

CAPITAL AREA MICHIGAN WORKS!

GRIEVANCE PROCEDURE

SECTION I: This Grievance Procedure is established and maintained for resolving any complaint or grievance alleging a violation of any program that is administered by Capital Area Michigan Works! (CAMW!).

SECTION II: All grievances and complaints utilizing the Workforce Development Agency, State of Michigan (WDA) funding sources (including state funding sources) shall follow the guidelines set forth in this Grievance Procedure.

SECTION III: All program participants shall be provided upon enrollment into employment or training with a written description of this Grievance Procedure, and the Employer's own grievance procedure, including notification of the rights to file a complaint and instructions on how to do so. Program participants will be provided with a copy of the Grievance Procedure and will sign the Capital Area Michigan Works! Release Statement certifying receipt of the document. Employer-based training employer contracts will include Grievance Procedure language within the contract agreement and the Grievance Procedure will be provided as an attachment to the contract to the employer. The Grievance Procedure will be included in contract language with Service Providers as well as On-Stop Partner agreements. This Grievance Procedure will be posted in areas where administration and program services are provided and are accessible to the public. Hard or electronic copies will be made available to the public upon request.

SECTION IV: Grievances may be brought by any individual or organization, including, but not limited to program participants, subgrantees, subcontractors, employees, one-stop partners, service providers, providers of training services, and other interested parties. A grievance may also be filed by an affected individual if a recipient of Workforce Investment Act (WIA), Workforce Innovation and Opportunity Act (WIOA), Temporary Assistance for Needy Families (TANF), Trade Act, Reed Act, Trade Adjustment Assistance (TAA), General Fund/General Purpose (GF/GP) or Food Assistance Employment & Training (FAE&T) services 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 a CAMW! service-funded individual. This policy provides a process that 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.

SECTION V: Should any grievant have a complaint that is grievable under this procedure; an earnest effort should be made to resolve such differences promptly in the following manner. All grievances are required to be filed within one year of the date of the event that gave rise to the grievance.

Step 1: The grievance is to be reduced to writing and presented to the Employer operating the program in which the grievant is participating in or has applied for employment. An informal hearing shall be conducted between the grievant and the employer. The Employer shall, within five (5) days after receipt of the complaint, issue a written determination as to such complaint. Such determination shall include a synopsis of the facts and a statement of the reasons for decision made and shall also provide the grievant notification of an opportunity to appeal the matter to Step 2 of the Grievance Procedure. This latter notification shall include the procedures for requesting a Step 2 hearing and shall describe the elements of the hearing procedures.

Step 2: If the dispute is not resolved at Step 1, the grievant may, within three (3) days of the issuance of the Step 1 decision, submit said grievance to the Chief Executive Officer of CAMW!, 2110 S. Cedar St., Lansing, MI 48910. A formal or informal administrative hearing will be held between the Chief Executive Officer (or his designee), the grievant, the respondent and all other necessary parties not more than thirty (30) days from the date of the filing of the complaint. The grievant must submit to the Chief Executive Officer, in writing, the following information: (a) The full name, address, and telephone number of the petitioner; (b) The full name, address, and telephone number of the respondent(s); (c) a clear and concise statement of the facts, including pertinent dates, setting forth the alleged violation; (d) the provisions of the Act, regulations, grant, contract, or other agreement under the Act alleged to have been violated; and (e) the relief requested. A grievance may be rejected if it lacks merit, if it is determined that the grievant fails to state a grievable issue or there is no relief that can be granted, or if the grievant fails to comply with this policy. The Grievant and Respondent will be informed in writing of the reason(s) the grievance was rejected. The notification will be issued within 60 days from the date the grievance was filed and will include the opportunity to appeal to the WDA.

Grievant and Respondent shall receive written notice as to the Step 2 hearing or the date, time and place of the hearing, the manner in which it will be conducted, and the issues to be decided thereat not less than ten (10) days prior to the hearing. Other interested parties may also apply for such notice. At a minimum, the hearing process shall include: a hearing officer; an opportunity for each party to present witnesses (subpoenas are not authorized under this PI) and evidence; an opportunity for each party to ask questions of all witnesses providing testimony at the hearing; 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. The Chief Executive Officer (or his designee), acting as the hearing officer, shall, within five (5) days of the close of the hearing, submit his/her written decision to the grievant, which response shall include (a) date, time, and place of hearing; (b) names and addresses of all witnesses called by the parties; (c) name and address of the petitioner(s); (d) name and address of the respondent(s) against whom the grievance is made; (e) information sufficient to identify all evidence presented; (f) a reiteration of the issues raised; (g) a synopsis of the facts; (h) an analysis of the issues as they relate to the facts; and (i) a decision addressing each issue. The Chief Executive Officer shall also provide the grievant notification of the opportunity to appeal the matter to Step 3 of the Grievance Procedure.

