



Administered locally by the Macomb/St. Clair Workforce Development Board
VerKuilen Building
21885 Dunham Road
Suite 11
Clinton Township, MI 48036-1030

GRIEVANCE PROCEDURE

The Macomb/St. Clair Workforce Development Board maintains a formal grievance procedure to receive, investigate and resolve grievances and to conduct hearings in order to settle disputes arising out of programs with funding sources received from the Michigan Department of Energy, Labor & Economic Growth (DELEG).

Grievances can be brought by any individual or organization including, but not limited to, program participants, contractors, one-stop partners, applicants seeking participation or financial assistance, labor unions and community-based organizations; or from administrative staff of the Macomb/St. Clair Workforce Development Board.

Where the alleged violation of the funding source or regulation is also an alleged violation of another law, regulation or agreement, nothing in this grievance procedure shall preclude an individual or an organization from filing a grievance under such other law or agreement with respect to the cause of action; as well as filing a grievance under the provisions herein.

In the case of participants who are receiving services under funding sources received from the Michigan Department of Energy, Labor & Economic Growth (DELEG), every individual prior to entering employment or training is informed of his/her rights and benefits in connection with same. Each participant receives a written grievance procedure including a notification of their right to file a grievance and how to do so. Every employer of training participants will notify their participants of the scope and availability of procedures for grievances relating to terms and conditions of employment. An employer grievance system shall provide for, upon request by the grievant, a review of an employer's decision by the Macomb/St. Clair Workforce Development Board.

The identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation of the funding source shall be kept confidential to the extent possible, consistent with the fair determination of the issues.

INFORMAL

Step 1: Any individual having a grievance alleging a violation of Macomb/St. Clair Workforce Development Board funded programs, regulations, grants or other agreements, should first attempt to resolve the issue with his/her immediate supervisor. Training participants should discuss the matter at their training facility if the training site is the involved party. Participants involved in on-the-job training programs should first seek resolve with his/her employer.

Step 2: If resolution of the grievance is not accomplished at Step 1, the grievant should next attempt a resolution with the appropriate Coordinator for the Macomb/St. Clair Workforce Development Board. Contact (586) 469-5220 for the name of this person.

FORMAL

Step 3: If satisfactory disposition cannot be agreed upon at Step 2, a formal, written grievance can be filed with the Executive Director of the Macomb/St. Clair Workforce Development Board.

- A. All grievances related to "No Worker Left Behind (NWLB), WIA, TANF, FAE&T, Reed Act, Trade Act (except requests for redeterminations), and State of Michigan GF/GP programs funded by the Department of Energy, Labor & Economic Growth/Workforce Programs are required to be filed within one year of the date of the event that gave rise to the grievance.
- B. All grievances shall be in writing and contain, to the extent practicable, the following information:
 - 1) The full name, address, and telephone number of the party/parties filing the grievance;
 - 2) The full name and address of the party against whom the grievance is made, or other information sufficient to identify the party against whom the grievance is made;
 - 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 agreements under the act believed to have been violated;
 - 5) The relief requested.
- C. The grievance may be rejected by the Executive Director of the Macomb/St. Clair Workforce Development Board 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 procedure. The Executive Director of the Macomb/St. Clair Workforce Development Board will inform the grievant in writing of the reason(s) the grievance was rejected. The notification will be issued as soon as possible or within 60 calendar days from the date the grievance was filed and will include the opportunity to appeal to the Department of Energy, Labor and Economic Growth/Internal Audit and Monitoring Division.
- D. A hearing on a local level grievance shall be conducted within 30 calendar days from the date the grievance was filed, and a decision must be rendered no later than 60 calendar days from the date the grievance was filed. A hearing is not required at this step if the grievance is resolved without one or the grievant withdraws the grievance. For NWLB or WIA-related grievances, Section 18(c) of the WIA indicates that an opportunity for a hearing shall be provided to participants and other interested or affected parties. If a hearing is to be conducted, the Executive Director of the Macomb/St. Clair Workforce Development Board must provide written notice to the grievant and party against whom the grievance is made. The notice shall include the date, time, and place of the hearing and an opportunity for the parties 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** calendar days prior to the scheduled hearing date.
- E. At a minimum, the hearing process shall include:
 - 1) A hearing officer,
 - 2) An opportunity for each party to present witnesses and evidence.

