

Policy: Effective immediately, the CSS WFNY policies related to Complaints and Grievances under Section 188 of the Workforce Innovation and Opportunities Act. are amended as follows:

For complaints filed under Section 188 of the Workforce Innovation and Opportunities Act, anyone filing a discrimination complaint based on race, national origin, sex, age, color, political affiliation, religious belief, gender identity, gender expression, sex stereotyping or retaliation, may file his/her complaint with the Local Grievance Officer, or directly with the USDOL Office of Civil Rights at the following address:

Office of Civil Rights
201 Varick St
New York, NY
(212)237-2218

Discriminatory complaints may be initiated by letter or by telephone and must be filed with the Civil Rights Office within 180 days of their occurrence.

Steps on Resolving Complaints/Grievances

The purpose of this procedure is to ensure that a complaint is resolved promptly and that the complainant is advised of all the steps taken to resolve the complaint. A complaint is a written document signed by a participant, staff member, or any other interested person who alleges that the Governor, Local Area or other subcontractor has violated the Act and/or Rules and Regulations for any Grant and/or agreement. Complaints must be filed within one (1) year of the occurrence.

1) Preliminary Discussion

- a) Complaints are to be resolved at the lowest possible level: i.e. the level closest to the reason for the complaint. The complaint will be processed at the agency's work site by a supervisor or a Local Area Complaint Resolutions Officer. If the Resolutions Officer cannot settle a complaint, the complainant may have the option of using the grievance procedure by requesting a meeting with the designated Grievance Officer.

2) Informal Conference-CSS WFNY Grievance Officer

- a) If Step 1 does not resolve the complaint satisfactorily, the complaint may be submitted in writing to the CSS WFNY Grievance Officer. Whenever possible, the Customer Complaint Information Form (attachment C) should be used. A complaint should contain the following basic elements: complainant's name, address and telephone number; respondent's name and address; nature of the complaint including the basic who, what, where, when and how information, as applicable; signature of complainant and date signed. The complaint must be made within one (1) year of the incident or dispute. Notification acknowledging receipt of a complaint will be sent to the complainant within 30 days of the filing of the grievance. Prior to holding this information conference, the CSS WFNY Grievance Officer will conduct an impartial investigation of the complaint. This may include interviewing witnesses, taking statements, examining records, and receiving background information. Decisions of this informal conference shall be made no later than 29 days after the filing of the grievance. Complaints shall be sent via mail to:

CSS Workforce NY
Grievance Officer
23 West Market St, Suite 201
Corning NY 14830

3) Local Level Hearing Officer Appeal

- a) If no decision is reached within 30 days or if either party disagrees with the decision of the CSS WFNY Grievance Officer, the complainants may submit a request for local level hearing. Complainants must submit a second letter requesting a formal hearing within 15 days following receipt of the informal conference decision. The hearing officer will provide a written decision, based upon the entire record, including all evidence or oral testimony [resented at the hearing as recorded by an impartial Grievance Recorder.

The written decision will be mailed to the complainant, the respondent, and the Local Area Complaint Resolution Officer within 60 days of the original filing of the grievance. Requests for a hearing shall be sent via certified mail to:

CSS Workforce NY
Hearing Officer
23 West Market St, Suite 201
Corning NY 14830

4) State Level Appeal

- a) State level appeals must be submitted in writing to the State Hearing Officer within 10 days of receipt of the Local Area level findings. In addition, if no decision is rendered at the Local Area level with the prescribed 60-day time period, the complainant may, within 15 days after such decision was due, appeal for State Review. A State level appeal should contain the same basic elements necessary for the Local Area level. These are: complainants name, address and phone number; respondent's name, address and phone number (may be any agency or officer); the nature of the complaint (who, what, where, when, and how was applicable); signature of the complainant, date signed, information regarding decisions rendered at Local Area level. Information should be sent to:

New York State Workforce Investment Act Hearing Officer
New York State Department of Labor
State Office Building Campus
Building 12, Room 446
Albany, NY 12240

5) Complaint Review by the Governor-State Level

- a) The complainant had the right to request a review of the complaint by the Governor if: (1) a Hearing Decision is not received by the complainant within 90 days of filing the complaint; or (2) an unsatisfactory hearing decision is received and a request for the review is made within 10 days of the receipt of the decision. The Governor shall issue a decision within 30 calendar days. The Governor's decision is final. If the Governor does not issue a decision within 30 calendar days; the complainant may elevate the complaint to the Secretary of the United States Department of Labor.

