of the West Virginia Workforce Investment Council. The appeal shall include the opportunity for a hearing. All appeals must be placed in writing (either via fax or a written letter in any form, not via electronic mail). Requests to appeal must be received by the GWID within 10 days of the date of the issuance of the findings.

When an appeal has been received, the GWID shall provide the Executive Committee with all related information, and work with the Executive Committee and all parties to schedule a hearing on the matter. Parties to the hearing may be represented at the hearing, but the hearing is not a legal proceeding. A record of the hearing will be maintained for the file and shall be available upon request by the parties. The hearing may be held in person or via telephone, at the discretion of the complainant. Parties to the complaint may offer witnesses to present evidence at the hearing.

The Executive Committee of the West Virginia Workforce Investment Council shall have fifteen (15) days from receipt of notification of the desire to appeal to conduct a hearing and issue a final decision. A final decision will be provided in writing, with copies provided to all parties. Remedies for most complaints available to be imposed are limited to the following, as set forth in Section 181(c)(3) of the WIA: suspension or termination of payments under Title I of the WIA; prohibition of placement of a participant with an employer that has violated any requirement under Title I of the WIA; where applicable, to reinstatement of an employee, payment of lost wages and benefits and reestablishment of other relevant terms, conditions, and privileges of employment; and,

where appropriate, to other equitable relief. For matters regarding service provider denial or removal of inclusion on the WIA eligible training provider list shall be limited to a determination as to whether the training provider is or is not to be denied or removed from inclusion on the list.

Nothing within these procedures shall be construed to prohibit a complainant from pursuing a remedy authorized under another Federal, State, or local law for violations of the WIA.

Action: All affected State agencies; LWIBS and other affected parties are to insure that this complaint policy is prominently available to participants and other parties who may wish to file a complaint. All affected parties are to be guided by the procedures contained in this issuance when any party wishes to file a complaint.

GWID maintains a flow chart of the grievance and complaints process. A copy is available from GWID upon request.

This policy, in addition to making changes to GWID Policy No. 2-00, shall replace GWID policy 21-02, “Training Provider/Program Appeal Procedures”

Questions: Contact the Governor’s Workforce Investment Division, 1900 Kanawha Blvd. East, Building 6, Room B-617, Charleston, WV 25305-0311. Toll Free: 1-877-967-5498.

Expiration: Effective until rescinded or modified by the West Virginia Workforce Investment Council.

Governor's Workforce Investment Division

Building 6, Room B-617
1900 Kanawha Boulevard East
Charleston, WV 25305
1-877-WORK4WV

WORKFORCE INVESTMENT ACT (WIA) COMPLAINT FORM

Please print or type

Name of Individual / Organization: _____

If Organization, List Individual to Contact on This Matter: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Nature of Appeal (attach additional sheets as necessary): _____

WIA provision(s) or other applicable polices or procedures at issue (please state as specifically as possible): _____

Remedy Sought (please state as specifically as possible): _____

Has this complaint been the subject Local Workforce Investment Board complaint/grievance process:

_____ YES _____ NO

If YES, indicate which Local Workforce Investment Board: _____

If YES, indicate the date of final resolution: _____

Signature of Individual Submitting Complaint

Date

PLEASE ATTACH ANY DOCUMENTATION, EVIDENCE, OR JUSTIFICATION TO SUPPORT YOUR COMPLAINT