



MICHIGAN WORKS! SOUTHEAST OFFICIAL POLICY

Date: November 13, 2017

To: Public

Subject: **Equal Opportunity and Grievance Procedure Policy**

References: The WIOA of 2014
2 CFR 200 Super Circular

Original Policy: July 1, 2016

Last modification: November 13, 2017

Rescissions: None

Background: The Southeast Michigan Consortium, being a publicly funded agency, is an Equal Opportunity employer and organization and must establish guidelines for the filing of a grievance or Equal Opportunity complaint. This is a public policy and must be made available to anyone upon request.

Policy: Southeast Michigan Consortium (SEMC) has established grievance procedures for grievances and complaints about its programs and activities from participants, subgrantees, service providers, contractors, and other interested persons, including employees. All persons who are program participants, all contractors and service providers, subrecipients of contract funds, and all interested persons shall be afforded the opportunity to resolve, by means of administrative process, any alleged violation of the federal regulations and a contract or other agreement entered into pursuant to the contract. SEMC employees are required to utilize the SEMC grievance procedures to resolve these grievances and complaints.



All grievances related to the Workforce Innovation and Opportunity Act (WIOA) and other services funded by Talent Investment Agency (TIA), including those alleging fraud or criminal activity are required to be filed within one year of the date of the alleged occurrence or the date of the event that gave rise to the grievance. Any act, which raises questions concerning possible illegal expenditures or unlawful activities, will be immediately reported to the US Department of Labor in accordance with TIA policy.

SEMC will adhere to the grievance and complaint procedures in accordance with the following requirements in the prescribed programs:

A. Informal Resolution:

SEMC shall make available to participants, subgrantees, subcontractors, employees, one-stop partners, service providers, providers of training services, and other interested parties, provisions for informal means to resolve complaints before they become grievances. The purpose of the informal meeting will be to review items in dispute and seek clarification or resolution of the complaint.

B. Protocol:

1. SEMC officials shall develop, maintain, and make available to participants, subcontractors, employees, one-stop partners, service providers, providers of training services, and other interested parties, a procedure for grievances which involves WIOA, TANF, Trade Act (except redetermination requests), and FAE & T, Reed Act, and State of Michigan GF/GP programs. Participants, subcontractors, employees, one-stop partners, service providers, providers of training services, and other interested parties shall sign



and date documentation acknowledging agreement to follow and receipt of grievance procedures. The documentation shall be maintained for review.

2. SEMC shall post grievance procedures in areas where administration and program services are provided and shall be accessible to persons with disabilities or other barriers, as required by law.
3. SEMC shall maintain a monitoring/tracking system, which documents the grievances received and the disposition. SEMC must maintain these records for review for a period of three years. The retention period begins on the date of the TIA's acceptance of the final closeout report for the grant or contract. Records shall 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 finally resolved.
4. Pursuant to 29 CFR 37.35, where a significant number or proportion of limited English-speaking individuals exists, the grievance procedure must be provided in appropriate languages to meet the particularized language needs of the limited English speaking individuals who seek information regarding the grievance procedure.
5. SEMC shall generally, as all processes prescribed in this policy are accessible to person with disabilities or other barriers, as required by law.

C. DEFINITIONS

Appellant: the party that files the appeal to the TIA and the U.S. Department of Labor (USDOL).



Days: means consecutive calendar days, including weekends and holidays.

Grievance: a written complaint filed in accordance with this policy.

Local Grant Recipient: entities that expend awards received directly from the TIA to carry out a program or programs.

Interested Parties: includes subgrantees, subcontractors, service providers, employees, One-Stop partners, providers of training services, and other relevant parties.

Participant: an individual who has been determined to be eligible to participate in, and who is receiving services under a program covered under this policy.

Petitioner: the party that files the grievance.

Respondent: the party who argues against the petitioner or appellant.

Service Providers: subrecipients or entities that expend awards received from a local grant recipient or Administrative Entity (AE) to carry out a program or programs.

D. Grievance Procedures:

Step 1: SEMC Level Grievance Procedures

Filing: All grievances related to WIOA, TANF, FAE&T, Reed Act, Trade Act (except requests for redeterminations), and State of Michigan GF/GP programs funded by the TIA are required to be filed within one year of the date of the event that gave rise to the grievance.