Step 3: If the dispute is not resolved at Step 2, then either party may, within three (3) days of the issuance of the Chief Executive Officer's decision, submit said grievance to the CAMW! Administrative Board (The Board) for consideration at its next regularly scheduled meeting. At such meeting, the Board shall consider the positions of each party and the decision rendered by the Chief Executive Officer. Within ten (10) days of said meeting, but in any event no longer than sixty (60) days from the initial filing of the grievance, the Board shall submit its written decision to the grievant, which shall include (a) date, time, and place of hearing; (b) names and addresses of all witnesses called by the parties; (c) name and address of the petitioner(s); (d) name and address of the respondent(s) against whom the grievance is made; (e) information sufficient to identify all evidence presented; (f) a reiteration of the issues raised; (g) a synopsis of the facts; (h) an analysis of the issues as they relate to the facts; and (i) a decision addressing each issue; j) A statement regarding the opportunity to appeal the decision to the WDA. The Chief Executive Officer shall also provide the grievant notification of the opportunity to appeal to the Workforce Development Agency, State of Michigan (WDA), (Step 4).

Step 4: If the grievant is not satisfied with the Board's response, or does not receive the same in time prescribed, including continuances, he/she may appeal, in writing, no later than ten calendar days from receipt of an adverse decision at Step 3, or ten calendar days from the date a decision was required but not received at Step 3 (a decision is required to be rendered not later than 60 calendar days from the date the grievance was filed).

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

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

All appeals of a grievance shall contain, to the extent practicable, (a) full name, address, and telephone number of the appellant(s); (b) full name, address, and telephone number (if any) of the respondent(s) against whom the grievance is made; (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.

Both parties should send all relevant information and documentation generated at the local hearing and related to this appeal to the address provided above (i.e. where the appeal was sent). It is the responsibility of the parties to ensure WDA has all relevant documentation necessary to make a determination on the grievance.

All relevant documentation and information should be sent to WDA within **15 days** of the filing of the appeal to the WDA Executive Office. WDA has the **discretion** to provide parties with the opportunity to provide additional information after the 15 day deadline if WDA believes it is necessary to make a final determination.

WDA Action: Following consideration of the appeal, the WDA will take one of the following actions:

1. **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., the 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.
2. **Hearing:** For an appeal of a WIA or WIOA related local level decision, an opportunity for a hearing must be provided unless the appeal is rejected by the WDA, the parties agree to waive a hearing, or the appellant withdraws the appeal. 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 for an appeal of a non-WIA or non-WIOA related local level decision.

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 hearing officer; an opportunity for each party to present witnesses (subpoenas are not authorized under this PI) and evidence; an opportunity for each party to ask questions of all witnesses providing testimony at the hearing; 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.

3. **Final 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 (if held); 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) and A decision addressing each issue.

USDOL Review Of A State Level Decision

In general, a state level decision is final. However, if a decision is not issued by the due date, a WIA or WIOA related appeal may be reviewed by the Secretary of the USDOL. A WIA or WIOA related decision may be appealed by the adversely affected party to the USDOL within **60 days** of receipt of the WDA 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

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

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 WDA 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 WDA) directly to WDA. To the extent that interested parties are affected by a WDA 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:

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

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: For an appeal of a WIA or WIOA related local level decision, an opportunity for a hearing must be provided unless the appeal is rejected by the WDA, the parties agree to waive the hearing, or the appellant withdraws the appeal. If a hearing on an appeal is to be held, it shall be conducted within **30 calendar days** of the receipt of the appeal.

A hearing is not required for an appeal of a non-WIOA or non-WIOA related decision.

1. Hearing Notice: The parties 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 calendar days** prior to the scheduled hearing date.

2. 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.
- 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 calendar 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.

USDOL Appeal: The decision of the WDA is final. The local grant recipient may appeal noncompliant WIA or WIOA grievance procedures of the WDA to the Secretary of the USDOL. An appeal must be submitted to the Secretary of the USDOL within 60 days of receipt of the WDA 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
Workforce Development Agency
Executive Office, 5th Floor
Victor Office Building
201 N. Washington Square, 5th Floor
Lansing, Michigan 48913

Special Provisions

Parties involved in a grievance procedure should take note of the following:

- A. **Equal Opportunity:** 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 WDA.
- B. **Criminal Conduct:** Known or suspected fraud, abuse, or criminal conduct under the WIA or WIOA shall be reported in accordance with the incident report guidelines issued by the WDA.
- C. **TANF Displacement:** Pursuant to the PRWORA Regulation 45 CFR 261.70, 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 the AE of the WDB to the WDA.

