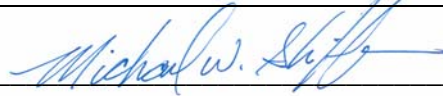


State of Alaska Department of Labor and Workforce Development

Division: Business Partnerships	Policy No.: 260.00 <i>Final</i>
Subject: Appeal Process for Grievances and Complaints	Pages: 7
Reference: Workforce Investment Act (WIA) Sections 181 (c) and (f), 184(f), 188; 29 CFR 31, 34, 37; Denali Commission Act of 1998; 28 CFR 35; 20 CFR, Preamble, 667.600 – 667.650 DOL Non-discrimination regulations; DOLETA Employment Services 9002A; Alaska Statute 18.80; 80 Alaska Administrative Code (AAC) 84.100, 84.153-157; 2AAC 12.990; Federal Register, Volume 68, Number 26; State of Alaska Administrative Order 129; State Training and Employment Program AS 23.15.620-660	Effective Date: 7/01/05
	Revised: 8/02/05
Approved:  _____ October 21, 2005 for Corine Geldhof, Acting Director, Division of Business Partnerships Date	

1) Parties Affected

Grant recipients of the Division of Business Partnerships (DBP)

- a) Workforce Investment Act (WIA) grant recipients who administer:
 - i) Adult and Dislocated Worker Programs
 - ii) Youth Programs
 - iii) National Emergency Grant (NEG)
 - iv) Rapid Response, additional assistance
- b) Denali Training Fund
- c) State Training and Employment Program (STEP)

2) Purpose

This policy provides an appeal process for formal or informal resolution of program and discrimination complaints for applicants or participants in Workforce Investment Act (WIA), Denali Training Fund, and State Training and Employment Program (STEP) programs.

3) Definitions

- a) *Applicant:* An individual or organization that seeks Division of Business Partnerships (DBP) program services or funds through WIA Title IB, STEP, or Denali Training Fund.
- b) *Beneficiary:* The person or persons intended by lawmakers to receive benefits or services from a recipient of financial assistance under DBP programs (WIA Title IB, STEP, or the Denali Training Fund).

- c) *Complaint*: An oral or written statement that alleges unfair treatment and/or a violation of applicable law, regulations, or other agreement(s) under DBP programs (also referred to as a grievance).
- d) *Complaint Investigation*: The fact-finding process to collect all information relevant to the issues of the complaint.
- e) *Complainant*: The individual, organization, or authorized representative filing the complaint or grievance.
- f) *Days*: Consecutive calendar days.
- g) *Discrimination Complaint*: A written statement in which the complainant alleges mistreatment due to race, color, religion, sex, national origin, age, disability, political affiliation, marital status, change in marital status, pregnancy, parenthood, or belief, citizenship or participation in the DBP program.
- h) *Employer*: Private-for-profit and/or public not-for-profit organizations that employ and pay wages to DBP program participants.
- i) *Equal Opportunity Officer (EOO)*: Individual designated by the program provider to ensure nondiscrimination procedures and due processes are established and maintained in administering program services.
- j) *Hearing*: The opportunity for both parties (complainant and respondent) to formally present documents/evidence relative to the issues of a program complaint before an independent, objective individual.
- k) *Hearing Decision*: The Hearing Officer's decision. The written decision on a complaint issued by a DBP program staff or its designated Hearing Officer. Decisions may be appealed to the State level, although complaints regarding discrimination and criminal activity may be filed separately at a Federal level for WIA programs.
- l) *Hearing Officer*: Independent, objective individual with neither direct nor indirect relationship to the DBP program retained by the entity responsible for the appeal process. This person conducts the formal hearing on the complaint. An acceptable hearing officer may be a local private attorney, city attorney, personnel director from another organization, law professor or law student, hearing officer from another organization, a labor relations expert, employment and training personnel from an outside program provider, or other individual who satisfies objectivity requirements.
- m) *Informal Resolution*: A mutually acceptable solution to a complaint achieved through informal discussion between complainant and respondent.
- n) *Local Complaint Officer*: Local representative of the program where the complainant is registered.
- o) *Other Interested Party*: A person or organization potentially affected by the outcome.
- p) *Participant*: An individual or organization who currently receives or has received services in the prior 2 months funded by a DBP program.
- q) *Program Complaint*: An oral or written statement that alleges a non-criminal violation by the DBP program provider.

