

871—53.24(84A,PL105-220) Department complaint procedures. Complaints may be filed with the department to resolve alleged violations of the Act, federal or state regulations, grant agreement, contract or other agreements under the Act. The department's complaint procedure may also be used to resolve complaints with respect to audit findings, investigations or monitoring reports.

53.24(1) Grievances and complaints from customers and other parties related to the regional workforce development center system and regional programs shall be filed through regional complaint procedures. Any party which has alleged violations at the regional level, and has filed a complaint at the regional level, may request review by the department if that party receives an adverse decision or no decision within 60 days of the date the complaint was filed at the regional level.

53.24(2) Any interested person, organization or agency may file a complaint. Complaints must be filed within 90 calendar days of the alleged occurrence. Complaints must be clearly portrayed as such and meet the following requirements:

a. Complaints must be legible and signed by the complainant or the complainant's authorized representative;

b. Complaints must pertain to a single subject, situation or set of facts and pertain to issues over which the state has authority (unless appealed from the regional level);

c. The name, address and telephone number (or TDD number) must be clearly indicated. If the complainant is represented by an attorney or other representative of the complainant's choice, the name, address and telephone number of the representative must also appear in the complaint;

d. Complaints must state the name of the party or parties complained against and, if known to the complainant, the address and telephone number of the party or parties complained against;

e. Complaints must contain a clear and concise statement of the facts, including pertinent dates, constituting the alleged violations;

f. Complaints must cite the provisions of federal or state regulations, grant agreements, or other agreements believed to have been violated, if applicable;

g. Complaints must state the relief or remedial action(s) sought;

h. Copies of documents supporting or referred to in the complaint must be attached to the complaint; and

i. Complaints must be addressed to Complaint Officer, Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

53.24(3) A complaint is deemed filed with the department when it has been received by the complaint officer and meets the requirements outlined in 53.24(2). Upon receipt of a complaint, the department will send a copy of the complaint and a letter of acknowledgment and notice to the complainant and any persons or entities cited in the complaint within seven calendar days. The letter of acknowledgment and notice shall contain the filing date and notice of the following opportunities:

a. The opportunity for informal resolution of the complaint at any time before a hearing is convened; and

b. The opportunity for a party to request a hearing by filing with the complaint officer within seven calendar days of receipt of the acknowledgment of the complaint.

53.24(4) Failure to file a written request for a hearing within the time provided constitutes a waiver of the right to a hearing, and a three-member panel shall rule on the complaint based upon the information submitted. If a hearing is requested within seven calendar days of receipt of the acknowledgment of the complaint, the hearing shall be held within 20 calendar days of the filing of the complaint. The party(ies) to the complaint shall have the opportunity to submit written evidence, statements, and documents in a time and manner prescribed by the complaint officer.

53.24(5) The complaint officer shall convene a review panel of three agency staff members to review complaints within 20 calendar days of the receipt of the complaint. The review panel may, at its discretion, request oral testimony from the complainant and the parties complained against. Within 30 calendar days of the receipt of the complaint, the review panel shall issue a written decision, including the basis for the decision and, if applicable, remedies to be granted. The decision shall detail the procedures for a review by the director if the complainant is not satisfied with the decision.

53.24(6) Party(ies) may appeal the decision by filing an appeal with the complaint officer no later than 10 calendar days from the issuance date of the decision. The complaint officer will forward the complaint file to the director for review. If no appeal of the decision is filed within the time provided, the decision shall become the final agency decision.

53.24(7) A complaint may, unless precluded by statute, be informally settled by mutual agreement of the parties at any time before a hearing is convened. The settlement must be effected by a settlement agreement or a statement from the complainant that the complaint has been withdrawn or resolved to the complainant's satisfaction. The complaint officer must acknowledge the informal settlement and notify the parties of the final action. With respect to the specific factual situation which is the subject of controversy, the informal settlement constitutes a waiver by all parties of the formalities to which they are entitled under the terms of the Iowa administrative procedure Act, Iowa Code chapter 17A, the Act, and the rules and regulations of the Act.

53.24(8) Upon receipt of a timely request for a hearing, the complaint officer shall assign the matter to a panel. The panel will give all parties at least seven days' written notice either by personal service or certified mail of the date, time and place of the hearing. The notice may be waived in case of emergency, as determined by the panel, or for administrative expediency upon agreement of the interested parties.

a. The notice of hearing shall include:

- (1) A statement of the date, time, place, and nature of the hearing;
- (2) A brief statement of the issues involved; and
- (3) A statement informing all parties of their opportunities at the hearing.

b. All parties are granted the following opportunities at hearing:

- (1) Opportunity for the complainant to withdraw the request for hearing before the hearing;
- (2) Opportunity to reschedule the hearing for good cause, provided the hearing is not held later than 20 days after the filing of the complaint;
- (3) Opportunity to be represented by an attorney or other representative of choice at the complainant's expense;
- (4) Opportunity to respond and present evidence and bring witnesses to the hearing;
- (5) Opportunity to have records or documents relevant to the issues produced by their custodian when such records or documents are kept by or for the state, contractor or its subcontractor in the ordinary course of business and where prior reasonable notice has been given to the complaint officer;
- (6) Opportunity to question any witnesses or parties;
- (7) The right to an impartial review panel; and
- (8) A final written agency decision shall be issued within 60 days of the filing of the complaint.