6) Complaint Resolution-Federal

- a) Within 10 calendar days of the date that the Governor should have issued a decision, the complainant may request a determination from the Secretary of the U.S. DOL.
- b) The secretary shall act within 120 calendar days of receipt of the complainant's request.
- c) Section 629.55 of the March 15, 1983 Rules and Regulations stipulates that all information and complaints involving fraud or other criminal activity shall be reported directly and immediately to the Secretary of Labor.
- d) The CSS WFNY participant grievance procedures will be provided to each participant at the time of enrollment in grant-funded activity.
- e) CSS WFNY contractual agreements for services of training will include a statement to inform the contractor of this provision.
- f) The CSS WFNY will include in its local complaint resolution and grievance system description, the method(s) to be used to assure that those interested in Grant activities within the CSS WFNY, including the general public, are to be made aware of the process to follow to report information and/or complaints involving fraud, abuse or other criminal activity related to the Grant.
- i) An appeal, in writing, may be made to the U.S DOL Secretary of Labor
- ii) An appeal may be filed at this level only after the above Local and State steps have been completed.
- iii) The complaint should contain the following:
- (1) Your name, address and telephone
 - (2) Name and address of respondent
 - (3) A clear statement of the facts (including dates) relating to the complaint
 - (4) Where known, the provisions of the Grants law, rules and regulations or other Grant-related agreements believed to have been violated.

CSS Workforce NY
Grievance Officer
23 West Market St, Suite 201
Corning NY 14830
(607) 238-5730

7) State Discrimination Complaint Filing Procedure

- a) CSS WFNY is prohibited from discriminating on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief, gender identity, gender expression, sex stereotyping and for beneficiaries only, citizenship or participation in programs

funded by WIA/WIOA, in admission or access to, opportunity or treatment in, or employment in the administration of or in connection with, any WIA/WIOA funded program or activity.

- b) If you think you have been subjected to discrimination under a WIA/WIOA funded program or activity, you may file a complaint within 180 days from the date of the alleged violation with recipient's Equal Opportunity Officer, 20 Denison Pkwy W, Corning NY 14830, (607) 937-8337, by completing the US Department of Labor's Complaint Information Form (CIF).
- c) Recipient will issue a notice to the complainant of receipt of the complaint and a written Notice of Final Action will be issued within 90 days of the date on which the complaint was filed. If a complainant does not agree with the recipient's decision, then he/she may file a complaint with the Civil Rights Center-US Department of Labor within 30 days of the date on which the Notice of Final Action was issued.
- d) The complainant may choose to use the Alternative Dispute Resolution through Mediation (ADR) process instead of the local grievance officer's services. CSS WNFY will provide assistance to enable a complainant to understand and participate in the complaint process. Confidentiality is guaranteed to the level necessary and required and on a need to know basis.
- e) The non-breaching party to any agreement reached under ADR may file a complaint with the CRC in the event the agreement is breached within 30 days of the date on which the non-breaching party learned the alleged breach.
- f) All complaints will be attempted to be resolved at the local level however the complainant had the right to file a complaint of discrimination at the state or federal level using the information listed below:

i) **State Level**

Division of Equal Opportunity Development
NYS Department of Labor
State Office Building Campus
Albany NY 12240
(518) 457-1984
TDD: 1-800-662-1220
Voice: 1-800-421-1220

ii) **Federal Level**

Civil Rights Center
US Department of Labor
200 Constitution Ave
N.W. Room N-4123
Washington DC 20210

8.) NYS Department of Labor-Division of Equal Opportunity Development

a) Handling of Allegations of Discrimination at the State Level

- i) When a written complaint is filed with Division of Equal Opportunity Development (DEOD), DEOD will determine if the complaint is within the DEOD's jurisdiction.
- ii) DEOD will acknowledge receipt of the complaint to all appropriate parties. DEOD will also send a notice of non-jurisdiction, when necessary to the complainant and the LWIA.
- iii) DEOD may take the following actions but not limited to the following:
 - (1) On-site visit of the recipient's program or activity
 - (2) Desk-Audit of recipient's records
 - (3) Request that complainant visit DEOD for an in-person interview
 - (4) Review of vendor/provider services
 - (5) Review and analysis of Equal Opportunity (EO) data collection and reports relevant to allegation of complaint
 - (6) Review of recipient's demographics, employment referral, placement and training records.
- iv) DEOD will issue a Notice of Final Action within 90 days of the receipt of a written complaint. The time frame for the issuance of a resolution to the complainant includes the initial time the complainant filed in writing at the local level.
- v) DEOD will advise complainant of the right to use the Alternative Dispute Resolution Procedure and of the right to file a complaint with CRC if any agreement reached through ADR is perceived to be breached. The complainant will be advised of their right to use DEOD's customary procedure for discrimination complaints if the complainant and/or respondent to a complaint fail to reach an agreement through ADR or any party refuses to participate.
- vi) DEOD will advise the complainant of the right to file a complaint with the Civil Rights Center-US Department of Labor (CRC) within 30 days of receipt of the DEOD's Notice of Final Action.