- 3) An opportunity for each party to ask questions of all witnesses providing testimony at the hearing.
 - 4) 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.
- F. A written decision shall be issued by the hearing officer and shall include the following information:
- 1) Date, time and place of hearing (if held);
 - 2) Name and address of the grievant;
 - 3) Name and address of the party against whom the grievance 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.
- G. If a response to the grievance is not received within the time prescribed, or should either party be dissatisfied with a decision, there is opportunity to an appeal to the Department of Energy, Labor and Economic Growth/Internal Audit and Monitoring Division.

Step 4 State Level Review of a Local Level Decision

- A. A local level grievance decision may be appealed, in writing, to the Department of Energy, Labor & Economic Growth/Internal Audit and Monitoring Division. The appeal must be filed no later than ten calendar days from receipt of an adverse decision in Step 3, or ten calendar days from the date a decision was due but not received at Step 3.
- B. All appeals of a local level grievance decision shall be submitted to:

Mr. Allen Williams, Director
Internal Audit and Monitoring Division
Michigan Department of Energy, Labor & Economic Growth
611 West Ottawa, 4th Floor
P.O. Box 30004
Lansing, Michigan 48909

- C. All appeals shall contain, to the extent practicable, the following information:
- 1) The full name, address and telephone number of the party/parties filing the appeal;
 - 2) The full name, address and telephone number (if any) of the party/parties against whom the grievance is made;
 - 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 agreements under the act believed to have been violated; and
 - 5) The relief requested.
- D. An appeal may be rejected if it is determined that the appellant fails to state a grievable issue or there is no relief that can be granted, or if the appellant fails to comply with the applicable procedures described in this document. The grievant will be informed, in writing as soon as possible or within 60 calendar days from the date the grievance was filed, of the reason the grievance was rejected.
- E. A hearing may be conducted on the appeal. If a hearing is to be conducted, the appellant and the party against whom the grievance is made will be provided written notice of the date, time, and place of the 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 calendar days prior to the hearing on the matter.
For an appeal of a NWLB or WIA-related local level decision, an opportunity for a hearing must be provided. A hearing will not be held if the NWLB or WIA related appeal involves a non-grievable issue.
In lieu of a hearing for an appeal of a NWLB or WIA related local level decision, the parties to the appeal may mutually consent to the hearing officer deciding the matter based on the record created at the local level.
- F. If a hearing is not to be held, both parties to the appeal will be notified within ten days of receipt of the appeal. The parties to the appeal will be given the opportunity to submit additional relevant information and/or documentation pertaining to the appeal.
- G. If a hearing on an appeal is to be held, it shall be conducted within 30 calendar days of filing the appeal. A hearing is not required at this step if the appellant withdraws the appeal.
- H. At a minimum, the hearing process shall include:
- 1) A hearing officer;
 - 2) An opportunity for each party to present witnesses and evidence;
 - 3) An opportunity for each party to ask questions of all witnesses providing testimony at the hearing;
 - 4) 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.
- I. A written decision shall be issued not later than 60 calendar days after the filing of the appeal. The decision shall include the following:
- 1) Date, time and place of hearing (if held);
 - 2) Name and address of the grievant;
 - 3) Name and address of the party against whom the grievance 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.

In general, the decision is final. However, if a decision is not issued by the due date, a NWLB or WIA-related appeal may be reviewed by the Secretary of the U.S. Department of Labor (USDOL). A WIA-related decision may be appealed by the adversely affected party to the USDOL within 60 calendar days of receipt of the Department of Energy, Labor & Economic Growth/Internal
MSCWDB – Revised 04/09

Audit and Monitoring Division decision.

Pursuant to 20 CFR 667.610 (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
Mr. Allen Williams, Director
Internal Audit and Monitoring Division
Michigan Department of Energy, Labor and Economic Growth
611 West Ottawa, 4th Floor
P.O. Box 30004
Lansing, MI 48909

Special Provisions

- 1) The following policy and procedures shall apply to grievances of decisions/determinations for Trade Program training, job search, or relocation services pursuant to the Trade Program Regulations 20 CFR 617.50 and 617.51.

Individuals may request a determination where there is disagreement with an initial determination. An individual may submit a Request for Predetermination on Form OWD 706 or submit a written request to the MWA. (Form OWD 706 may be obtained by contacting (586) 469-5220). These requests shall include a copy of the initial determination.

If the written request is not on Form OWD 706, it is *not* required that it specifically mention or contain the term "protest", "appeal", "request for predetermination", "grievance", etc. The written communication will be considered as a grievance, or request for predetermination, if it accomplishes *either* of the following:

- Expresses disagreement or dissatisfaction with the previously issued determination, from which an intent to request a predetermination can be implied, or
- Presents a state of new facts and/or contentions that are contrary to the facts and/or contentions cited in the determination previously issued.

