

VI WORKFORCE DEVELOPMENT BOARD POLICY DOCUMENT

Workforce System Guidance WIOA 204-15

TO: Virgin Islands Single State Workforce Development Area

SUBJECT: GRIEVANCE PROCEDURES

DATE: July 2015

Purpose: To provide a comprehensive Grievance Procedure format.

References: Workforce Innovation and Opportunity Act of 2014 Section 181 (c)

Background: Each State and local area receiving an allotment or allocation under this title shall establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this title from participants and other interested or affected parties. Such procedure shall include an opportunity for a hearing and be completed within (60) days after the filing of the grievance or complaint.

Policy: The Virgin Islands Single Local Workforce Area provides for any individual or party with a grievance against the local workforce system including One-Stop Partners and Service Providers, Statewide workforce programs and/or a direct recipient of the System, an opportunity for:

- An informal resolution and a hearing to be completed within (60) days of the filing of the grievance or complaint;
- An opportunity to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides; and
- An opportunity for an appeal to the Secretary when:
 - o No decision is reached within (60) days or
 - o Either party is dissatisfied with the hearing decision

Investigation

The Secretary shall investigate an allegation of a violation described if –

- (i) A decision relating to such violation has not been reached within (60) days after the date of the filing of the grievance or complaint and either party appeals to the Secretary; or
- (ii) A decision relating to such violation has been reached with such (60) days and the party to which such decision is adverse appeals such decision to the Secretary.

The Secretary shall make a final determination relating to an appeal made no later than 120 days after receiving such appeal.

Procedures

The Procedures for local area, State and direct recipient are further defined in Attachment I of this document.

Remedies

Remedies that may be imposed under this section for a violation of any requirement of this title shall be limited –

- (A) To suspension or termination of payments under this title;
- (B) To prohibition of placement of a participant with an employer that has violated any requirement under this title;
- (C) Where applicable, the reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and
- (D) Where appropriate, to other equitable relief.

Nothing in this paragraph shall be construed to prohibit a grievant or complainant from pursuing a remedy authorized under another Federal, State or local law for a violation of this title.

The provisions of this section on grievance procedures do not apply to discrimination complaints brought under WIOA section 188 and/or 29 CFR part 37. Such complaints must be handled in accordance with the procedures set forth in that regulatory part.

Inquiries: Questions should be addressed to the:

Chairman of the Workforce Development Board at VI Workforce Board, Sunny Isle Professional Building, Suite 7, Christiansted, VI 00820; (340) 773-5237.

Workforce Innovation and Opportunity Act (WIOA)

Grievance Procedure

Step 1 Supervisor/Counselor

1. The aggrieved customer should present his/her grievance, either orally or in writing, to his/her immediate supervisor and the Workforce Development Unit (WDU) counselor.
2. The immediate supervisor shall, within five (5) working days of notification of the grievance, meet with the customer and his/her WDU representative to discuss the grievance. A decision regarding the disposition of the grievance should be conveyed in writing to the customer within two (2) working days following the conclusion of the meeting
3. If the grievance is settled at this point, no further action is taken.
4. If the customer has not heard from his/her supervisor within five (5) working days after submitting the grievance, the customer should

present the grievance directly to the next in line of authority.

5. If the grievance is not settled at Step 1, the supervisor, or next person in line of authority, shall be obligated, within (5) working days, to arrange a meeting with Workforce Innovation and Opportunity Act Grievance Officer and the customer, at which time the customer and his/her WDU counselor may present the grievance.

Step 2 Grievance Officer

1. Upon receiving notice of the grievance, the Grievance Officer may wish to investigate the grievance further before meeting with the aggrieved customer and his/her WDU Counselor.

The Step 2 meeting should take place within five (5) working days after notification of the grievance. The Grievance Officer may desire to have a member of management present at the discussion.

2. The Grievance Officer's decision should be conveyed in writing to

the customer within two (2) working days following the conclusion of the meeting. If the grievance is settled at this step, no further action is taken. A copy of the Grievance Officer's decision is retained in the customer's file.

3. If the customer is not satisfied with the Grievance Officer's decision, the customer may appeal the decision, within five (5) working days, to the Commissioner of Labor.

Step 3 Departmental Hearing

1. The Commissioner of Labor shall assign the hearing to a designee from among the Assistant Commissioners, Directors and Departmental Adjudicator. The Hearing Officer will consider the customer's appeal at a hearing scheduled within ten (10) working days. The grievance hearing procedure shall include written notice of the date, time and place of the hearing, an opportunity to represent evidence and a written decision.

2. The Grievance Officer shall submit all information available from Step 2 to the Hearing Officer. The hearing shall be conducted in accordance with the Rules and Regulations set forth in Chapter Three (3) of Title 24 of the Virgin Islands Code.
3. The Hearing Officer's decision shall be conveyed in writing to the customer within five (5) working days following the conclusion of the meeting in which disposition of the case is determined and a copy shall be included in the customer's record.
4. If the complainant does not receive a decision at this level within sixty (60) days of filing the complaint or receives a decision unsatisfactory to the complainant, the complainant has a right to request a review of the complaint by the Governor. The request for review shall be filed within ten (10) days from the date on which the complainant should have received a decision. The Governor, through his designee, the Commissioner of Labor, shall issue a decision within thirty (30) days. The Governor's decision is final.

5. Should the Governor, through his designee, the commissioner of Labor, fail to provide a decision as required, the complainant may request, from the United States Secretary of Labor, a determination whether or not reasonable cause exists to believe that the Act or its regulation have been violated.

Step 4 Secretarial Hearing

1. A grievance or complaint may be made to the Secretary of Labor in the event that a decision could not be reached by the State within 60 days of receipt of grievance or complaint; or in the event that a decision has been reached and the party to which such decision is adverse appeals the decision.
2. Appeals made because the decision is adverse must be filed within 60 days of the receipt of the decision being appealed.
3. Appeals made because a decision by the State has not been made within 60 days of the

complaint, must be filed within 120 days of filing the grievance with the State or the filing of the appeal of a local grievance with the State.

4. A final decision will be made by the Secretary no later than 120 days of making after making the appeal.
5. All appeals must be submitted by certified mail, return receipt requested to the Secretary, US Department of Labor, Washington, DC 20210; Attention: ASET.
6. A copy of the appeal must be simultaneously provided to the appropriate ETA Regional Administrator, Region 1 and the opposing party.