- r) *Program Provider (Sub-recipient)*: The entity that receives funding through the DBP and its subcontractors. The program provider is responsible for development, implementation and monitoring of the appeal process.
- s) *Program Staff*: Personnel whose salaries are paid with WIA Title IB, STEP, or Denali Training Fund monies and whose job positions are directly related to the operation and/or administration of a DBP program as well as any future funding administered by DBP.
- t) *Respondent*: Person or entity against whom a complaint is filed.

4) **Policy**

The DBP appeal process for resolution of program and discrimination complaints are specified herein. Grant recipients must inform registrants and other interested parties of the procedures contained in this document, as well as procedures for reporting criminal activity. Any provisions contained in the WIA, STEP, Equal Opportunity, Denali Commission or other laws and regulations shall apply, even if they are not explicitly stated in this policy. Nothing in this policy shall be construed to contradict prevailing laws and requirements for complaints or equal opportunity matters.

5) **Responsibilities**

- a) ***Coordination***. Participants under WIA partner programs may file a complaint with the DBP if they are affected by the WIA system.
 - i) Appeal processes available in partners' programs are those available under the law authorizing that program.
 - ii) A person (or entity) that believes a WIA partner may have violated the DBP program may use the complaint procedure available under the DBP program.
- b) ***Confidentiality***. Program providers and staff must protect the confidentiality of complainants to the maximum extent possible. When consent has been provided for the release of the complainant's identity, program providers must ensure that such disclosure is made under conditions that promote the continued receipt of confidential information.
- c) ***Types of Complaints***. Complainants may seek redress for either program or discrimination complaints. Program complaints pertain to whether program staff applied the law, regulations, and professional protocol appropriately while making program decisions. Discrimination complaints concern whether program staff made decisions on a *prohibitive basis*. Program complaints may be appealed through program staff whereas discrimination complaints may also be filed with State and Federal agencies.
 - i) ***Program Complaints***. A complainant may appeal DBP program decisions if s/he:
 - (1) Applied for services;
 - (2) Registered for and is receiving services;
 - (3) Is a one-stop partner or provides services on a contractual basis;
 - (4) Was denied potential DBP funding;

- (5) Appealed through an employer (if job-related) and seeks further redress;
 - (6) Is subject to testing for use of controlled substances; or
 - (7) Was sanctioned after testing positive for the use of controlled substances.
- ii) ***Discrimination Complaints.*** Any person who believes that he or she, or any specific class of individuals, has been, or is being, subjected to discrimination prohibited under law and/or through participation in a DBP-financially assisted program has the option of using the procedure outlined in Section 6(c) of this document.
 - iii) ***WIA Appeal Process Violation.*** The complainant has a right to request from the Secretary of Labor a determination pursuant to 20 CFR 667.600, Subpart F as to whether the WIA or its Regulations have been violated with regard to the appeal process.
- d) ***Statute of Limitation.*** The following time limitations apply to the appeal process:
 - i) The complainant must file a complaint within one (1) year of the occurrence of the problem.
 - (1) If the complaint concerns discrimination under WIA it must be filed within 180 days of the occurrence. Only the Director of the Civil Rights Center, U.S. Department of Labor (USDOL) may extend the filing time.
 - e) ***Equal Opportunity.*** Accommodation shall be made for individuals with limited English-speaking, writing, or reading ability, hearing impairment, or other disability, which restricts the normal processing of an alleged program or discrimination complaint.
 - f) ***Local versus State Protocol.*** The complainant may initiate informal or formal resolution at the state level. However:
 - i) The DBP Director may refer the complaint to the local level for informal resolution prior to processing.
 - ii) Complaints initially filed at the state level may not later be filed at the local level.
 - (1) This does not preclude informal resolution at the same time locally.
 - iii) If a formal complaint is submitted initially at the state level, the state may extend the period in which the Division or Commissioner issues a decision by a total of 10 days.
 - iv) The Employment Security Division (ESD) must copy the DBP Director on formal complaints filed with its Director if the complaint pertains to funds provided to ESD by DBP.
 - g) ***Compliance.*** Grant recipients of the DBP must establish procedures to administer complaints in accordance with State and Federal laws and regulations.
 - h) ***Withdrawal of Complaint.*** The complainant has the right to withdraw the complaint, in writing, at any time.

