

## LOCAL POLICY:

# Complaint & Grievance Procedures

<b>Date:</b>	September 09, 2019
<b>To:</b>	UPward Talent Council: program participants, sub-grantees, subcontractors, service providers, employees, partners, providers of training services and other interested parties
<b>From:</b>	Director of Administration
<b>Subject:</b>	UPward Talent Council Complaint and Grievance Procedures
<b>Programs Affected:</b>	All
<b>References:</b>	PI 11-37 Change 2 PI 18-09 29 CFR Part 38

## BACKGROUND

This policy establishes a process for grievances filed by participants, sub-grantees, subcontractors, service providers, employees, One-Stop partners, providers of training services, and other interested parties.

This policy also establishes a process for appeals filed by local grant recipients regarding non-designation of a local area, monitoring findings, incident report findings, single audit resolution findings/issues, and other matters.

The hearing procedures in this policy reflect requirements of federal law and are not contested case procedures under the Administrative Procedures Act of 1969 (Public Act 306 of 1969), as amended, being Michigan Compiled Laws Section 24.201 *et.seq.*

## POLICY

The Grievance and Complaint Procedure shall be posted in all Michigan Works! locations where administration and program services are provided and accessible to the general public or other interested parties for review or to take. Employees of the UPward Talent Council shall be provided a copy at the time of hiring and at time of any policy updates or revisions. Service Center Staff shall have participants sign and date documentation acknowledging receipt of the grievance procedures. Such documentation will remain on file for potential review. Service Providers shall

be provided a copy at the time of contract signing and the procedure shall be within the contractor handbook. Employer-Based Training Employers shall be provided a copy at the time of contract signing with documentation acknowledging receipt. One-Stop Partners shall be provided copies (hard copy or electronic) of the policy at time of contract/MOU and acknowledge receipt.

### **Establishment of a Program Grievance and Complaint Procedure**

All persons who are program participants, all contractors, subgrantees, and subrecipients of contract funds, all employees, one-stop partners, providers of training services, and all interested persons shall be afforded the opportunity to resolve grievances. The grievance procedure is set forth below. Nothing herein shall prohibit the filing of a complaint or grievance with other state or federal agencies such as bargaining units, Michigan Civil Rights Commission, or the U.S. Department of Civil Rights.

All grievances related to the Workforce Innovation and Opportunity Act (WIOA) and other services funded by the UPward Talent Council, including those alleging fraud or criminal activity are required to be filed within one year of the date of the alleged occurrence. The TAA Grievance and Appeals Process regarding programmatic services are referenced in the Trade Adjustment Assistance (TAA) Manual and UPward Talent Council Local TAA Protests and Appeals Policy.

The UPward Talent Council will adhere to the grievance and complaint procedures in accordance with the following requirements.

#### **1. Informal Resolution**

Federal statutes or regulations do not preclude the use of informal mechanisms for the resolution of all complaints and prospective complaints. All complainants are encouraged to attempt resolution of any complaint which they may have by informal means in an effort to resolve the matter to their mutual satisfaction. Informal means of complaint resolution may include discussion with appropriate parties as well as any other appropriate informal method deemed appropriate.

#### **2. Documentation and Distribution**

The UPward Talent Council's procedure for grievances which involves funds received from the Michigan Department of Labor and Economic Opportunity shall be made available to participants, employees, service providers, employer-based training employers, one-stop partners, and other interested parties. Participants shall sign and date documentation acknowledging receipt of the grievance procedures. Such documentation will remain on file for potential review. Employees of the UPward Talent Council shall be provided a copy at time of hiring and at time of any policy updates or revisions. Service Providers shall be provided a copy at time of contract signing and the procedure shall be within the contractor handbook. Employer-based Training Employers shall be provided a copy at time of contract signing. One-Stop Partners shall be provided copies (hard copy or electronic) of the policy at time of contract/MOU and acknowledge receipt. The Grievance and Complaint Procedure shall be posted in all Michigan Works! locations where administration and program services are

provided and accessible to the general public or other interested parties for review or to take. Electronic copies are provided upon request.

