**Section 2610.110 Complaint Procedures**

Grievance procedures shall be established in accordance with Section 144 of the Act, and 20 CFR 629.52 - 629.53 (revised as of April 1, 1990). These procedures will be referred to as "Complaint Procedures".

a) Grantees under the Act shall maintain a complaint procedure for resolution of any grievance or complaint about its programs and services from applicants, participants, subgrantees, subcontractors, staff and other interested persons.

b) All persons who are program applicants, participants or staff under the Job Training Partnership Act (JTPA), all contractors and grantees, and subrecipients thereof, of JTPA funds, and all interested persons shall be afforded the opportunity to resolve, by means of an administrative process, any alleged violation of the Act, federal regulations promulgated pursuant thereto, any grant, contract or other agreement entered into pursuant to the Act. Various types of complaints, as outlined in subsections (b)(1), (2), and (3), may be filed. Time limits are measured in calendar weeks (seven consecutive days). A time limit begins when the person responsible for a specific step receives the necessary information regarding the complaint. Time limits have been established to ensure both expeditious resolution of complaints, and to provide the necessary time for adequate review of all appropriate material. Should an aggrieved person(s) or entity neglect to adhere to the time requirements set throughout this procedure, the aggrieved party(ies) are considered to have abandoned their complaint and the matter shall be considered resolved. In turn, failure by management to render a decision within the allotted time at any step constitutes denial and the complainant may proceed to the next step.

1) Civil Rights Complaints – If a complaint concerns civil rights discrimination on the basis of race, color, national origin, age, sex, religion, political affiliation or belief, or, as appropriate, citizenship, as defined by Section 2610.120(b)(1), the complaint shall be filed with the U.S. Department of Labor (DOL), Directorate of Civil Rights (DCR) (200 Constitution Avenue, N.W., Room N4123, Washington, D.C. 20210) under the appropriate equal opportunity and nondiscrimination requirements applicable to the Act. Complaints must be filed not later than one hundred eighty (180) days from the date of alleged discrimination. In complaints of this nature, no entity shall attempt to prevent or dissuade the complainant from filing such a complaint and no attempt shall be made to informally resolve the complaint (29 CFR 31.7, revised as of July 1, 1989).

2) Handicap Complaints – If, however, a complaint alleges discrimination on the basis of handicap, as defined by Section 2610.120(b)(3) and (6), the complaint shall be filed with the Department. Complaints alleging discrimination on the ground of handicap in violation of Section 167 of the Act shall be filed and processed under the procedures outlined in the DOL's current regulations implementing Section 504 of the Rehabilitation Act of 1973 at 29 CFR 32.45 (revised as of July 1, 1989). Complaints filed with the Department must be filed no later than one hundred eighty (180) days from the date of alleged discrimination. If the complaint is not ameliorated to the complainant's satisfaction under the state's complaint procedure within sixty (60) days from the date of filing, the complainant, or his or her representative, may request to have the complaint independently reviewed through an independent state review. An Independent State Review is a process in which testimony, hearing documents, and other applicable records are reviewed by an Independent Review Officer when an appeal is made after the State level hearing. The Independent Review Officer shall be an attorney licensed to practice law in Illinois under Article VII of the Illinois Supreme Court Rules. In complaints of this nature, no entity shall attempt to prevent or dissuade the complainant from filing such a complaint.

3) Other Complaints – Complaints of any other nature, not related to civil rights discrimination or handicap discrimination, shall be filed at the local level within one year of that alleged occurrence (see Section 144(a) of the Act). However, this one-year limitation does not apply if the complaint concerns fraud or criminal activity, which must be reported directly and immediately to the DOL (20 CFR 629.55, revised as of April 1, 1990). All persons who are program applicants, participants and staff under JTPA, all contractors and grantees, and subrecipients thereof, of JTPA funds, and all interested persons shall be afforded the opportunity to resolve by means of administrative process any alleged violation of the Act, federal regulations promulgated pursuant thereto, any grant, contract or other agreement entered into pursuant to the Act.

c) Complainants shall not be punished or penalized for the filing of a complaint under JTPA. The Department and the DOL shall not disclose the identity of any person who has furnished information or assistance in the investigation of a JTPA violation except to the extent necessary to carry out the purposes of 29 CFR 31, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder, nor may any person or organization or agency discharge or in any way discriminate or retaliate against any person for the filing of a complaint or the rendering of testimony in any proceeding or investigation (Section 164(g) of the Act).

d) Informal Resolution – Nothing in the state or federal statute or regulations precludes the use of informal mechanisms for the resolution of all complaints and prospective complaints under subsections (b)(2) and (3). Complainants shall be encouraged, but not required, to informally resolve complaints.

1) Applicants, participants, subgrantees, subcontractors, staff and other interested persons, hereto referred to as the complainant, shall first provide oral or written notification to the Grant Recipient's or Administrative Entity's Equal Opportunity Officer (EO Officer) when filing a complaint. Complainants shall be advised of their right to have the complaint resolved, either informally or through a formal written complaint.