6) **Procedure**

- a) ***Informal Resolution.*** Complainants may pursue informal resolution of *program complaints* at any time. Local program providers and State program staff should:
 - i) Attempt to resolve complaints informally;
 - ii) Arrange to meet with the complainant and other interested parties;

- iii) Ascertain facts with all service providers prior to meeting;
- iv) Retain on file a brief report regarding facts, issues discussed, and outcome; and
- v) Close the case if the complainant, program staff, and other interested parties reach a mutually satisfactory resolution.

(1) The complainant may seek formal resolution regardless of outcome or his attendance at the informal meeting.

b) **Formal Resolution.** Complainants may file formal complaints at the Local or State level, and may request a hearing as a final resolution.

i) **Filing.** Formal *program complaints* must be in writing and include:

(1) The complainant's full name, address, phone number, and/or other means of contacting complainant;

(2) The full name and address of the individual or entity that the complainant alleges is responsible for his or her complaint;

(3) The complainant's job title (if applicable) and the DBP program of registration;

(4) If an applicant, the name of the DBP program;

(5) A clear and concise statement of the facts, including pertinent dates constituting the alleged violation;

(6) Copies of pertinent correspondence, if any;

(7) The remedy the complainant seeks;

(8) Signature and date of complainant or authorized representative; and

(9) Submission via certified mail, return receipt requested to the local complaint officer, DBP Director, or (per item iv below) Department of Labor and Workforce Development (DOLWD) Commissioner.

ii) **Local Resolution.** The complainant or authorized representative may submit a formal complaint to the local complaint officer, who must conduct an investigation and render a written decision within 10 days of the receipt of the complaint. The local complaint officer must advise the complainant of further appeal rights.

iii) **State Resolution – Division Director.** The division must receive the appeal within 10 days of the receipt of the decision from the local complaint officer, or within 10 days of the date on which the complainant should have received a decision.

(1) Complainants must submit requests via certified mail, return receipt requested to: Acting Director, Division of Business Partnerships, 1111 West 8th Street, P.O. Box 25509, Juneau, AK 99801 [Voice: (907) 465-5937].

(2) The DBP Director will issue a decision within 10 days of the receipt of request for review and advise the complainant of further appeal rights.

iv) **State Resolution – Commissioner.** The complainant has the right to appeal to the DOLWD Commissioner if the DBP Director fails to render a decision within the allotted time, or if the complaint is not resolved to the complainant's satisfaction.

