



WIOA GRIEVANCE PROCEDURE

I. General Information

A. **Background**

The Workforce Innovation and Opportunity Act (WIOA) requires grantees to establish and maintain complaint/grievance and appeal procedures that conform to WIOA and other applicable federal and state requirements. In accordance with those requirements, Employ Milwaukee has established a grievance procedure applicable to all EMPLOY MILWAUKEE staff, program applicants and participants, and program operators. These are the procedures to use to resolve complaints/grievances and appeals regarding alleged violations of DWD grants, its related regulations, applicable Wisconsin statutes, other applicable federal or state requirements, the provisions of this document or the terms of a DWD grant agreement. WIOA Sections 181(c) and 188 are the applicable statutory citations.

B. **Acceptance of Complaints**

Program operators are required to accept complaints from staff, applicants and participants of EMPLOY MILWAUKEE funded programs according to established grievance procedures. Complaints that should be directly filed with Employ Milwaukee include:

- EMPLOY MILWAUKEE staff complaints
- Issues between Employ Milwaukee and program operators
- Issues between two or more program operators
- Issues involving Employ Milwaukee's operations
- Complaints alleging discrimination (may be sent directly to the agencies listed below bypassing EMPLOY MILWAUKEE)

Complaints that include alleged discrimination may also be submitted to, or submitted directly to:

David Duran
Wisconsin Dept. of Workforce Development
201 East Washington Avenue, Room G100
P.O. Box 7972
Madison, WI 53707-7972
(608) 266-6889 (voice)
(866) 275-1165 (TTY)

OR

Director – Civil Rights Center (CRC)
ATTN: Office of External Enforcement
U.S. Department of Labor
Room N-4123
200 Constitution Avenue NW
Washington, D.C. 20210

Complaints that include alleged incidents of discrimination, which are submitted to one of the agencies named above, **may** also be cross-filed with the Equal Rights Division (ERD) of the Wisconsin Department of Workforce Development. Complaints that include alleged incidents of discrimination under the Wisconsin Fair Employment Statutes **must** be filed with the ERD:

**Equal Rights Division
819 N Sixth Street – Room 255
Milwaukee, WI 53203
(414) 227-4384 (voice)
(414) 227-4081 (TTY)**

Complaints Alleging Incidents of Fraud and Abuse Violations of DET Funded Programs shall be filed by completing an Incident Report form and submitting it to the DET according to the procedures on the back of the form. You may request a Wisconsin WIOA Fraud and Abuse Incident Report from the Complaint Officer. **If you fear reprisal or that your position may be compromised you may contact the Federal Office of Inspector General Hotline toll-free (800) 347-3756 or you may call DWD, David Duran, at (608) 266-6889 or (TTY) (866) 275-1165.**

C. Limitations

Except for allegations of fraud and abuse violations, complaints alleging noncriminal violations other than discrimination **must be filed within one year of occurrence**. Discrimination complaints **must be filed within 180 days of the alleged occurrence**. Complaints alleging a violation of The State of Wisconsin's Fair Employment Statute, 111.31-111.395, Stats., regarding discrimination **must be filed within 300 days after the alleged discrimination occurred**. Complaints filed after this time period will not be accepted.

D. Amendments

Written amendments that are related in law and in fact to the original complaint will be permitted up to the day of resolution. Written amendments concerning harassment due to the filing of the pending formal complaint may be included in the request for hearing. Amendments not related in law and in fact to the original complaint and amendments that substantially change the nature and scope of the complaint will be deemed new complaints.

E. Joinder and Class Actions

Each individual is entitled to a fair hearing. However, joinder and class actions will not be allowed, except in the rare circumstances where Employ Milwaukee Chief Executive Officer (CEO) determines that several complaints share the same operative fact situation and the same question of law, and that it would be in the interest of efficiency to grant a joint or class hearing. Failure of the CEO to join shall not be actionable grounds for complaint.