A monitoring/tracking system is maintained which documents the grievances received and their disposition. These records will be maintained for a period of three years. The retention period begins on the date of the Michigan Department of Labor and Economic Opportunity's acceptance of the final closeout report for the grant or contract. Records will be retained beyond three years if any litigation or audit is begun or if a claim is instituted involving the grant or agreement covered by the records. In these instances, the records shall be retained until the litigation, audit, or claim has been resolved.

### **3. Special Provisions**

Depending on the nature of the grievance, TANF and FAE&T program applicant and recipient grievances shall be handled in accordance with the UPward Talent Council or the Michigan Department of Health and Human Services (DHHS) or other applicable procedures. For example, grievances regarding sanctioning or food stamps benefits will be handled by DHHS, while grievances regarding programs administered by the UPward Talent Council will be handled by the UPward Talent Council.

A WIOA participant alleging a labor standards violation may submit a grievance to a binding arbitration procedure if a collective bargaining agreement covering the parties to the grievance so provides.

Pursuant to the PRWORA Regulation 45 CFR 261.70, a grievance may be filed by an affected individual if a recipient of Temporary Assistance for Needy Families (TANF) is placed in a position (1) when any other individual is on layoff from the same or any substantially equivalent job or (2) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult receiving TANF assistance. 45CFR 261.70 In this situation, either party to the grievance, the TANF recipient or the displaced employee, may appeal the decision rendered by the UPward Talent Council to the Michigan Department of Labor and Economic Opportunity.

A grievance may be filed by a regular employee displaced by a WIOA participant who is placed in an employment activity operated with WIOA funds. Also, a grievance may be filed by a WIOA participant in an employment activity if the participant is displaced.

Grievance involving Wagner-Peyser Act activities must be resolved in accordance with the grievance procedures outlined in the Employment Service Manual, which is available on the Michigan Department of Labor and Economic Opportunity website. In addition, please refer to the Employment Service Manual for specific guidance regarding work-related complaints that are not program specific, such as: employer hour and wage violations, migrant and seasonal farm worker complains, and other possible violations of general labor laws.

#### **4. Formal Resolution**

##### **Step 1: Complaint/Grievance Filed With the UPward Talent Council**

All complaints/grievances shall be submitted in writing to the UPward Talent Council at the location of the occurrence or sent to UPward Talent Council 2950 College Avenue Escanaba, MI 49829. After review from a Workforce Services Manager, the grievance will then be submitted to UPward Talent Council's Grievance office if unable to be resolved. All grievances related to WIOA, TANF, FAE&T, Trade Act (except requests for redeterminations), and State of Michigan GF/GP programs funded by the Michigan Department of Labor and Economic Opportunity are required to be filed in writing within one year of the date of the event that gave rise to the grievance. An opportunity for a hearing shall be provided for WIOA related grievances that are not informally resolved or withdrawn. Grievances/complaints filed by employees displaced by PATH participants must be in writing and submitted within 30 calendar days of the alleged occurrence.

The written grievance shall contain the following information:

1. Full name, telephone number, and address of the petitioner.
2. Full name, telephone number, and address of the respondent(s) or other information sufficient to identify the party against whom the grievance is made;
3. A clear and concise statement of facts as alleged, including the pertinent dates, constituting the alleged violation;
4. Provisions of the Act, regulations, grant, contract, or other agreement under the act believed to have been violated; and
5. Relief requested.

A hearing is not required if the grievance is resolved without one or the grievant withdraws the grievance. If the grievance is settled through the informal resolution process a written decision shall be issued to the petitioner within 60 days of the filing of the grievance. However, if a hearing is to be conducted, written notice of a hearing will be provided to the petitioner and respondent not less than 10 (ten) days prior to the hearing. The notice of the hearing shall indicate the nature of the violation(s) which the hearing will cover and the date, time and location of the hearing, along with the issues to be decided. This hearing process will allow at a minimum the opportunity to present evidence and witnesses; an opportunity to ask questions of all witnesses providing testimony at the hearing; oversight by a hearing officer; a recording of the hearing; and a list of all evidentiary exhibits presented at the hearing. At the discretion of the hearing officer, there may be an opportunity to exchange evidentiary information prior to the hearing.