53.24(9) An appeal to the director must be filed within 10 calendar days from the issuance date of the decision and include the date of filing the appeal and the specific grounds upon which the appeal is made. Those provisions upon which an appeal is not requested shall be considered resolved and not subject to further review. Appeals must be addressed to Complaint Officer, Division of Workforce Services, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

Upon receipt of an appeal, the complaint officer shall forward the complaint file to the director. The complaint officer shall give written notice to all parties of the filing of the appeal and set a deadline for submission of all written evidence, statements, and documents. The director shall consider all timely filed appeals, exceptions, statements, and documents at the time the decision is reviewed. With the consent of the director, each party may present oral argument. The director may adopt, modify or reject the review panel's decision or remand the case to the review panel for the taking of such additional evidence and the making of such further findings of fact, decision and order as the director deems necessary.

Upon completing the review of the review panel's decision, the director shall issue and forward to all parties a final written decision no later than 60 days after the filing of the initial complaint.

53.24(10) The director's decision is final unless the Secretary of Labor exercises the authority of federal review in accordance with 20 CFR Part 667. Federal level review may be accepted by the Secretary if the complaint meets the requirements of 20 CFR Part 667. Upon exhaustion of the state's grievance and complaint procedure, or when the Secretary has reason to believe that the state is failing to comply with the Act, the state plan, or the region's customer service plan, the Secretary must investigate the allegation or

belief and determine within 120 days after receiving the complaint whether such allegation or complaint is true.

53.24(11) Any party receiving an adverse decision at the regional level may file an appeal within 10 calendar days to the department's complaint officer. In addition, any complaint filed at the regional level with no decision within 60 days of the date of the filing may be reviewed by the department. The request to review the complaint must be filed with the complaint officer within 15 calendar days from the date on which the decision should have been received. The appeal or request for review must comply with the procedures as prescribed in 53.24(2) for filing a complaint. The parties involved shall be afforded the rights and opportunities for filing a state level complaint.

The complaint officer shall review all complaints filed within seven calendar days. If the subject and facts presented in the complaint are most relevant to regional policy, the complaint officer shall remand the complaint to the coordinating service provider of the appropriate region for resolution.

Failure to file the complaint or grievance in the proper venue does not negate the complainant's responsibility for filing the complaint in the appropriate time frames.

53.24(12) A unit or combination of units of general local governments or a rural concentrated employment program grant recipient that requests, but is not granted automatic or temporary and subsequent designation as a local workforce investment area, may appeal to the state workforce development board within 30 days of the nondesignation. If the state workforce development board does not grant designation on appeal, the decision may be appealed to the Secretary of Labor within 30 days of the written notice of denial. The appeal must be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, Washington, DC 20210. The appellant must establish that it was not accorded procedural rights under the appeal process described in the state plan or establish that it meets the requirements for designation in the Act. The Secretary shall take into account any comments submitted by the state workforce development board.

53.24(13) Training providers have the opportunity to appeal denial of eligibility by a regional workforce investment board or the department, termination of eligibility or other action by a regional workforce investment board or the department, or denial of eligibility as a provider of on-the-job training or customized training by the coordinating service provider. All appeals must be filed with the department within 30 days of receipt of written notice of denial or termination of eligibility. Appellants must follow the procedures for a complaint described in 53.24(2). Appeals shall be handled in the same manner as a complaint. State decisions issued under this subrule may not be appealed to the Secretary of Labor.

53.24(14) WIA participants subject to testing for use of controlled substances and WIA participants who are sanctioned after testing positive for the use of controlled substances may appeal to the department using the procedures for a complaint described in 53.24(2). State decisions issued under this subrule may not be appealed to the Secretary of Labor.

53.24(15) A workforce development region may appeal nonperformance sanctions to the Secretary of Labor under the following conditions:

a. The region has been found in substantial violation of WIA Title I, and has received notice from the governor that either all or part of the local plan will be revoked or that a reorganization will occur; or

b. The region has failed to meet regional performance measures for two consecutive years and has received the governor's notice of intent to impose a reorganization plan.

Revocation of the regional plan or reorganization does not become effective until the time for appeal has expired or the Secretary has issued a decision. An appeal must be filed within 30 days after receipt of written notification of plan revocation or imposed reorganization. It must be submitted by certified mail, return receipt requested, to Secretary of Labor, Attention: ASET, U.S. Department of Labor, Washington, DC 20010. A copy of the appeal must be simultaneously provided to the governor. In deciding the appeal, the Secretary may consider comments submitted in response from the governor. The Secretary will notify the governor and appellant in writing of the Secretary's decision within 45 days after receipt of the appeal filed under 53.24(15) "a"; and within 30 days after receipt of appeals filed under 53.24(15) "b."

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