Criteria: All grievances shall be in writing and contain, to the extent practicable, the following information:

- b. a. The full name, address, and telephone number of the petitioner(s);
- b. The full name, address, and telephone number of the respondent (s);
- c. A clear and concise statement of the facts, as alleged, including the pertinent dates, constituting the alleged violation.
- d. The provision of the act, regulations, grant, contract, or other agreements under the act believed to have been violated.
- e. The relief requested.

Rejection: The grievance may be rejected by SEMC if:

- a. It lacks merit.
- b. The petitioner fails to state a grievable issue.
- c. There is no relief that can be granted.
- d. The petitioner fails to comply with the procedures prescribed in this policy issuance.

SEMC will inform the petitioner and respondent in writing of the reason(s) the grievance was rejected. The notification must be issued within 60 days from the date the grievance was filed and will include the opportunity to appeal to the TIA.

Hearing: For WIOA-related grievances, a local level hearing shall be conducted. A local level hearing is not required if the grievance is resolved prior to the hearing date or the petitioner withdraws the grievance. Should a hearing be held on a local level grievance, the hearing shall be conducted within 30 days from the date the grievance was filed, and a decision shall be rendered no later than 60 days from the date the grievance was filed.

Notice: If a hearing is to be conducted, SEMC must provide written notice to the petitioner and respondent. The notice shall include the date, time, and place of the hearing and a



description of the hearing process (e.g. opportunity to present evidence, ask questions, etc.). The notice of the hearing shall indicate the issues to be decided. Notice shall be given not less than 10 days prior to the scheduled hearing date.

Hearing Process: At a minimum, the hearing process shall include:

- a. A hearing officer;
- b. An opportunity for each party to present witnesses and evidence;
- c. An opportunity for each party to ask questions of all witnesses providing testimony at the hearing;
- d. A record of the hearing;
- e. 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.

Decision: A written decision shall be issued by the hearing officer and shall include the following information:

- a. Date, time, and place of hearing;
- b. Name and address of the petitioner;
- c. Name and address of the respondent;
- d. Names and addresses of all witnesses called by the parties;
- e. Information sufficient to identify all evidence presented;
- f. A reiteration of the issues raised;
- g. A determination of the facts;
- h. An analysis of the issues as they relate to the facts;
- i. A decision addressing each issue;
- j. A statement regarding the opportunity to appeal the decision to the

TIA.

c. **Appeal:** If a response to the grievance is not received within the time prescribed (i.e. 60 days from the filing of the grievance), or should either party be dissatisfied with a decision, there is opportunity for an appeal to the TIA.



Step 2: State Level Review

Appeal: A local level grievance decision may be appealed. The appeal shall be in writing to the TIA. The appeal shall be filed no later than 10 days from receipt of an adverse decision at Step 1, or 10 days from the date a decision was due (i.e. 60 days from filing of the grievance) but not issued at Step 1.

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

Talent Investment Agency
Executive Office
Victor Office Building
201 N. Washington Square, 5th Floor
Lansing, MI 48913

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

- a. The full name, address, and telephone number of the appellant(s).
- b. The full name, address, and telephone number of the respondent(s).
- c. A clear and concise statement of the facts, as alleged, including the pertinent dates, constituting the alleged violation.
- d. The provision of the act, regulations, grant, contract, or other agreements under the act believed to have been violated.
- e. The relief requested.

Evidentiary Documentation: Both parties should send all relevant information and documentation generated at the local hearing and related to this appeal to the TIA address and staff person previously cited, to assist with the determination on the grievance.



Documentation Deadline: All relevant documentation should be sent to TIA within 15 days of the filing of the appeal.

TIA Action: Following consideration of the appeal, the TIA will take One of the following actions:

Rejection of the Appeal: A grievance may be rejected, and a final determination issued, if it is determined that:

- a. It lacks merit;
- b. It fails to state a grievable issue;
- c. There is no relief that can be granted; or

d. If the appellant fails to comply with the applicable procedures prescribed in this policy (e.g. 10 day filing requirement, among other provisions).

The appellant will be informed, in writing as soon as possible or within 60 days from the date the appeal was filed, of the reason the appeal was rejected.

Waiver of the Hearing: 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 TIA decide the matter based on the record created at the local level. If both parties and TIA are in agreement, the hearing is waived. Both parties must provide TIA with written confirmation that demonstrates their consent to waive the hearing. TIA will issue a final decision within 60 days of the receipt of the appeal taking into consideration the evidentiary documentation previously submitted.

