

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

Employment Administration • Workforce Investment Act (WIA)

GRIEVANCE PROCEDURES, COMPLAINTS AND STATE APPEALS PROCESSES

The State of Arizona, each Local Workforce Investment Area (LWIA), and other recipients of funds (excluding participants) under Title IB of the Workforce Investment Act (WIA), must establish and maintain a procedure for grievances and complaints in accordance with requirements of P.L. 105-220 and its related regulations contained in 20 and 29 Codes of Federal Regulations (CFR). Nothing in these procedures precludes a grievant or complainant from pursuing a remedy authorized under another Federal, State or local law.

Remedies that may be imposed under State, local and direct recipient grievance procedures shall be limited:

- (1) To suspension or termination of payments under WIA;
- (2) To the prohibition of placement of a participant with an employer that has violated any requirements of WIA and applicable regulations;
- (3) Where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and
- (4) Where appropriate, to other equitable relief.

State procedures:

- (1) The State of Arizona's process for dealing with grievances and complaints from participants and other interested parties affected by statewide Workforce Investment programs includes:
 - A. Grievances, Complaints and Appeals
 1. A grievance or complaint is a written description of an alleged violation of the WIA, dated and signed by an interested party.
 2. An appeal is any written, dated and signed communication by an interested party expressing their intent to appeal any action or inaction with respect to a grievance or complaint to a higher level. Any action pursuant to the original decision is stayed until a final decision is made by the State.
 3. The freedom to file a complaint or appeal may not be limited or interfered with in any way.
 4. Representation of interested parties in connection with complaints or appeals may not be limited or interfered with in any way.
 5. The State will make reasonable efforts to assure that the information will be understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals. Such efforts will comply with the language requirements specified in 29 CFR 37.35 regarding the provision of services and information in languages other than English.
 - B. Right to Grieve, Complain or Appeal
 1. Any interested person has a right to file a grievance or complaint.
 2. Any complaint relating to a term or condition of employment shall be filed under the employer's established grievance procedures.
 3. All other complaints shall be initiated at the recipient level.

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C. Time Limitations

Complaints under this section shall be filed within one year of the alleged occurrence.

D. Time Computation, Filing and Receipt

1. For purposes of these procedures, any complaint, appeal, application, request, notice, objection, petition, report or other information is considered received and filed timely:
 - a. If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark, on the envelope in which it is received; or
 - b. If not postmarked or postage meter marked, or if the mark is illegible, on the date entered on the documents as the date of completion.
 - c. If transmitted by any means other than the United States Postal Service on the date it is actually received.
 - d. If a delay in filing is due to an error or misinformation by the organization or person with whom the complaint or appeal is filed, the time limitation shall be adjusted in a manner equitable to the complainant.
2. Any reference to “days” is interpreted as calendar days. In computing any period of time, the date of the act, event or default is not included. The last day of the period computed is counted, unless it is a Saturday, a Sunday, or a legal holiday, in which case the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

E. Hearing

A Hearing Officer of the Department of Economic Security will hear complaints at the State level.

(2) The process for resolving appeals to the State:

Any party who has filed a grievance or complaint below the State level has the opportunity for an appeal to the State when no decision is reached within 60 days or either party is dissatisfied with the local hearing decision.

- A. The appeal must be filed within ten days of the receipt of an adverse decision; or
- B. The appeal must be filed within ten days from the date a decision should have been issued; or
- C. Any appeal filed after the tenth day following the decision is null and void.

(3) The State of Arizona, consistent with the philosophy of WIA, encourages the resolution of grievances and complaints at the lowest level. In instances when a grievance or complaint is submitted directly to the State, but could be heard by the LWIA without compromising the opportunity for a fair hearing, the State may remand the matter to the LWIA for hearing under the LWIA grievance process. Nothing shall preclude a complainant’s right to appeal to the State later.

