

Operational Policy NO. OP- 403

Subject: WIA Program Complaint Resolution Procedures

Effective: PY10 – 04/18/2011

PURPOSE:

The purpose of Operational Policy No. OP-403 is to set forth the complaint procedures for program complaints involving proper application of the Workforce Investment Act and its regulations and policies.

BACKGROUND:

Section 667.600 of the federal regulations require the local workforce investment board, State and direct recipient of title I WIA funds to establish and maintain a procedure for grievances and complaint. The WIA Program Complaint Resolution Procedures will follow State guidance based on 11.2.26.8.A NMAC (Program Complaints Against Local WIA Programs).

ACTION:

Applicability. This policy is applicable to all applicants, participants, service providers, recipients and other interested parties alleging a non-criminal violation of local WIA programs, agreements or the local workforce development board's policies and activities, including, but not limited to, partners providing services at the NMWC Business and Career Centers.

The Complaint. The Complainant must initiate the Complaint Process by filing a written complaint, explaining in sufficient detail the event or condition that is alleged to be a violation of any statute, State or Local regulation, policy, or program that is governed by WIA (collectively, "WIA violation").

STATUTE OF LIMITATIONS. THE COMPLAINT MUST BE FILED WITH THE PROVIDER OF SERVICES OR WITH THE LOCAL ADMINISTRATIVE ENTITY, WORKFORCE CONNECTION OF CENTRAL NEW MEXICO ("WCCNM"), **WITHIN ONE (1) YEAR FROM THE DATE OF THE EVENT OR CONDITION THAT IS ALLEGED TO BE A VIOLATION OF ANY STATUTE, STATE OR LOCAL REGULATION, POLICY, OR PROGRAM THAT IS GOVERNED BY WIA.**

Initial Review of Complaint. Upon receipt of the complaint, the provider of services will log the complaint and conduct an initial review to determine whether the complaint alleges a violation of any statute, State or Local regulation, policy, or program that is governed by WIA.

Informal Resolution. If the Complaint does not allege a WIA violation, the complaint will

be referred to the appropriate organization. However, if the Complaint alleges a WIA violation, a representative of the provider of services will prepare a complaint file to include the following: (a) all application and enrollment forms, if appropriate; (b) complaint statement or form; (c) chronological log of events; (d) relevant correspondences; and (e) a record of the resolution attempted resolution. Any and all meetings held between the provider of services and the Complainant for purposes of resolving the complaint must be tape or video recorded.

At this stage, the provider of services should contact the Complainant to make attempts to informally resolve the complaint. However, if no informal resolution is reached within ten (10) calendar days of receiving the complaint, the provider of services will then immediately forward the complaint file to WCCNM for a formal determination.

Formal Determination. Upon receipt of the complaint file from the provider of services, WCCNM will review the complaint file and, if necessary, conduct a further investigation. WCCNM will issue a formal determination within twenty (20) calendar days from the date the complaint was filed.

Hearing. If the Complainant is dissatisfied with WCCNM's formal determination, or if WCCNM fails to issue a formal determination, the Complainant may request a hearing within ten (10) calendar days from: (a) the date of WCCNM's formal determination letter, if a formal determination has been issued; or (b) the due date of WCCNM's formal determination, if a formal determination has not been issued.

The Complainant's request for hearing must be sent via certified mail or hand-delivery to: WCCNM, c/o Executive Director, 809 Copper Ave. NW, Albuquerque, NM 87102. Upon receipt of a request for hearing, WCCNM will forward the complaint file to an impartial hearing officer for resolution. The hearing officer will schedule a hearing* and send written notices to all parties at least seven (7) calendar days prior to the hearing. The hearing will be held within forty-five (45) calendar days from the date the complaint was filed.

***Hearing Procedures:** Each party may present witnesses and documentary evidence and may question witnesses. Each party may be represented by an attorney or another designated representative, and may also request that records and documents be produced. The hearing will be recorded, and all testimony will be taken under oath or affirmation.

Following the hearing, the hearing officer will issue a recommended resolution which will include a summary of factual evidence and the conclusions upon which the recommendation is based. WCCNM will then review the hearing officer's recommended resolution and issue a final decision. WCCNM's final decision must be issued within sixty (60) calendar days from the date the complaint was filed.

Appeal of WCCNM's Final Decision. If Complainant is dissatisfied with WCCNM's final

decision, or if Complainant does not receive a final decision or resolution within sixty (60) calendar days from the date the complaint was filed, Complainant may file a request for review with the New Mexico Department of Workforce Solution's Office of Workforce Training and Development. The request for review must be filed within ninety (90) calendar days from the date the complaint was filed.

INQUIRIES:

WIA Manager: (505) 247-1750