DEOD will advise the complainant of their right to file a complaint in accordance with any applicable federal, state and local civil human rights laws.

For Non-Criminal Complaints/Grievances under Title I of the Workforce Innovation and Opportunity Act (WIOA)

WIOA Title I Complaint/Grievance Procedure

1. The process starts when a complaint/grievance is filed with the Grievance Officer. The officer must log the complaint, and review it to seek a resolution. a. Note, while not required, customers are encouraged to file complaints using the Customer Complaint Information Form (Attachment C). This same form can be utilized to file complaints under the Title III Wagner-Peyser program and/or for discrimination complaints filed under Section 188 of the Workforce Innovation and Opportunity. Appropriate procedure should be followed when filing a complaint in those cases.

2. A hearing will be scheduled at least thirty (30) calendar days, but no more than forty-five (45) calendar days, from the filing of the complaint/grievance to provide the person or entity (Complainant) with an opportunity to present witnesses and other evidence. a. Notice of the grievance hearing shall be in writing and include: the date, the time, and place of hearing; a statement of the law and regulations under which the hearing is to be held, and a short and clear statement of the complaint/grievance.

b. Note that if the Grievance Officer is successful in reaching an informal resolution with the Complainant prior to the date of the scheduled hearing, the scheduled hearing will be adjourned.

3. At the Local Area level, a written Decision must be issued to the Complainant by the Hearing Officer within sixty (60) calendar days of the filing of the complaint/grievance.

4. Complainants not in receipt of a written decision within sixty (60) calendar days of filing the complaint/grievance have the right to request a State Level review. Such a request must be filed within fifteen (15) calendar days from the date on which the Complainant should have received a written decision. The request for State Level Review must be filed with the State Level Grievance Officer. State level appeals must be submitted by certified mail, return receipt requested to:

State Level Grievance Officer
New York State Department of Labor
W. Averell Harriman State Office Building Campus
Building 12, Room 440
Albany, New York 12240-0001 Attachment A
2 05-09-2018

5. The Complainant also has the right to request a State Level review of an adverse decision issued by the Local Level Hearing Officer. Such request must be filed with the State Level Grievance Officer within ten (10) calendar days of receipt of the adverse decision.

6. State Level Review shall only proceed to the extent that a Local level hearing has been held, findings of fact made, and a decision rendered. If not, the State Level Grievance Officer shall return the complaint/grievance to the Local Level Grievance Officer with instructions on how to complete the review and hearing process.

7. To the extent that Local Level Hearing is complete, requests to review the Local Level Hearing decision shall be limited to any allegations of procedural errors or errors in interpreting or applying the law. Findings of Fact must occur at the Local Level. Any finding at the State Level indicating that errors were made at the Local Level in making Findings of Fact will be returned to the Local Level for further review.

8. If a State Level Review is requested, the State Level Grievance Officer shall investigate the complaint/grievance, seek resolution, and issue a written decision within sixty (60) calendar days of receipt of a request for a review by a Complainant.

9. A hearing will be scheduled at least thirty (30) calendar days, but no more than forty-five (45) calendar days, from the filing of the complaint/grievance. a. Note that if the State Level Grievance Officer is successful in reaching an informal resolution with the Complainant prior to the date of the scheduled hearing, the scheduled hearing will be adjourned.

10. Complainants either not given a hearing or who did not receive a hearing decision within sixty (60) calendar days of requesting State Level Review, and which were not remanded back to the Local Level, have the right to request a Federal Level Review. Such a request must be filed within fifteen (15) calendar days from the date on which the Complainant should have received a written decision.

11. Complainants in receipt of a written State Level hearing decision, have the right to request a Federal Level Review. Such a request must be filed within ten (10) calendar days from the date on which Complainant received the written hearing decision. Such requests must allege either procedural violations or errors in interpreting or applying the law at the lower level hearing. Federal Level Appeals must be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, Washington, DC 20210, Attention: ASET. A copy of the appeal must be simultaneously provided to the appropriate ETA Regional Administrator (address below) and the opposing party.