The hearing on any complaint or grievance on a local level shall be conducted within 30 calendar days of filing and a written decision shall be rendered no later than 60 days of filing.

The written decision shall be issued by the hearing officer and will contain the following information:

1. Date, time, and place of the hearing; if held
2. Full names and addresses of all witnesses called by the parties;
3. Full name and address of the petitioner and the respondent;
4. Information sufficient to identify all evidence presented;
5. A reiteration of the issues raised;
6. A determination of the facts;
7. An analysis of the issues as they relate to the facts;
8. A decision addressing each issue; and
9. Notification of opportunity for appeal to the Michigan Department of Labor and Economic Opportunity if a response is not received within the time prescribed, or if either party is dissatisfied with a decision.

The grievance may be dismissed/rejected if it is judged the grievant fails to state a grievable issue, lacks merit, fails to comply with the established procedure, no relief can be granted, or if the complainant requests dismissal of the complaint. The UPward Talent Council will inform the grievant in writing of the reason(s) the grievance was resolved or dismissed within 60 calendar days from the date the grievance was filed. The notification will include the right to appeal to the Michigan Department of Labor and Economic Opportunity.

Employers, including private-for-profit employers of participants in on-the-job training or work experience shall have a grievance procedure relating to the terms and conditions of employment available to their participants. If an employer is required to use a certain grievance procedure under a covered collective bargaining agreement, those procedures shall be followed for the handling of complaints under this section. Employers may operate their own grievance system or may utilize the grievance system established by the UPward Talent Council. Employers shall inform participants of the grievance procedure they are to follow when the participant begins employment.

An employer grievance system shall provide for, upon request by the complainant, a review of an employer's decision by the Contractor and the recipient if necessary.

An employee/participant may utilize the following grievance procedures as long as they remain a participant. After becoming a full-time employee, the employer's grievance or complaint resolution procedures must be followed to resolve any complaints.

## **Step 2: State Level Review of a Local Level Decision**

A grievance may be appealed, in writing, to the Michigan Department of Labor and Economic Opportunity no later than 10 (ten) calendar days from receipt of an adverse decision at Step 1, or 10 (ten) calendar days from the date a decision was required but not received at Step 1. (A decision is required to be rendered no later than 60 calendar days after the date the grievance was filed (20 CFR 683.600 (c)(4)). This grievance procedure shall be utilized to appeal monitoring findings and audit resolutions.

All appeals of a grievance shall be submitted by certified mail, return receipt requested to:

Michigan Department of Labor and Economic Opportunity  
Executive Office  
Victor Office Building, 5<sup>th</sup> Floor  
201 N. Washington Square  
Lansing, MI 48913

All appeals shall contain, to the extent practicable, the following information:

1. The full name, telephone number, and address of the petitioner(s);
2. The full name, telephone number (if any), and address of the respondent(s); or other information sufficient to identify the party.
3. A clear and concise statement of the facts as alleged, including the pertinent dates constituting the alleged violation;
4. The provision of the act, regulations, grant, contract, or other agreement under the act believed to have been violated; and
5. The relief requested.

Within 15 days from the date the appeal is received by the Michigan Department of Labor and Economic Opportunity, the parties will be contacted to submit all relevant information and documentation generated at the local hearing to the Michigan Department of Labor and Economic Opportunity Executive Office. It is the responsibility of the parties to ensure the Michigan Department of Labor and Economic Opportunity has all relevant documentation necessary to make a determination on the grievance. The Michigan Department of Labor and Economic Opportunity has the discretion to provide parties with the opportunity to provide additional information after the 15-day deadline if the Michigan Department of Labor and Economic Opportunity believes it is necessary to make a final determination.

