

NORTHEAST MICHIGAN CONSORTIUM GRIEVANCE PROCEDURE (Rev. 09/06/2018)

The procedure set forth below should be used by persons who are program participants under funding sources received from the Workforce Development (WD) subgrantees, subcontractors, employees, one-stop partners, service providers, providers of training services or other interested person to resolve, by administrative process, grievances or complaints that may arise in relation to alleged violations of the funding source, regulations and any grant, contract, or other agreement funded from grants received from WD. Complaints alleging discrimination by race, creed, color, religion, sex, disability, age, national origin, or political affiliation, as given in Title VI of the Civil Rights Act of 1964 may be filed directly with the U.S. Department of Labor office, the Workforce Development or your local Michigan Works Office.

Complaints involving discrimination must be filed within 180 days of alleged discrimination, nothing contained in this grievance procedure prohibits the pursuit or resolution by civil action or other remedies authorized under other federal, state, or local law. All grievances, including those alleging fraud or criminal activity funded by the WD, shall be filed within one year of the date of the alleged occurrence. (Known or suspected fraud, abuse, or criminal conduct under WIOA shall be reported in accordance with the incident report guidelines issued by the WD).

STEP 1: As applicable, complainants are encouraged to first discuss and attempt to resolve the issue informally with the grant recipient, contractors, subcontractors, one-stop partners, service providers, providers of training services, and other parties. If informal means, as noted above, does not resolve the issue, the complainant is afforded the following steps:

STEP 2: This complaint may be dismissed by the Administrative Entity (AE) of the Workforce Development Board (WDB) if it lacks merit, if it is determined that the grievant fails to state a grievable issue or there is no relief that can be granted, or if the grievant fails to comply with this procedure. The MWA will inform the complainant in writing of the reason(s) the complaint was dismissed. The notification will be issued within 60 days from the date the grievance was filed and will include the opportunity to appeal to the WD.

STEP 3: Complainants shall submit their grievance in writing to the Grievance Officer, Northeast Michigan Consortium, P.O. Box 711, Onaway, MI 49765, on the Grievance Complaint form (NEMC 403). For WIOA-related grievances, a local level hearing shall be conducted unless the grievance can be resolved without one or the grievant withdraws the grievance. If a hearing is to be conducted, the petitioner and respondent will be provided written notice of the date, time, and place of the hearing on the matter and of the opportunity to present evidence, including witnesses. The notice will include the opportunity to utilize alternative dispute resolution (ADR) or mediation as an option for complaint resolution, if appropriate. The states Mediation Brochure will be available to explain about mediation. The notice of the hearing shall indicate the issues to be decided. Notice shall be given not less than 10 calendar days prior to the scheduled hearing date. At a minimum, the hearing process shall include: a hearing officer; an opportunity for each party to present witnesses and evidence; an opportunity for each party to ask questions of all witnesses providing testimony at the hearing and a record of the hearing and 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. A hearing on any grievance shall be conducted within 30 days of filing a grievance, and a decision must be rendered no later than 60 days from the date the grievance was filed.

A written decision shall be issued utilizing NEMC form (NEMC 406), which will include all required information.

STEP 4: If the complainant is not satisfied with or has not received a response within the time frame in step (3) above, the complainant may appeal, in writing, to the WD. The appeal must be filed no later than (10) calendar days from receipt of an adverse decision at Step (3), or (10) calendar days from the date of a decision was due but not issued at Step (3). All appeals of a local level grievance shall utilize (NEMC 407) and be submitted by certified mail, return receipt to:

**Workforce Development
Executive Office
Victor Office Building
201 N. Washington Square, 5th Floor
Lansing, MI 48913**

Both parties must send relevant information and documentation generated at the local hearing and related to this appeal to the aforementioned address within 15 calendar days of the filing of the appeal. WD will consider the appeal and may:

- a. Reject the appeal and make a final determination,
- b. Allow waiver of the hearing and make a final determination,
- c. Schedule a hearing and make a final determination.