Hearing: For an appeal of a WIOA related local level decision, an opportunity for a hearing may be provided. However, a hearing will not be held under certain circumstances, as previously prescribed in this policy issuance. If a hearing on an appeal is to be held, it shall be conducted within 30 days of the filing of the appeal. A hearing is not required at this step if the appellant withdraws the appeal.

When a hearing is conducted on an appeal, the appellant and the 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 issues to be decided. Notice shall be given not less than ten days prior to the scheduled hearing date.

At a minimum, the hearing process shall include:

- a. A hearing officer;
- b. An opportunity for each party to present witnesses (subpoenas are not authorized under this policy issuance) and evidence;
- c. An opportunity for each party to ask questions of all witnesses providing testimony at the hearing;
- d. 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 not later than 60 days after the filing of the appeal. The decision shall include the following:

- a. Date, time, and place of hearing;
- b. Name and address of the petitioner;
- c. Name and address of the respondent;
- d. Names and addresses of all witnesses called by the parties;
- e. Information sufficient to identify all evidence presented;
- f. A reiteration of the issues raised;
- g. A determination of the facts;
- h. An analysis of the issues as they relate to the fact;
- i. A decision addressing each issue;

Step 3: Federal Government Review

Appeal: In general, a state level decision 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 USDOL. A



WIOA related decision may be appealed by the adversely affected party to the USDOL within 60 days of receipt of the TIA decision. Pursuant to 20 CFR 683.610(c), 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

Talent Investment Agency
Victor Office Building
201 N. Washington Square, 5th Floor
Lansing, Michigan 48913

E. State Level Review of a Local Grant Recipient Appeal

Filing: Local grant recipients may appeal 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 TIA/Office of Audit & Financial Compliance (O AFC) within 30 days of the adverse decision.

Other interested parties cannot appeal monitoring findings, incident report findings, single audit resolution findings/issues,



etc. (which are issued by TIA/OAFC) directly to TIA/OAFC. To the extent that interested parties are affected by a TIA/OAFC decision regarding monitoring findings, incident report findings, single audit resolution findings/issues, etc., the interested parties must first file a grievance at the local level (see Step 1: Local Level Grievance Procedures).

All appeals shall be submitted to:

Talent Investment Agency
Executive Office
Victor Office Building
201 N. Washington Square, 5th Floor
Lansing, Michigan 48913

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

- a) The full name, address, and telephone number of the appellant(s);
- b) The full name, address, and telephone number (if any) of the respondent(s);
- c) A clear and concise statement of the facts, as alleged, including the pertinent dates, constituting the alleged violation;
- d) The provision of the act, regulations, grant, contract, or other agreements under the act believed to have been violated; and
- e) The relief requested.

Any appeal of USDOL monitoring findings shall only be reviewed for compliance with USDOL requirements. A record shall be created to forward to USDOL, if applicable.



Hearing Notice: The TIA/OAFC may conduct a hearing on an appeal within 30 days of the filing of the appeal. The appellant and the respondent 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 issues to be decided. Notice shall be given not less than 10 days prior to the scheduled hearing date.

Hearing: For an appeal of a WIOA related local level decision, an opportunity for a hearing must be provided. However, 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 days of the filing of the appeal. A hearing is not required at this step if the appellant withdraws the appeal.

Hearing Process: At a minimum, the hearing process shall include:

- a) A hearing officer;
- b) An opportunity for each party to present witnesses (subpoenas are not authorized under this policy) and evidence;
- c) An opportunity for each party to ask questions of all witnesses providing testimony at the hearing; and
- d) 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.



Decision: A written decision shall be issued not later than 60 days after the filing of the appeal. The decision shall include the following:

- a) Date, time, and place of hearing;
- b) Name and address of the appellant;
- c) Name and address of the party against whom the appeal is made;
- d) Names and addresses of all witnesses called by the parties;
- e) Information sufficient to identify all evidence presented;
- f) A reiteration of the issues raised;
- g) A determination of the facts;
- h) An analysis of the issues as they relate to the facts; and
- i) A decision addressing each issue.