An appeal of United States Department of Labor (USDOL) monitoring findings shall only be reviewed for compliance with USDOL requirements. A record shall be created to forward to USDOL, if required.

The Michigan Department of Labor and Economic Opportunity shall notify the appellant and respondent within 10 days of receipt of the appeal that the appeal was received. This notice will explain the grievance resolution process going forward. The Michigan Department of Labor and Economic Opportunity will consider the appeal and may reject the hearing and make a final determination; allow waiver of the hearing and make a final determination; or schedule a hearing and make a final determination.

An appeal may be rejected and a final determination issued, without a hearing, if it is determined that it lacks merit, the appellant fails to state a grievable issue, there is no relief that can be granted, or the appellant fails to comply with the applicable procedures. The grievant will be informed within 60 calendar days from the date the appeal was filed of the reason the appeal was rejected.

An opportunity for a hearing must be provided for a WIOA related appeal of a local level decision unless the appeal is rejected by the Michigan Department of Labor and Economic Opportunity, the parties agree to waive a hearing, or the appellant withdraws the appeal. A hearing is not required, but may be held, for an appeal of a non-WIOA related local level decision.

In lieu of a hearing for an appeal of a WIOA related local level decision, the parties to the appeal may mutually consent to having the Michigan Department of Labor and Economic Opportunity decide the matter based on the record created at the local level. If both parties and the Michigan Department of Labor and Economic Opportunity are in agreement, the hearing is waived. Both parties must provide the Michigan Department of Labor and Economic Opportunity with written confirmation that demonstrates their consent to waive the hearing.

If a hearing is not held, the Michigan Department of Labor and Economic Opportunity will issue a final decision within 60 calendar days of the receipt of the appeal taking into consideration the evidentiary documentation previously submitted.

The Michigan Department of Labor and Economic Opportunity **may** conduct a hearing. If a hearing is to be conducted, the appellant and respondent will be provided written notice of the date, time, and place of the scheduled hearing and of the opportunity to present evidence, including witnesses. The notice of the hearing shall indicate the nature of the violation(s) which the hearing covers and the issues to be decided. Notice shall be given not less than ten days prior to the scheduled hearing date. A hearing will not be held if the WIOA related appeal involves a non-grievable issue.

If a hearing on an appeal is to be held, it shall be conducted within **30** calendar days of filing of the appeal and shall include, at a minimum, a hearing officer, an opportunity for each party to present witnesses (subpoenas are not authorized) and evidence, an opportunity for each party to ask questions of all witnesses providing testimony at the hearing, and a record of the hearing and a list of all evidentiary exhibits presented at the hearing. At the discretion of the hearing officer, there may be an opportunity to exchange evidentiary information prior to the hearing. A written decision shall be issued no later than **60** calendar days after the receipt of the appeal.

A written decision shall include the following:

1. Date, time, and place of hearing (if held);
2. Names and addresses of the petitioner and the respondent;
3. Names and addresses of all witnesses called by the parties;
4. Information sufficient to identify all evidence presented;
5. A reiteration of the issues raised;
6. A determination of the facts;
7. An analysis of the issues as they relate to the facts; and
8. A decision addressing each issue.

### **Step 3: Federal Government Review**

A decision of the Michigan Department of Labor and Economic Opportunity is final. However, if a decision is not issued by the due date, a WIOA related appeal may be reviewed by the Secretary of the U.S. Department of Labor (USDOL) if appealed within 60 days after the date the decision was due. A WIOA related decision may also be appealed by the adversely affected party to the USDOL within 60 calendar days of receipt of the Michigan Department of Labor and Economic Opportunity decision. An appeal must be submitted to the Secretary of the USDOL by certified mail, return receipt requested, to:

Secretary  
U.S Department of Labor  
Attention: ASET  
Washington, DC 20210

A copy of the appeal must be simultaneously provided to:

Regional Administrator  
Employment and Training Administration  
U.S. Department of Labor  
230 South Dearborn Street, Room 628  
Chicago, IL 60604