- D. **WIA or WIOA Displacement:** A grievance may be filed by a regular employee displaced by a WIA or WIOA participant who is placed in an employment activity operated with WIA or WIOA funds. Also, a grievance may be filed by a WIA or WIOA participant in an employment activity if the participant is displaced.
- E. **Binding Arbitration/Collective Bargaining:** Local grant recipient grievance procedures must provide WIA or 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.
- F. **Jurisdiction:** Depending on the nature of the grievance, TANF and FAE&T program applicant and recipient grievances shall be handled in accordance with the local grant recipient or the Michigan Department of Human Services (DHS) or other applicable procedures. For example, grievances regarding sanctioning or food stamp benefits will be handled by DHS, while grievances regarding programs administered by the local grant recipient will be handled by the AE of the WDB.
- G. **Wagner-Peyser:** Grievances 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 One-Stop Management Information System. 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 complaints, and other possible violations of general labor laws.

SECTION VI: With the exception of complaints alleging fraud or criminal activity, the filing of all complaints must be made within one (1) year of the alleged occurrence.

SECTION VII: Both the Chief Executive Officer at the Step 2 level and the Administrative Board at the Step 3 level of the grievance procedure may, at the request of a party or on their own initiative, dismiss any grievance for failure to state a cause of action for which relief can be given. Prior to such a dismissal, the grievant may be given an opportunity to show cause why the grievance should not be dismissed. Any such dismissal may be appealed to the next grievance step.

SECTION VIII: Grievant shall have the opportunity to amend their grievance at any time prior to the Step 2 hearing.

SECTION IX: A grievance may be withdrawn at any step of this Grievance Procedure.

However a grievance once withdrawn may not thereafter be reinstated.

SECTION X: The time elements in the first three steps of the Grievance Procedure may be shortened or extended by the CAMW! Chief Executive Officer upon receipt of a mutual agreement between the parties.

SECTION XI: Any grievance not appealed in writing within the time limits established in the grievance procedure to the next appropriate step, shall be considered settled on the basis of the last determination.

SECTION XII: Written notification of the date, time and place of all formal or informal hearings or meetings regarding the grievance shall be provided to the grievant and respondent, and shall indicate the manner in which such hearing or meeting will be conducted.

SECTION XIII: The grievant shall have the opportunity to be represented by an attorney or other representative of the complainant's choice at all levels of this Grievance Procedure.

SECTION XIV: Parties to the grievance shall have an opportunity to request the continuance of any hearing or meeting for good cause.

SECTION XV: In the event there is a series of subcontracts between the Employer and CAMW!, in order to reduce the number of appeal levels in the grievance procedure, if the grievant and the Employer both agree, the grievance may be passed on to the next step in the contract chain until it reaches Step 2. However, under no circumstances may it be passed on under this section without an initial determination made by the Employer.

SECTION XVI: In the event that the alleged violation of WIA or the WIOA regulations, grants or contracts, is also an alleged violation of another law, regulations or agreement, nothing in this procedure shall preclude an individual or an organization from filing a complaint or grievance under such other law or agreement with respect to the non-WIA or non-WIOA cause of action, as well as filing a complaint under WIA or WIOA. However, no suit may be filed which alleges a violation of the WIA or the WIOA regulations without first exhausting the applicable administrative remedies under this Grievance Procedure.

SECTION XVII: For grievances that involve dual enrollments of participants in the Trade Adjustment Assistance Program and the WIA or WIOA Dislocated Worker Program, the following actions must be undertaken:

- a. CAMW! will determine the funding source supporting the activity or program being grieved.
- b. If there is only one funding source for the grieved activity or program involved, CAMW! shall resolve the grievance under the appropriate grievance procedure.

SECTION XVIII: Discrimination Complaints. CAMW! is committed to the principles of equal opportunity (EO) and nondiscrimination in the provision of programs and services administered by the agency. In carrying out this commitment, we require the equitable treatment of all persons in the opportunity for employment, as well as their access to, and receipt of, program services without discrimination based on race, color, national origin, age, sex, religion, disability, and other non-merit factors.

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 EO provisions of state/federal programs administered may file a written complaint. All complaints must be filed within 180 days of the alleged discrimination.

SECTION XIX: Known or suspected fraud, abuse, or criminal conduct under the WIA or WIOA shall be reported in accordance with the incident report guidelines issued by the WDA.