A grievance may be rejected, and a final determination issued, if it is determined that it lacks merit; it fails to state a grievable issue; there is no relief that can be granted; or if the appellant fails to comply with the applicable procedures prescribed. The appellant will be informed, in writing as soon as possible or within 60 days from the date the appeal was filed, of the reason the appeal was rejected.

In lieu of a hearing for an appeal of a WIOA related local level decision, the parties to the appeal may mutually consent to the WD deciding the matter based on the record created at the local level. If both parties and WD are in agreement the hearing is waived. Both parties must provide the WD written confirmation consenting to waive the hearing. WD will issue a final decision within 60 days of receipt of the appeal taking into consideration the evidentiary documentation previously submitted.

For an appeal of a WIOA-related local level decision, an opportunity for a hearing must be provided. A hearing is not required at this step if; (1) the appeal is rejected by WD, (2) the parties agree to waive a hearing, or (3) the appellant withdraws the appeal. If a hearing on an appeal is to be held, it shall be conducted within 30 days of the filing. At a minimum, the hearing process shall include: a hearing officer; an opportunity for each party to present witnesses (subpoenas are not authorized under this policy issuance) and evidence; an opportunity for each party to ask questions of all witnesses providing testimony at the hearing; a record of the hearing and 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. Notice shall be given not less than 10 calendar days prior to the scheduled hearing date. A written decision shall be issued not later than 60 calendar days after the filing of the appeal.

In general, a decision of the WD is final.

Special Provisions

Parties involved in a grievance procedure should take note of the following:

- A. **Equal Opportunity:** Complaints alleging violation of the nondiscrimination and equal opportunity (EO) provision of state/federal grant programs must be resolved in accordance with the nondiscrimination and EO policy guidelines issued by the NEMC.
- B. **Criminal Conduct:** Known or suspected fraud, abuse, or criminal conduct under the WIOA shall be reported in accordance with the incident report guidelines issued in USDOL Incident Report procedure & MWA responsibilities.
- C. **TANF Displacement:** Pursuant to the PRWORA Regulation 45 CFR 261.70, a grievance may be filed by an affected individual if a recipient of TANF is placed in a position (1) 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 grievance, the TANF recipient, or the displaced employee, may appeal the decision rendered by the AE of the WDB to the WD.
- D. **WIOA Displacement:** A grievance may be filed by a regular employee displaced by a WIOA participant who is placed in an employment activity operated with WIOA funds. Also, a grievance may be filed by a WIOA participant in an employment activity if the participant is displaced.
- E. **Binding Arbitration/Collective Bargaining:** Local grant recipient grievance procedures must provide WIOA participants a process, which allows an individual alleging a labor standards violation to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides.
- F. **Jurisdiction:** Depending on the nature of the grievance, TANF and FAE&T program applicant and recipient grievances shall be handled in accordance with the local grant recipient or the Michigan Department of Health and Human Services (DHHS) or other applicable procedures. For example, grievances regarding sanctioning or food stamp benefits will be handled by DHHS, while grievances regarding programs administered by the local grant recipient will be handled by the local grant recipient.
- G. **Wagner-Peyser:** Grievances involving Wagner-Peyser Act activities must be resolved in accordance with the grievance procedures outlined in the Employment Service Manual, which is available on the One-Stop Management Information System. In addition, please refer to the Employment Service Manual for specific guidance regarding work-related complaints that are not program specific, such as: employer hour and wage violations, migrant and seasonal farm worker complaints, and other possible violations of general labor laws.
- H. **Administrative Actions:** Any administrative enforcement actions or lawsuits alleging discrimination on prohibited grounds be filed against NEMC and/or any of its recipients/provider agencies while administering local workforce programs, the EO Officer will promptly notify WD. If the pending litigation or enforcement action is filed against a program receiving federal financial assistance from the USDOL, a copy of the notice will be simultaneously filed with the Director of the Civil Rights Center.