And

Michigan Department of Labor and Economic Opportunity  
Executive Office  
Victor Office Building, 5<sup>th</sup> Floor  
201 N. Washington Square  
Lansing, MI 48913

### **5. State Level Review of a Local Grant Recipient Appeal**

Local grant recipients may appeal non-designation of local areas, monitoring findings, incident report findings, single audit resolution findings/issues, and other matters related to State Workforce Investment programs by filing an appeal with the Michigan Department of Labor and Economic Opportunity within 30 days of the adverse decision. All appeals shall be submitted to:

Michigan Department of Labor and Economic Opportunity  
Executive Office  
Victor Office Building, 5<sup>th</sup> Floor  
201 N. Washington Square  
Lansing, MI 48913



All appeals shall contain, to the extent practicable, the following information:

1. The full name, telephone number, and address of the appellant(s);
2. The full name, telephone number (if any), and address of the respondent(s);
3. A clear and concise statement of the facts as alleged, including the pertinent dates constituting the alleged violation;
4. The provision of the act, regulations, grant, contract, or other agreement under the act believed to have been violated; and
5. The relief requested.

Other interested parties may not appeal directly to the Michigan Department of Labor and Economic Opportunity. To the extent that interested parties are affected by a Michigan Department of Labor and Economic Opportunity decision, the interested parties must first file a grievance at the local level.

Appeals related to United States Department of Labor (USDOL) monitoring findings shall only be reviewed for compliance with USDOL requirements. A record shall be created to forward to USDOL, if required.

An appeal may be rejected if it is determined that it lacks merit, the appellant fails to state a grievable issue, there is no relief that can be granted, or the appellant fails to comply with the applicable procedures. The grievant will be informed within 60 calendar days from the date the appeal was filed of the reason the appeal was rejected.

An opportunity for a hearing must be provided for a WIOA related appeal of a local level decision unless the appeal is rejected by the Michigan Department of Labor and Economic Opportunity, the parties agree to waive a hearing, or the appellant withdraws the appeal. A hearing will not be held if the WIOA related appeal involves a non-grievable issue. A hearing is not required, but may be held, for an appeal of a non-WIOA related local level decision.

The Michigan Department of Labor and Economic Opportunity **may** conduct a hearing. If a hearing is to be conducted, the appellant and the party against whom the appeal is made will be provided written notice of the date, time, and place of the scheduled hearing date and of the opportunity to present evidence, including witnesses. The notice of the hearing shall indicate the nature of the violation(s) which the hearing covers and the issues to be decided. Notice shall be given not less than ten calendar days prior to the hearing on the matter.

If a hearing on an appeal is to be held, it shall be conducted within **30** calendar days of filing of the appeal and shall include, at a minimum, a hearing officer, an opportunity for each party to present witnesses (subpoenas are not authorized) and evidence, an opportunity for each party to ask questions of all witnesses providing testimony at the hearing, and a record of the hearing and a list of all evidentiary exhibits presented at the hearing. At the discretion of the hearing officer, there may be an opportunity to exchange evidentiary information prior to the hearing. A written decision shall be issued no later than **60** calendar days after the filing of the appeal.

A written decision shall include the following:

1. Date, time, and place of hearing (if held);
2. Names and addresses of the appellant;
3. Name and address of the party against whom the appeal is made;
4. Names and addresses of all witnesses called by the parties;
5. Information sufficient to identify all evidence presented;
6. A reiteration of the issues raised;
7. A determination of the facts;
8. An analysis of the issues as they relate to the facts; and
9. A decision addressing each issue.