F. Requirements

All program operators shall:

1. Post their grievance procedure in a prominent place and ensure all program staff, applicants and participants are made aware of their rights regarding complaints, appeals, and hearings.
2. Retain on file a sample notice of the grievance procedure which may be modified to meet individual program operations.

3. Have participants sign and date a notice of rights and benefits and retain a copy of that notice in the participant's file. As an alternative, a staff person may give the participant the notice of rights and benefits and sign and date the receipt on the participant's behalf.
4. Ensure that any employer of a WIOA participant has an established grievance procedure, and that WIOA participants are made aware of their rights regarding complaints with an employer.
5. Program operators shall retain all records pertaining to a complaint for a period of three years, or beyond three years if the complaint is not resolved or is under audit or investigation.

Employ Milwaukee shall:

1. Post their grievance procedure in a prominent place and ensure all staff are made aware of their rights regarding complaints, appeals, and hearings.
2. During new employee orientation provide employee with a copy of Employ Milwaukee's grievance procedure.

II. PROCEDURES FOR COMPLAINTS ALLEGING NONCRIMINAL VIOLATIONS OTHER THAN DISCRIMINATION

A. Filing of a Complaint

Steps one, two, and three, below, shall take place at the program operator level if the complaint is filed by that operator's staff, applicant, or participant, and must be addressed within 12 calendar days from the filing of a written complaint, as Employ Milwaukee is required to grant a hearing within 30 days of the filing of a complaint. In the event of a complaint being filed directly with Employ Milwaukee, step one begins at Employ Milwaukee. Accordingly, each program operator must designate a Complaint Officer who will be responsible for addressing complaints. Additionally, program participants must be provided a statement of Rights and Benefits that incorporates this procedure.

<u>Steps</u>	<u>Timetable</u>
1. File Written Complaint	Day one
2. Investigation	Through day 12
3. Informal Resolution	Through day 12
4. Request for Hearing	No later than day 15
5. Hearing	No later than day 30
6. Final Local Decision	No later than day 60

1. Submission of the Written Complaint

- a. Every complaint must be filed in writing, and shall be sufficiently accurate and complete to be evaluated on its own merit.
- b. The following information should be included whenever a complaint is filed:
 - i. The full name, telephone number, and address of the complainant;
 - ii. The full name and address of the respondent against whom the complaint is being made;

- iii. A clear and concise statement of the facts, including pertinent dates, stating the alleged violation;
 - iv. Provision of WIOA or other program regulations, if known, which the complainant believes was violated;
 - v. A statement disclosing whether the complaint has been cross-filed with any other jurisdiction and whether these other proceedings have been commenced or concluded, including dates, authorities, and other pertinent information; and
 - vi. A statement of the resolution which the complainant seeks.
- c. The respondent shall acknowledge receipt of a complaint in writing within 5 working days.

2. Investigation

- a. The Complaint Officer must investigate the complaint to determine both the complainant's and respondent's version of the facts and to determine which provision of the law, program regulations, or contract apply. If a complaint is filed by an EMPLOY MILWAUKEE staff person, the Executive Director is responsible for the investigation and informal resolution process.
- b. The Complaint Officer prepares a written report on his or her investigation giving both the complainant and respondent a copy.
- c. The complainant is notified, in writing, that the investigation has been completed.

3. Informal Resolution

- a. Complainants must be offered an opportunity to informally resolve their complaints.
- b. The Complaint Officer conducts a fact-finding appointment, which is a meeting between the complainant, the respondent, and the Complaint Officer seeking to settle the complaint through informal channels. The informal resolution is strongly recommended, but is not required as a prerequisite to request a fair hearing from Employ Milwaukee.
- c. The complainant is notified, in writing, of the right to request a hearing from Employ Milwaukee within three days of the fact-finding appointment if no settlement has been reached.
- d. If a settlement has been reached on any or all issues raised by the complainant, a Settlement Agreement will be executed. Employ Milwaukee has included with this grievance procedure a sample Settlement Agreement as Attachment I.