A request for redetermination, must be filled within 30 calendar days after the mailing date or personally served. When the 30th day after the mailing date or personally served date falls on a Saturday, Sunday, or legal holiday, the 30-day protest period will be extended to include the next day which is not a Saturday, Sunday, or legal holiday. This applies even though the One Stop office may be open on that holiday. There may also be certain days of the year that are not holidays, on which One Stop offices are closed for other reasons. Since these days are not legal holidays, the 30-day protest period *cannot* be extended to include the next day that is neither a Saturday, Sunday, nor a legal holiday.

If the request for predetermination, is received within the 30-day time limit previously described, the designated staff person appointed by the Executive Director of the Macomb/St. Clair Workforce Development Board reviews and reconsiders the entire file, including the initial determination, any new additional facts and promptly issues a notice of predetermination on Form OWD 306. However, if the request for predetermination is received *after* expiration of the 30-day time limit, the designated staff person appointed by the Executive Director of the Macomb/St. Clair Workforce Development Board first must ascertain whether good cause exists to reconsider the initial determination.

- When the 30th day falls on a day on which the local MWA office is closed and the request for redetermination is not received prior to that day, a redetermination can be issued only if good cause is found to exist. A worker who attempts to file for redetermination, but is prevented from filing because the One Stop office is closed, will be found to have good cause for late filing if the protest is received on the next day on which the One Stop office is open. A redetermination will then be issued.

"Good cause" will include, but not be limited to, the following situations:

- When an interested party has newly discovered material facts that, through no fault of his/her own, were not available at the time of the initial determination, request for redetermination made after the expiration of the statutory 30-day period would require a finding of "good cause".
- When the MWA has additional or corrected information.
- When an administrative clerical error has been discovered.

When the request for redetermination is received after expiration of the 30-day appeal period and does not state why the protest is late the designated staff person appointed by the Executive Director of the Macomb/St. Clair Workforce Development Board contacts the worker to request this information.

If the request for a determination is received after expiration of the 30-day period and good cause for reconsideration is not established, the request for redetermination shall be denied and the designated staff person appointed by the Executive Director of the Macomb/St. Clair Workforce Development Board, records the facts and reasons for denying the request on Form OWD 306.

If the request for predetermination is received *after* expiration of the 30-day period and *good cause* for reconsideration is established, the redetermination must cover the timeliness factor. The notice of predetermination is then prepared on Form OWD 306.

After receiving a redetermination or denial of a request for predetermination, due to untimely request and lack of good cause, an individual may submit an appeal on Form OWD 801, to request a hearing within 30 calendar days after the mailing date or personally served date of the redetermination or denial before an Administrative Law Judge (ALJ). All documentation from previous decisions and any additional material must be presented to the ALJ. The designated staff person appointed by the Executive

Director of the Macomb/St. Clair Workforce Development Board immediately, upon receipt, will forward the appeal to:

Ms. Paula Henige, Analyst
Division of Unemployment Appeals
Bureau of Hearing
3024 West Grand River Boulevard Suite 13-450
Detroit, MI 48202

And a copy to:
Mr. Allen Williams, Director
Internal Audit and Monitoring Division
Michigan Department of Energy, Labor & Economic Development
611 West Ottawa, 4th Floor
P.O. Box 30004
Lansing, MI 48909

An individual who disagrees with the decision of an ALJ may request an appeal to the Board of Review, in accordance with the instructions provided with the ALJ's decision, within 30 days of the ALJ decision.

- 2) Pursuant to the PRWORA Regulations 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. In this situation, either party to the grievance, the TANF recipient or the displaced employee, may appeal the decision rendered by the Executive Director of the Macomb/St. Clair Workforce Development Board to the Department of Energy, Labor & Economic Growth/Internal Audit and Monitoring Division.
- 3) Depending on the nature of the grievance, TANF and FAE&T 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 Macomb/St. Clair Workforce Development Board will be handled by the Executive Director of the Macomb/St. Clair Workforce Development Board.
- 4) Pursuant to WIA Regulation 20 CFR 667.270(d), a grievance may be filed by a regular employee displaced by a NWLB or a WIA participant who is placed in an employment activity operated with NWLB or WIA funds. Also, a grievance may be filed by a NWLB or a WIA participant in an employment activity if the participant is displaced. In accordance with 20 CFR 667.600 (c) (3) of the WIA regulations, local grant recipient grievance procedures must provide NWLB and WIA 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.
- 5) 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 farm worker complaints, and other possible violations of general labor laws.