The Michigan Department of Labor and Economic Opportunity decision is final. An appeal of noncompliant WIOA grievance procedures of the Michigan Department of Labor and Economic Opportunity may be sent to the Secretary of the USDOL. An appeal must be submitted to the Secretary of the USDOL within 60 calendar days of the receipt of the Michigan Department of Labor and Economic Opportunity decision by certified mail, return receipt requested, to:

Secretary  
U.S Department of Labor  
Attention: ASET  
Washington, DC 20210

A copy of the appeal must be simultaneously provided to:

Regional Administrator  
Employment and Training Administration  
U.S. Department of Labor  
230 South Dearborn Street, Room 628  
Chicago, IL 60604

And

Michigan Department of Labor and Economic Opportunity  
Executive Office  
Victor Office Building, 5<sup>th</sup> Floor  
201 N. Washington Square  
Lansing, MI 48913

## **6. Allegations Involving Discrimination**

Complaints alleging violation of the nondiscrimination and equal opportunity (EO) provision of state/federal grant programs must be resolved in accordance with the nondiscrimination and EO policy guidelines issued by the Michigan Department of Labor and Economic Opportunity.

No individual shall, on the grounds of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation, or belief, and for beneficiaries only, citizenship or participation, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any UPward Talent Council funded program or activity.

Any person who believes that he or she or any specific class of individuals has been or is being subjected to discrimination prohibited by the nondiscrimination and equal opportunity provisions of any Act, regulation, contract or agreement may file a written complaint by him or herself or by a representative. All complaints of discrimination will be handled as confidentially as possible to protect the rights of all parties involved. Intimidation and retaliation against any individual for having filed a discrimination complaint, opposed a discriminatory practice, furnished information, assisted or participated in any manner in a discrimination complaint investigation, hearing or other activity to secure rights protected by the nondiscrimination and EO provisions of federal programs is strictly prohibited. Individuals who, on the suspicion of reported retaliation or intimidation, may file a written complaint.

Complaints of discrimination filed by Limited English Proficiency customers, unless filed by the complainant's authorized representative, are to be submitted by the complainant in writing in his/her primary language. All subsequent interaction and communications with the complainant will be conducted in accordance with the UPward Talent Council's language policy and in a manner which ensures that the complainant can understand and effectively participate in all phases of the discrimination complaint process.

The complaint may be filed either with the UPward Talent Council or with the Directorate of Civil Rights at the following addresses:

Michelle Viau  
Equal Opportunity Officer  
UPward Talent Council  
2950 College Avenue  
Escanaba, MI 49829

OR

Directorate of Civil Rights  
U.S. Department of Labor  
200 Constitution Avenue NW, Room 4123  
Washington, D.C. 20210

A complaint of discrimination must be filed within 180 calendar days of the alleged discrimination. The Directorate of Civil Rights, for good cause shown, may extend the filing time. A complaint of discrimination shall be filed in writing and shall:

1. Be signed by the complainant or his or her authorized representative;
2. Contain the complainants name and address (or specify another means of contacting him or her);
3. Identify the respondent;
4. Dates of the alleged discrimination occurred;
5. Description of the complainant's allegations in sufficient detail to determine whether:
  - a. The UPward Talent Council has jurisdiction over the complaint;
  - b. The complaint was timely filed; and
  - c. The complaint has apparent merit.

If the complaint does not contain all required elements, the UPward Talent Council will seek to obtain missing/clarifying information from the complainant. Requests for clarification will be forwarded, in writing, to the complainant, providing ten days for receipt of the information. If missing information is not received within the ten-day standard, the UPward Talent Council may close the complaint file and forward the complainant notice of such action. If a written discrimination complaint contains all required content elements, the EO Officer will review the complaint and make a determination as to whether the UPward Talent Council has jurisdiction. In cases where jurisdiction is established, the UPward Talent Council will proceed with the review and processing of the complaint. If the UPward Talent Council lacks jurisdiction, the complainant will be notified, in writing, of that determination. The notification will include a statement regarding the reasons for reaching the determination and, where possible, include referral to an appropriate state or federal agency with complaint processing authority. Where an appropriate referral source is unknown, the notice must specifically state that the complainant has 30 days from the date of the "Notice of Lack of Jurisdiction" was received to file with USDOL's Civil Rights Center.