Appeal: The TIA's decision is final. The local grant recipient may appeal noncompliant WIOA grievance procedures of the TIA to the Secretary of the USDOL. Pursuant to 20 CFR 683.610(c), an appeal must be submitted to the Secretary of the USDOL within 60 days of receipt of the TIA 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



Talent Investment Agency
Executive Office, 5th Floor
Victor Office Building
201 N. Washington Square
Lansing, Michigan 48913

F. Appeals Related to Designation as a Local Workforce Investment Area

In accordance with Section 116(a)(5) of the WIOA and 20 CFR 683.645(a) and (b):

Appeals of denial of automatic or temporary and subsequent designation as a local workforce investment area may be filed with the Governor's Talent Investment Board (GTIB). Appeals must be filed by certified mail, return receipt requested, to:

Michigan Economic Development Corporation
Governor's Talent Investment Board
300 N. Washington Square
Lansing, Michigan 48913

If the appeal to the GTIB does not result in designation as a local workforce investment area, the appellant may request a review by the Secretary of the USDOL. Appeals must be filed no later than 30 days after receipt of written notification of the denial from the State Board, and must be submitted by certified mail, return receipt requested, to:

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

A copy of the appeal must be simultaneously provided to the GTIB.



G. Special Provisions:

1. Equal Opportunity: Complaints alleging violation of the nondiscrimination and equal opportunity (EO) provision of state/federal grant program must be resolved in accordance with the nondiscrimination and EO policy guidelines issued by the TIA (as indicated in H.)
2. Criminal Conduct: Known or suspected fraud, abuse, or criminal conduct under the WIOA shall be reported in accordance with the incident report guidelines issued by the TIA.
3. TANF Displacement: Pursuant to the PRWORA, a grievance may be filed by an affected individual if a recipient of 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. In this situation, either party to the grievance, the TANF recipient, or the displaced employee, may appeal the decision rendered by SEMC to the TIA
4. WIOA Displacement: Pursuant to WIOA Regulation 683(d), 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.
5. Binding Arbitration/Collective Bargaining: SEMC grievance procedures must provide WIOA participants 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 in accordance with Section 683.600(c)(3) of the WIOA regulations.



6. Jurisdiction: Depending on the nature of the grievance, TANF and FAE&T program applicant and recipient grievances shall be handled in accordance with SEMC or the Department of Health and Human Services (DHHS) procedures. For example, grievances regarding sanctioning or food stamp benefits will be handled by DHHS, while grievances regarding programs administered by SEMC will be handled by SEMC.
7. Wagner Peyser: Grievances involving Wagner-Peyser Act activities funded by the Reemployment Service Agency (RESEA) must be resolved in accordance with the grievance procedures outlined in the Employment Service Manual. 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 farm worker complaints, and other possible violations of general labor laws.

H. Special Provisions- Violation of the Non-Discrimination and Equal Opportunity Provisions of State/Federal Programs

Grievances Alleging Discrimination

SEMC and its subcontractors will not discriminate against any employee, applicant for employment, or applicant for services provided by any TIA funds because of race, religion, color, national origin, sex, age, height, weight, marital status, disability, arrest without conviction, or other categories of groups protected by the law.

Grievances 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 TIA.

Any individual feeling that they have been subjected to discrimination under a TIA-funded program, federal and state funding may file a complaint within 180 days from the date of the alleged violation with the



EO officer of SEMC or:

State Equal Opportunity Officer
Talent Investment Agency
Victor Office Building
201 N. Washington Square, 5th Floor
Lansing, Michigan 48913
Or

Director
Civil Rights Center (CRC)
U.S. Department of Labor
200 Constitution Avenue NW, Room N 4123
Washington, D.C. 20210

Grievances Alleging Criminal Activity Related to the WIOA Program

Complaints of alleged fraud, abuse, or other criminal activity related to the WIOA program will be reported directly to the USDOL. The complaint will be filed using USDOL Form DL-156 (USDOL Incident Report.) A copy of the form will be sent to:

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

A copy of the DL-156 should also be submitted to: Office of Audit and Financial Compliance Talent Investment Agency Victor Office Building 201 N. Washington Square, 3rd Floor Lansing, Michigan 48913 P.O. Box 30004 Lansing, MI 48909

CONFIDENTIALITY SHALL BE GUARANTEED FOR ALL DOCUMENTS/INFORMATION TO THE FILING, INVESTIGATION, AND RESOLUTION OF A COMPLAINT INCLUDING PROCEDURES TO PROTECT FROM DISCLOSURE THE IDENTIFY OF ANY PERSON WHO FILES A COMPLAINT OF DISCRIMINATION.



Actions: All Board members, staff and contractors associated with the Southeast Michigan Consortium will follow and adhere to the guidance in this policy.

Inquiries: Questions regarding this policy should be directed to Justin Aligoe at jaligoe@mwse.org