4. Request for Hearing

- a. If the complainant has exhausted the program operator's complaint process and is not satisfied, then the complainant has the right to request a hearing from Employ Milwaukee. This request must take place within three days of the fact-finding appointment (no later than 15 days from the filing of the written complaint). The hearing request is to be addressed to:

Elizabeth Tyson-Jankowski, Complaint Officer
Employ Milwaukee
2342 N. 27th Street
Milwaukee, WI 53210

- b. The request for a hearing must include a copy of the complaint and the reasons the complainant is not satisfied with the informal resolution process.

- c. Upon receipt of the complaint, Employ Milwaukee will investigate, prepare a report of facts, schedule a Grievance Committee hearing (no later than 30 days from filing date), and notify all parties.
- d. The Grievance Committee will review the staff's report, which identifies pertinent issues, and formulate appropriate questions for the hearing.

5. Hearing

- a. In attendance should be the complainant, his/her representative and witnesses; the respondent, his/her representatives and witnesses; and EMPLOY MILWAUKEE staff and the members of Employ Milwaukee Grievance Committee.
- b. The hearing is open to the public, and will be tape recorded by staff.
- c. The complainant will present his/her case and the respondent or representative responds accordingly.
- d. All evidence is presented in writing or through witnesses.

6. Final Local Determination

- a. The Grievance Committee examines the evidence, laws, regulations, and policies relevant to the case.
- b. Using a consensus-based approach, the Committee issues a written decision to the complainant and respondent within 30 days of the hearing and no later than 60 days from the date the complaint was filed.
- c. The parties are informed of their right to appeal to the State of Wisconsin, DWD/DET within the following time period:
 - (1) Ten calendar days after the complainant received the decision; or
 - (2) If the complainant did not receive a decision, the complainant must file the appeal within 15 calendar days after the decision was due.

B. Responsibilities of Program Operator in the Processing of Complaints

Each Program Operator must designate a Complaint Officer to be responsible for processing complaints. That person will be responsible for:

- 1. Adhering to Employ Milwaukee issued Grievance Procedure and the Workforce Programs Guide, Division of Workforce Solutions, Part 1, Administration of Workforce Programs Policy and Procedure Manual, Sec. III (S);
- 2. Accepting written complaints and processing them within prescribed timelines;
- 3. Investigation of the complaint;
- 4. Providing the complainant with required written notices and an opportunity for an informal resolution; and
- 5. Maintaining a case file that includes all correspondence related to the hearing.

III. PROCEDURES FOR COMPLAINTS OF DISCRIMINATION

A. Filing Deadline

Complaints must be filed **within 180 days after the alleged discrimination occurred**. An extension may be granted for good cause by the Director of the Directorate of Civil Rights (DCR). Any extension is for the administrative convenience of the Directorate and does not create a defense for the respondent.

B. Where to File a Complaint

The complaint may be filed with either:

David Duran
Wisconsin Dept. of Workforce Development
201 East Washington Avenue, Room G100
P.O. Box 7972
Madison, WI 53707-7972
(608) 266-6889
(608) 275-1165 (TTY)

OR **Director - Civil Rights Center (CRC)**
ATTN: Office of External Enforcement
Department of Labor
Room N-4123
200 Constitution Avenue NW
Washington, DC 20210

Any person who elects to file a complaint with DWD/DET (DET), shall allow DET 90 calendar days to process the complaint.

DET allows any party to a discrimination complaint to request Alternative Dispute Resolution (ADR) or mediation of their complaint. ADR allows disputes to be resolved in a less adversarial manner and is totally voluntary. The complainant may file a complaint with the Director/CRC within thirty (30) days, should ADR fail to provide a satisfactory resolution of the complaint. The Equal Rights Division of DWD will provide ADR or mediation for the parties requesting this method of resolving discrimination complaints.