If all pre-processing elements are met, the EO officer will analyze the issues detailed in the complaint and provide the complaining party with written notification within ten days of receipt of the complaint. The notice will contain the following:

1. Acknowledge complaint receipt and notify the complainant of their right to be represented in the complaint process;
2. Include a listing of the issues raised in the complaint;
3. Specify, for each issue raised, whether the UPward Talent Council accepts or rejects the issue for investigation;
4. Notification of the right to request and receive, at no cost, auxiliary aides and services, language assistance and services;
5. Provide, if issues have been accepted for review, information regarding complaint resolution options and the availability of ADR.

If the issues raised will require more than ten days to analyze and determine a response, the complainant must be forwarded an acknowledgement of complaint receipt within the ten (10) day standard. The notice will indicate that the UPward Talent Council is in the

process of reviewing the issues raised in the complaint and will specify a date by which the complainant will be notified of the UPward Talent Council's determination.

The UPward Talent Council will notify the Michigan Department of Labor and Economic Opportunity via email upon complaint receipt with a notice that specifies the workforce program and nature of the complaint.

Alternative dispute resolution (ADR) or mediation will be available as an option for complaint resolution. All ADR sessions will be conducted by an impartial professional mediator who is trained in mediation techniques and the principles of nondiscrimination and EO. The choice as to whether the UPward Talent Council uses its ADR or fact-finding procedures in processing a complaint of discrimination is a matter of complainant choice. The complainant may attempt ADR at any time after the complainant has filed a written complaint with the UPward Talent Council, but before a Notice of Final Action has been issued (29 CFR 38.72 c1). The complainant will be given ten days to notify the EO Officer of the manner in which they elect to resolve the dispute. After the resolution approach has been selected, the EO Officer will notify the respondent(s) and/or other entities involved of the nature of the alleged act(s)/incident(s) of discrimination that have been accepted for investigation and the approach that will be used to review and resolve the complaint. The notification will specifically reference that any form of retaliation or intimidation because a complaint of discrimination has been filed is prohibited.

If the complainant elects ADR, the EO Officer will schedule/refer the complainant and respondent to mediation. Where the mediation is successful and results in the negotiation of a written settlement agreement, signed by the mediator and all parties involved, a "Notice of Final Action" notice will be issued to include:

1. A description of the way the parties resolved the issue; and
2. A statement reminding the parties of options available in the event there is a breach of the negotiated agreement. For mediation sessions conducted for USDOL programs, a reference that the non-breaching party may file a complaint with the CRC Director within 30 days of the date the party learns of the alleged breach.

If no agreement is reached during ADR, the complainant may elect to file with the CRC.

If the complainant elects to have their allegations investigated and resolved through a fact-finding process, the EO Officer will conduct the investigation. At the conclusion of the investigative process, the EO Officer will issue a "Notice of Final Action-Local Recipient Level" within 90 days which will contain:

1. Decision on each issue accepted for investigation;
2. An explanation of the reasons underlying each decision;
3. Notice of the complainant's right to file with the CRC within 30 days after the date on which the complainant receives the Notice.

In addition to the "Notice of Final Action-Local Recipient Level," the EO Officer will prepare a written "Report of Findings" to document the local investigative process.

Where allegations of discrimination are substantiated through the investigative process, the UPward Talent Council will initiate actions to completely remedy any adverse action experienced by the complainant and correct any technical violation or EO management deficiencies to ensure that discrimination or EO violations do not reoccur. In cases where the UPward Talent Council is unable to secure voluntary compliance to correct findings of discrimination, the UPward Talent Council will initiate sanction proceedings against the recipient agency.

Intimidation and retaliation against any individual for having filed a discrimination complaint, opposed a discriminatory practice, furnished information, assisted or participated in any manner in a discrimination complaint investigation, hearing or other activity to secure rights protected by the nondiscrimination and EO provisions of federal programs is strictly prohibited.

