

877—12.20(7B,PL97-300,PL102-367) SDA level complaint procedures.

12.20(1) SDA grantee complaint procedures. Each service delivery area (SDA) grantee shall establish procedures for resolving any complaint by a participant, subgrantee, subcontractor and other interested persons alleging a violation of the JTPA, regulations, grant or other agreements under the JTPA by the SDA grantee, administrative entity, private industry council, subgrantee or subcontractor. At a minimum, the SDA level complaint procedure shall provide for:

- a.* Resolution of any complaint, except discrimination complaints which shall be resolved consistent with 12.19(5) and 12.21(4), alleging a violation of the Act, federal regulations, JTPA administrative rules, grant or other agreements under the Act;
- b.* Resolution of complaints arising from actions such as audit disallowances or the imposition of sanctions taken with respect to audit findings, investigations or monitoring reports;
- c.* Filing of complaints within one year of the alleged violation, except for allegations of fraud or criminal activity and discrimination prohibited under the Act;
- d.* An opportunity for a hearing within 30 days of the date the complaint is filed;
- e.* Written notice of the date, time, and place of the hearing;
- f.* An opportunity to present evidence at the hearing;
- g.* Opportunity to have records or documents relevant to the issues produced by their custodian when the records or documents are kept by or for the SDA grantee or its subgrantees in the ordinary course of business and where prior reasonable notice has been given to the presiding officer;
- h.* A written decision within 60 days of the date a complaint is filed;
- i.* A written explanation to all parties of the right to request a review by the state of the complaint if a party receives an adverse decision or if there is no final decision within the 60-day period. Requests for review by the state must meet the requirements of 12.21(3);
- j.* If the state should fail to issue a decision within 30 days of the filing of the request for state review, a party may request from the Secretary of Labor a determination whether reasonable cause exists to believe that the Act or regulations have been violated. A request to the Secretary of Labor must be filed within 10 days of the date a decision should have been issued by the state and conform to the requirements of 29 CFR 629.52(d) as of October 7, 1980.
- k.* Upon enrollment, all participants must receive a written description of the complaint procedures which they are to follow. The description must include notification of the right to file a complaint and instructions on how to do so;
- l.* If a person is not familiar with English, a written or oral translation into a language understood by the individual must be provided. If a person is illiterate or semiliterate, the person must be advised of such right to the satisfaction of that person's understanding;
- m.* During the complaint process, each complainant and party must be notified in writing of the next step in the complaint procedure;
- n.* A complaint log and a record of each complaint filed must be maintained at the local level.

12.20(2) Grantees and other subrecipients of JTPA funds must ensure that employers of participants under this Act continue to operate, or establish and maintain, a grievance procedure relating to the terms and conditions of employment. Employers may operate their own grievance procedure or use the grievance procedure established by the grantee. Employers shall inform participants of the grievance procedure they are to follow and of their right to have the employer's decision reviewed by the grantee.