If by the end of 90 calendar days DET has not completed processing the complaint, has failed to notify the complainant of the resolution or has offered a resolution not acceptable to the complainant, including ADR, the complainant may after the ninety (90) calendar days have passed, file a complaint with the Director/CRC by completing and submitting CRC's Complaint Information and Privacy Act Consent Forms. The complaint must be filed no later than thirty (30) calendar days after DET has issued a final decision or ninety days have passed. In any event the complaint must be filed with CRC no more than one hundred twenty (120) days after the complaint was initially filed.

A discrimination complaint may be cross-filed with the Equal Rights Division (ERD) of the Department of Workforce Development. If the discrimination is based on the Wisconsin Fair Employment Statutes, **it must be filed with the ERD within 300 days after the alleged discrimination took place**. It is important to note that the Wisconsin Fair Employment Statutes recognize protected classes in addition to those covered by federal Civil Rights Statutes, such as marital status, sexual orientation, source of income, etc. To file your complaint with the ERD, contact:

Equal Rights Division
819 N Sixth Street – Room 255
Milwaukee, WI 53203
(414) 227-4384 (voice)
(414) 227-4081 (TTY)

C. Discrimination Based on State Fair Employment Statutes

Complaints alleging a violation of Fair Employment, s. 111.31-111.395, Stats., regarding discrimination must be filed with the DILHR-ERD within 300 days after the alleged discrimination took place. Complaints filed with DOL-DCR may be cross filed with the state DILHR-ERD. Complaints filed with DILHR-ERD must be filed using ERD Discrimination Complaint Form .

IV. PROCEDURES FOR REPORTING FRAUD, PROGRAM ABUSE, AND CRIMINAL CONDUCT

[See also Sec. I (B) above.]

Detailed reporting procedures are provided in the Workforce Programs Guide, Division of Workforce Solutions, Part 1, Administration of Workforce Programs Policy and Procedure Manual, Sec. III (S) (5) and (6), and those procedures shall be used to report any incident of fraud, program abuse, or criminal conduct in the WIOA program, which is available upon request from the Complaint Officer.

The Department of Labor, in conjunction with the Office of Inspector General (OIG), has established a nationwide system to report any suspected or actual incident of fraud and/or program abuse. Under this system, the following procedures will apply.

1. Individuals who become aware of any allegation or complaint/grievance about possible fraud, misfeasance, nonfeasance, or malfeasance, misapplication of funds, gross mismanagement and employee or participant misconduct involving DET grant programs or operations should report that information as follows:

(a) Staff of WDAs or statewide grantees shall within one working day, file an Incident Report using the DET Grant Fraud and Abuse Incident Report form and submit it to DET according to procedures on the back of the form.

(b) Staff of program operators other than WDAs or statewide grantees or members of the public may report suspected incidents of fraud and abuse either to the local WDA Administrative Entity or to DET.

(c) It is not the intent of the DOL or DET to limit use of the Incident Report to elicit information only after an act or allegation has already been determined legally prosecutable. On the contrary, any act which raises questions concerning possible illegal expenditures or other unlawful activity should be reported immediately.

2. **Complainants who fear that their positions will be compromised** if they submit information through the WDA/DET reporting system may send an Incident Report directly to:

**Office of Inspector General
U.S. Department of Labor
200 Constitution Avenue, N.W.
Room S-5506
Washington, D.C. 20210**

or **telephone OIG's hotline** that is maintained for public use by individuals who want to report a suspected wrongdoing. The toll free number is **(800) 347-3756**. The OIG is required to respond to hotline referrals within 30 days.

3. The identity of individuals who provide information will not be disclosed unless they consent or the OIG determines that disclosure is unavoidable during the course of an investigation. The DOL prohibits reprisal against any employee who discloses information about wrongdoing or makes a valid complaint/grievance. Wisconsin's "Whistle Blower Law" provides similar protection for most state employees (230.80-230.89, Stats. & 895.65, Stats.)