The UPward Talent Council will maintain on file a detailed factual chronology of all contacts and discussions held in response to discrimination complaints received by the agency. Actions taken with respect to the logistical aspects of the ADR process and each interview, meeting, and official action taken during a fact-finding investigation must be documented. All correspondence required in carrying out complaint-related functions will be forwarded to the complainant and other involved parties, as appropriate, by certified mail.

The UPward Talent Council will maintain a log of all complaints alleging discrimination and will be maintained as a confidential document. The log will contain:

1. Complaint number;
2. Name, address, phone number, or place to contact the complainant;
3. Date of receipt of the signed complaint;
4. An identification of the program or funding source under which the workforce services were provided;
5. Grounds or basis for the complaint;
6. Brief description of the complaint;
7. Nature of the resolution; and
8. Date of the resolution.

The log will be filed with the UPward Talent Council upon request. All records regarding discrimination complaints and actions taken will be retained for a period of three years from the date of the resolution of the complaint.

## **7. Allegations Involving Fraud, Waste, Abuse, or Other Criminal Activity**

Known or suspected fraud, waste, abuse, or criminal activity conducted under WIOA shall be reported in accordance with the incident report guidelines issued by the Michigan Department of Labor and Economic Opportunity. All information and complaints involving fraud, waste, abuse, or other criminal activity related to the WIOA programs administered by the UPward Talent Council shall be immediately reported directly to USDOL (20 CFR 683.620) using the appropriate incident report form (Form DL 1-156) at the following address:

Regional Administrator  
Employment and Training Administration  
U.S. Department of Labor  
230 South Dearborn Street, Room 628  
Chicago, IL 60604

A copy of any written communication to USDOL should also be immediately transmitted to the Michigan Department of Labor and Economic Opportunity. Complainants are encouraged to precede written communications to USDOL and the Michigan Department of Labor and Economic Opportunity with telephone communications.

**8. Grievances or Complaints to Which the State of Michigan Or a State Agency Is a Respondent**

All grievances or complaints to which the State of Michigan or a state agency is a respondent shall be submitted in writing within 30 days of the date of the alleged occurrence to:

Michigan Department of Labor and Economic Opportunity  
Executive Office  
Victor Office Center, 5<sup>th</sup> Floor  
201 N. Washington Square  
Lansing, MI 48913

All grievances or complaints shall contain, to the extent practicable, the following information:

1. The full name, telephone number, and address of the party/parties filing the grievance.
2. The full name and address of the party against whom the complaint is made.
3. A clear and concise statement of the facts as alleged, including pertinent dates, constituting the alleged violation.
4. The provisions of the Act, regulations, grant, contract, or other agreements under the Act believed to have been violated.
5. The relief requested.

A hearing on a grievance or complaint will be conducted within 30 days of filing of the grievance or complaint. The complainant and respondent will be provided written notice of the date, time, and place of the hearing on the matter and of the opportunity to present evidence, including witnesses. Notice will be given not less than ten days prior to the hearing on the matter.

A decision will be rendered not later than 60 days after the filing of the grievance or complaint. A written decision will be filed which will include the following:

1. Date, time, and place of the hearing.
2. Names and address of the complainant and the respondent.
3. Names and addresses of all witnesses called by the parties.
4. Information sufficient to identify all evidence presented.

5. A reiteration of the issues raised.
6. A determination of the facts.
7. An analysis of the issues as they relate to the facts.
8. A decision addressing each issue.
9. Notification to the parties of the right of and procedure for a review at the recipient level.

Upon mutual consent of the parties or for good cause shown, the recipient may:

1. Grant a continuance of the hearing date to a subsequent date certain;
2. Extend the appeal filing deadline;
3. Extend the deadline associated with a hearing date; and/or
4. Extend the deadline by which a hearing report and decision are otherwise due to be rendered.

A complainant who does not receive a written decision regarding his or her appeal within 60 days of filing the grievance or complaint, plus continuances, or a complainant who receives an adverse written decision may request a review of the matter by the recipient.

## INQUIRIES

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Inquiries regarding this policy are to be directed to your supervisor.