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Each Local Workforce Investment Area and all sub-recipients must comply with the following:

- (1) Recipients shall establish and maintain a procedure for hearing and resolving complaints or appeals of any employer or sub-recipient level grievance decision.
- (2) Provide information about the local or recipient grievance and complaint procedures to participants, applicants and other interested parties affected by the local Workforce Investment System, including One-Stop partners and service providers;
- (3) Sub-recipients must provide grievance procedure information to applicants and participants receiving Title I-funded service from such entities; and
- (4) Both LWIAs and sub-recipients must make reasonable efforts to assure that the information will be understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals. Such efforts must comply with the language requirements specified in 29 CFR 37.35 regarding the provision of services and information in languages other than English.
- (5) An impartial Hearing Officer must conduct any hearings, including appeals

Local area procedures must provide:

- (1) A process for dealing with grievances and complaints from participants and other interested parties affected by the local Workforce Investment System, including One-Stop partners and service providers;
- (2) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint;
- (3) A process which allows an individual alleging a labor standards violation to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides; and
- (4) An opportunity for an appeal to the State when:
 - A. No decision is reached within 60 days; or
 - B. Either party is dissatisfied with the local hearing decision.
- (5) An impartial hearing officer to hear grievances, complaints and/or appeals.

Procedures for sub-recipients must provide:

- (1) A process for dealing with grievance and complaints from participants and other interested parties affected by the recipient's Workforce Investment Act programs; and
- (2) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint.

Discrimination Complaints:

The provisions of the previous sections on grievance and appeals procedures do not apply to discrimination complaints brought under WIA Section 188 or 29 CFR Part 37.

- (1) Complaints alleging discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief and for beneficiaries only, citizenship, or participation in programs funded in whole or in part by

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WIA, in violation of Section 188 of WIA for applicants, participants or employees of the WIA program may be filed with the Local Workforce Investment Area, WIA Equal Opportunity Officer, or U.S. Department of Labor, Directorate of Civil Rights.

- (2) The complainant shall file a complaint not later than 180 days from the date of the alleged discrimination, unless extended for good cause by the Director of the Civil Rights Center (CRC).
- (3) Complaints filed at State level may be filed directly with:

State WIA Equal Opportunity Officer
 Department of Economic Security, Employment Administration
 1789 W. Jefferson, Site Code 920Z
 Phoenix, Arizona 85007
 Telephone: (602) 542-3957 fax (602) 542-2491
 TTY/TTD: 711
 StateWIAEOOfficer@azdes.gov

- (4) Complaints filed at the Federal level may be filed directly with:

Director, Civil Rights Center (CRC)
 U.S. Department of Labor
 200 Constitution Avenue NW, Room N-4123
 Washington, D.C. 20210
 Telephone: (202) 693-6502
 TTY (202) 693-6515

- (5) Complaints filed at either the local or State level shall be processed and a written acknowledgement of receipt of the complaint sent to the complainant within 5 days. The acknowledgement will include that the complainant has the right to be represented in the complaint process. The EO Officer will send a Final Decision notice within 90 days of the complaint being filed. If the determination is not satisfactory to the complainant, the complainant may file with the Director of Civil Rights within 30 days of the unsatisfactory decision or 90 days from the date of the filing, whichever is earlier.
- (6) No person, organization, or agency may discharge, intimidate, threaten, coerce, discriminate or in any manner retaliate against any person because that person has filed a complaint, opposed a prohibited practice, instituted any proceeding related to the Act, testified, or is about to testify, in any proceeding or investigation, or has provided information or assisted in an investigation.

Equal Opportunity Employer/Program • Under Titles VI and VII of the Civil Rights Act of 1964 (Title VI & VII), and the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Title II of the Genetic Information Nondiscrimination Act (GINA) of 2008; the Department prohibits discrimination in admissions, programs, services, activities or employment based on race, color, religion, sex, national origin, age, disability, genetics and retaliation. The Department must make a reasonable accommodation to allow a person with a disability to take part in a program, service or activity. Auxiliary aids and services are available upon request to individuals with disabilities. For example, this means if necessary, the Department must provide sign language interpreters for people who are deaf, a wheelchair accessible location, or enlarged print materials. It also means that the Department will take any other reasonable action that allows you to take part in and understand a program or activity, including making reasonable changes to an activity. If you believe that you will not be able to understand or take part in a program or activity because of your disability, please let us know of your disability needs in advance if at all possible. To request this document in alternative format or for further information about this policy, contact your local office manager; TTY/TDD Services: 7-1-1. • Free language assistance for DES services is available upon request.