2) Upon receipt of a complaint, the EO Officer will log, investigate and review the allegation prior to a pre-hearing conference so that an appropriate resolution can take place at the time of the meeting.

3) Prior to the commencement of investigation, pre-hearing conference, or hearing activities conducted by the SDA/SSA, attempts shall be made to resolve a complaint with the involved supervisor, instructor, and employer's/training agency's complaint procedures. A complaint shall not be considered formally lodged with the SDA/SSA until these mediation efforts have been exhausted or when the complainant notifies the SDA/SSA that he or she will not be using the informal resolution process.

4) This pre-hearing conference shall be held within five (5) days from the date of receipt of the complaint. If no resolution occurs at the pre-hearing conference, the EO Officer shall forward to the complainant and other involved parties a report outlining his/her decision on the issues within five (5) days of the pre-hearing conference. The complainant has five (5) days following receipt of the findings of the pre-hearing conference in which to file a written request for a formal hearing.

e) Formal Resolution.

1) Formal complaints may be filed for the types of complaints outlined in subsections (b)(2) (at the state level) and (3) (at the local level). A formal complaint shall be filed by submitting the State of Illinois Job Training Partnership Act Complaint Form. Upon request, the EO Officer of the Grant Recipient or Administrative Entity shall assist the complainant in filing a written complaint.

2) The complaint form shall include the following information:

A) grantee's name and address;

B) complainant's name, address, work and home phone numbers;

C) JTPA office (service provider);

D) status of complainant (i.e., employee, applicant, participant, other);

E) name and telephone number of organization represented;

F) respondent's name, address, and telephone number;

G) status of respondent (i.e., service provider, SDA administrative entity, SDA grant recipient, private employer, PIC);

H) nature of complaint alleged (i.e., sexual harassment, handicap, JTPA law, JTPA regulation, JTPA related, non-JTPA related (specify), race, color, sex, age, religion, national origin, political affiliation or belief, citizenship);

I) type of program (i.e., IB, IIA, IIB, III, other (specify));

J) whether a charge has been filed with: the Illinois Department of Rehabilitation Services, the Illinois Department of Human Rights, the U.S. DOL/DCR, and/or the U.S. Equal Employment Opportunity Commission;

K) date(s), time(s) and place(s) alleged violation occurred;

L) date and manner in which the complaint was presented to immediate supervisor (oral/written);

M) dated signature of immediate supervisor acknowledging discussion of complaint;

N) whether an attempt has been made to resolve the complaint;

O) facts concerning alleged complaint, including: pertinent dates; names and titles of those involved; details of how person(s) were treated differently from complainant; written documentation/material to support complaint; provisions of the Act, regulations, grant, contract, or other agreements under the Act believed to have been violated;

P) remedy sought by complainant; and

Q) dated signatures of complainant, JTPA EO Officer, and Executive Director.

f) Hearing Activities.

1) Request for a Hearing at the Local Level – Upon receipt of the written request, the SDA/SSA shall appoint an impartial Hearing Officer to hear the complaint. All Hearing Officers shall possess knowledge and information regarding the JTPA rules and applicable laws and shall be selected on the basis that current oversight responsibility does not include that of the SDA/SSA. The Hearing Officer shall schedule a hearing to convene within thirty (30) calendar days of receipt of a written complaint. Written notification shall be sent by the Hearing Officer to all parties stating the date, time and place of the formal hearing and the issues to be heard. A follow-up notice shall be sent to all parties five (5) days prior to the date the hearing is scheduled to confirm the appointment.

2) Request for a Hearing at the State Level – Upon receipt of the written request, the Department shall appoint an impartial Hearing Officer to hear the complaint. All Hearing Officers shall possess knowledge and information regarding the JTPA rules and applicable laws. Hearing Officers appointed by the Department shall be attorneys licensed to practice law in Illinois under Article VII of the Illinois Supreme Court Rules. The Hearing Officer appointed shall conduct the hearing on the issue(s) and render an independent decision. The Hearing Officer shall schedule a hearing to convene within thirty (30) calendar days of receipt of a written complaint. Written notification shall be sent by the Hearing Officer to all parties stating the date, time and place of the formal hearing and the issues to be heard. A follow-up notice shall be sent to all parties five (5) days prior to the date the hearing is scheduled to confirm the appointment.

3) Conduct of Hearing

A) Complainants and respondents shall make every effort possible to be present at the hearing. However, if they are unable to be present, a forty-eight (48) hour prior written notice must be given to the Hearing Officer. In the event circumstances arise prior to the hearing which, in the opinion of the Hearing Officer, are such as to be beyond the reasonable control of the complainant or respondent and prevent their attendance at the hearing, the Hearing Officer shall reschedule the proceedings. Examples of factors beyond reasonable control may include but are not limited to:

i) Serious illness of the complainant or respondent or member of their immediate family.

ii) Hazardous weather restricting travel to the hearing site.