Grievances Alleging Discrimination

The Macomb/St. Clair Workforce Development Board and its subcontractors will not discriminate against any employee, applicant for employment, or applicant for services provided by any Michigan Department of Energy, Labor & Economic Growth 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 DELEG.

Any individual feeling that they have been subjected to discrimination under a DELEG-funded program may file a complaint within 180 days from the date of the alleged violation with either the EO officer of the Macomb/St. Clair Workforce Development Board at (586) 469-5220 or:

Mildred E. Williams, Equal Opportunity Officer
Michigan Department of Energy, Labor & Economic Growth
201 North Washington Square, 5th Floor
Lansing, MI 48913
(517) 373-7675 (voice) or 1-888-605-6722 (TTY)

or

Annabelle T. Lockhart, 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 WIA Program

Complaints of alleged fraud, abuse, or other criminal activity related to the WIA program will be reported directly to the United States Department of Labor (USDOL). The complainant will fill out a USDOL Form DL-156 Incident Report form. The original and one copy of this 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:

Director
Internal Audit and Monitoring Division
Michigan Department of Energy, Labor and Economic Growth
611 West Ottawa, 4th Floor
P.O. Box 30004
Lansing, MI 48909

Macomb/St. Clair Workforce Development Board Sexual Harassment Policy

The Macomb/ St. Clair Workforce Development Board affirms a personal and official commitment to an Equal Employment Opportunity Program which prohibits discrimination on the basis of sex. This policy applies to all programs administered by the Macomb/ St. Clair Workforce Development Board and its subcontractors. **Note:** The Macomb/St. Clair Workforce Development Board has adopted the Macomb County Board of Commissioners policy on Sexual Harassment as approved on March 23, 1989. The policy is as follows:

Whereas, the Macomb/St. Clair Workforce Development Board has in the past and continues to advocate the rights of all persons and in particular, its employees, to be free from discrimination because of race, color, religion, sex, national origin, marital status, age, political affiliation, handicapped condition or any other legally protected status, and

Whereas employees of the Macomb/St. Clair Workforce Development Board and its service providers must be free of discrimination and harassment and must have a viable means by which to have claims of discrimination and harassment heard.

Now therefore, the Macomb/St. Clair Workforce Development Board adopts the following policy:

- A. No employee, supervisor of the Macomb/St. Clair Workforce Development Board or its service providers shall discriminate or harass any employee, or customer, because of said employee's, or customer's, race, color, religion, sex, national origin, marital status, age, political affiliation, handicapped condition, or other legally protected status.
- B. That any form of discrimination and/or sexual harassment will be deemed to be a violation of this policy.
- C. Discrimination because of sex includes sexual harassment which includes but is not limited to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:
 1. Submission to such conduct or communication is made a term or condition either explicitly or implicitly to obtain or continue employment.
 2. Submission to or rejection of such conduct or communication is used as a factor in decisions affecting employment.
 3. Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, or creating an intimidating, hostile or offensive working environment.
- D. Any employee, or customer, who believes he/she has been discriminated against in violation of this policy, and in particular, believes he/she has been subjected to sexual harassment, shall report said incident either in writing or in person to their immediate supervisor or department head or the Executive Director of the Macomb/St. Clair Workforce Development Board.
- E. The person to whom the complaint is initially reported shall immediately conduct a preliminary investigation and report the findings to the Executive Director of the Macomb/St. Clair Workforce Development Board forthwith.
- F. The Executive Director of the Workforce Development Board shall immediately investigate the complaint fully and completely.
- G. If the Executive Director of the Macomb/St. Clair Workforce Development Board shall conclude that improper conduct occurred, proper discipline will be imposed in accordance with appropriate Macomb/St. Clair Workforce Development Board practices and shall include all forms of discipline up to and including discharge of employee or removal of the service provider.
- H. A person against whom a complaint of discrimination or sexual harassment has been made shall be entitled to exercise any and all rights as may be provided by an applicable grievance procedure, the U.S. and State Constitution and Federal and State law.
- I. A copy of this policy will be distributed to each employee and customer. All new employees or customers shall be provided a written copy of this policy when hired or registered for services.
- J. Any persons having questions regarding the meaning, implementation or effect of this policy may direct inquiries regarding same to the Executive Director of the Macomb/St. Clair Workforce Development Board.