- (1) The state must receive the appeal within 10 days of the receipt of the decision from the DBP Director, or within 10 days of the date on which the complainant should have received a decision.
 - (a) Complainants must submit requests via certified mail, return receipt requested to: Commissioner, Alaska Department of Labor and Workforce Development, 1111 West 8th Street, P.O. Box 21149, Juneau, AK 99802-1149 [Voice: (907) 465-2700].
- (2) The Commissioner will issue a decision within 5 days of the receipt of request for review and advise the complainant of further appeal rights.
- v) **Hearing.** The complainant has the right to appeal the state's decision by requesting a hearing. The complainant must contact the DBP Director (at the above address) within 5 days and schedule a hearing within 10 days of the Commissioner's decision. The DBP Director will provide notice of the hearing date via certified express mail, return receipt requested.
 - (1) The complainant has the following rights with respect to the hearing process:
 - (a) Representation at the hearing by counsel or other authorized agent(s);
 - (b) Presentation and questioning of witnesses and other parties;
 - (c) Waiver or postponement of a scheduled hearing in order to pursue informal resolution;
 - (d) A request, with good cause, to reschedule the hearing;
 - (e) Use of telephone or teleconference to conduct the hearing if it is impractical for all parties to appear at the same place;
 - (f) The hearing will be held within 55 days of the receipt of the complaint; and
 - (g) A Hearing Officer will be appointed to conduct the hearing.
 - (2) The complainant is responsible for the cost of his representation.
 - (3) A written decision will be rendered within 5 days of the date of the hearing. The decision will be final.
- c) **Discrimination Complaints.** Complainants alleging discrimination may appeal through the DBP Equal Employment Opportunity Officer prior to filing through the State or Federal agencies.
 - i) **Departmental.** Complainants may submit requests to the DBP Equal Opportunity Officer via certified mail, return receipt requested to: Equal Opportunity Officer, Division of Business Partnerships, 1016 West 6th Avenue, Suite 205, Anchorage, AK 99501 [Voice: (907) 269-4647].
 - (1) If this option is elected the complainant must wait until a decision is issued or 60 days, whichever is sooner, before filing with the Civil Rights Center (CRC) or the Alaska State Commission for Human Rights (ASCHR).
 - (2) If a decision is not provided within 60 days of filing the complaint, a complaint may be filed with CRC within 30 days of the expiration of the 60-day period.

- (3) If the complainant is dissatisfied with the state's resolution of the complaint, a complaint may be filed with the CRC or ASCHR. Such complaints must be filed within 30 days of the date of the state's final decision.
- ii) **State.** If a complaint concerns alleged discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation, belief, marital status, change in marital status, pregnancy, or parenthood under a state-administered program, it may be processed directly by ASCHR.
- (1) Discrimination complaints may be sent certified mail, return receipt requested, to the Alaska State Commission for Human Rights, 800 A Street, Suite 204, Anchorage, AK 99501-3669. [Anchorage Area 907-274-4692; Anchorage Area TTY/TDD 907-276-3177; Toll-Free Complaint Hot Line (in-state only): 800-478-4692 TTY/TDD; Toll-Free Complaint Hot Line (in-state only): 800-478-3177].
- iii) **Federal.** If the complaint concerns alleged discrimination in a US Department of Labor-funded program on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, or discrimination on the basis of either citizenship or status as a lawfully admitted immigrant authorized to work in the United States, it may be processed directly by the U.S. Department of Labor's Civil Rights Center (CRC).
- (1) The complainant may obtain a Directorate's Complaint Information Form from the DBP Equal Opportunity Officer at 1016 West 6th Avenue, Suite 205, Anchorage, AK 99501 [Voice: (907) 269-4647].
- (2) Discrimination complaints to CRC must be sent certified mail, return receipt requested, to: Director, U.S. Department of Labor, Civil Rights Center, 200 Constitution Avenue, N.W., Room N4123, Washington, D.C. 20210. [Voice: (202) 219-7026; TTY: (800) 326-2577; Fax: (202) 219-5658; E-mail: CRC-WIA@dol.gov]
- d) **Criminal Activity.** Complaints or information concerning fraud, waste, abuse, or other criminal activity must be submitted directly and immediately to the appropriate program official.
- i) **WIA.** Send reports of criminal activity to: Regional Administrator, USDOL Employment and Training Administration, 1111 Third Avenue, Suite 815, Seattle, Washington 98101-3212 [Hotline: (800) 347-3756].
- (1) Copy all information sent to USDOL to the DBP Acting Director at 1111 West 8th Street, P.O. Box 25509, Juneau, AK 99801 [Voice: (907) 465-5937].
- ii) **STEP and Denali Training Fund.** Report criminal activity to the DBP Director at the above address.