B) If the Hearing Officer determines that the complainant's or respondent's failure to attend the hearing is not beyond his or her reasonable control, the hearing shall be held in his or her absence. The rules of evidence for contested cases, set forth in Section 10-40 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1010-40), shall be followed in connection with each hearing. All parties involved shall have the right to be accompanied by an attorney or other duly authorized representative; and the right of presenting any witness(es) or to introduce any evidence desired, subject to the approval of the Hearing Officer. The complainant shall be permitted access to SDA/SSA files which would be germane to the complainant's allegations. Complainants may be questioned and may also question any of the parties or witnesses at the hearing.

4) Hearing Officer's Decision - A written decision shall be prepared and distributed by the Hearing Officer to the complainant and all parties who attended the hearing within sixty (60) days of the filing of the complaint. The conclusions or opinions of the decision shall be based upon facts and evidence presented during the hearing. The decision of the Hearing Officer shall contain a statement of the issues; synopsis of facts; a statement of reasons for the decision; remedies; and an aggrieved party's right to appeal the decision. All correspondence shall be mailed certified with a return receipt requested.

g) Appeal of the Decision.

1) Appeal of Decision When Complaint is Filed at Local Level

A) If an aggrieved party is not satisfied with the decision of the Hearing Officer, or the decision is not received within sixty (60) days of filing the complaint, an aggrieved party may request a Department review of the complaint. Appeals shall be addressed to the Department's Equal Employment Opportunity/Affirmative Action (EEO/AA) Office. Upon submittal to the Department, all supporting documentation shall be attached to all appeals. An appeal shall be filed within ten (10) days of receipt of the adverse decision or ten (10) days from the date on which the decision should have been received from the Hearing Officer. Appeals shall be submitted on the State of Illinois Job Training Partnership Act Appeal Form and shall contain the following information: complainant's name and address; respondent's name and address; nature of complaint; remedy sought; and answers to questions which address the following areas: informal resolution, request for hearing, conduct of hearing, Hearing Officer's decision, appeal of decision, dated signature of aggrieved party.

B) If an aggrieved party does not appeal to the Department or the appeal is not timely made, the decision of the Hearing Officer shall be considered final. The Department's Legal Office shall be responsible for determining whether the complaint being appealed is a complaint filed pursuant to Section 144(a) of the Act or is an appeal based on civil rights discrimination. If the Legal Office determines that the complaint being appealed concerns discrimination on the basis of race, color, national origin, age, sex, religion, political affiliation or belief, or, as appropriate, citizenship, the aggrieved parties shall be advised to file their appeal directly with the DCR of the DOL under the appropriate equal opportunity and nondiscrimination requirements applicable to the Act. The Department shall conduct a review of all other types of complaints and issue a decision within thirty (30) days from the date of receipt of the appeal request. The decision rendered by the Department's Legal Office (on behalf of the Governor) shall be final.

C) If the Department fails to issue a decision within thirty (30) days from the date of receipt of the appeal, an aggrieved party may request a determination from the Secretary of the U.S. DOL (Secretary), where reasonable cause exists to believe that the Act or regulations have been violated. The request for a determination shall be submitted to the Secretary within ten (10) days of the date on which the Department's decision should have been issued. In accordance with 20 CFR 629.52(d)(2) (revised as of April 1, 1990), the Secretary shall act within ninety (90) days and, as appropriate, direct the Department to take further action pursuant to state and local procedures, where there is reasonable cause to believe the Act or regulations have been violated.

2) Appeal of Decision When Complaint is Initially Filed at State Level

A) If an aggrieved party is not satisfied with the decision of the Hearing Officer, or the decision is not received within sixty (60) days of filing the complaint, an aggrieved party may request to have the complaint independently reviewed. The Department shall provide for the Independent State Review by an Independent Review Officer. If an aggrieved party files an appeal, all supporting documentation shall be attached to the appeal.

B) The appeal shall be filed within ten (10) days of receipt of the adverse decision or ten (10) days from the date on which the decision should have been received from the Hearing Officer. If an aggrieved party does not appeal under the independent review process or the appeal is not timely made, the decision of the Hearing Officer (on behalf of the Governor) shall be final. A decision based on the Independent State Review shall be issued within thirty (30) days from the date of receipt of the complaint appeal request. The decision rendered by the Independent Review Officer (on behalf of the Governor) shall be final.

C) If the Independent Review Officer fails to issue a decision within thirty (30) days from the date of receipt of the appeal, an aggrieved party may request a determination from the Secretary as to whether there is reasonable cause to believe that the Act or regulations have been violated. The request for a determination shall be submitted to the Secretary within ten (10) days of the date on which the Independent Review Officer's decision should have been issued. In accordance with 20 CFR 629.52(d)(2) (revised as of April 1, 1990) of the JTPA regulations, the Secretary shall act within ninety (90) days and, as appropriate, direct the Department to take further action pursuant to state and local procedures, where there is reasonable cause to believe the Act or regulations have been violated.

(Source: Amended at 15 Ill. Reg. 13137, effective August 27, 1991)