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## **Displaced Homemakers Program State Compliance Policies**

### **Non-Criminal Grievance/Complaint and Hearing Procedure**

**Section: DH006**

**August 2007**

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#### **I: Authority**

The State is responsible for establishing procedures to assure resolution of any grievances/complaints alleging a violation of the Displaced Homemaker (DH) provisions in the Nevada Revised Statutes. The procedures shall resolve grievances/complaints arising from programs operated by Displaced Homemakers Grantees.

The procedure established by the Governor shall not affect any other legal resolution outside the Displace Homemakers grievances/complaints process. The procedures that follow establish the State policy for administering grievances/complaints. Even though the procedures list the formal process of resolution, the State encourages informal resolution at all levels.

#### **II: Principles Governing Grievances/Complaints**

- A. All grievances/complaints must be received within 180 days of the alleged occurrence. Individuals issuing grievances/complaints should be encouraged to submit complaints in writing; oral grievances or complaints may be investigated at the sole discretion of the DH Center Director.
- B. No person filing a grievance/complaint shall be the victim of harassment, reprisal, coercion, or any form of discrimination or retaliation for having filed a complaint, it is a person's right to file a grievance/complaint and express his or her opinion in a legal allegation. A complainant has the right to withdraw the grievance/complaint in writing at any time prior to the formal hearing.
- C. Grievances/complaints may be amended to clarify issues, but not to add new allegations.
- D. Complainants have the right to be represented by a representative of their own choosing at all levels of the complaint process at their own expense.
- E. All employees and participants either in employment or training shall be provided with a written description of these procedures, notifications of their right to file a grievance/complaint, and the process of how to do so. The participant shall be notified if local grievance/complaint laws, agreements, or personnel rules allow for additional procedures to file a grievance/complaint.
- F. Complainants must exhaust the procedures at the grant recipient level before the grievance/complaint may be filed with the State of Nevada. The only exceptions will be when the Governor has determined that:
  - 1. The grant recipient did not act within the specified time frames;
  - 2. The grant recipient was not in compliance with either their own procedures or the State's.

### **III: Grievance/Complaint Resolution Procedure at Grantee Level:**

#### **A. Filing the Grievance/Complaint:**

1. The grievance/complaint must be in writing, signed, and dated. The date the grievance/complaint is received becomes the official filing of the grievance/complaint.
2. The complainant must provide the following information in original filing:
  - a) Full name, telephone number, and mailing address of the complainant;
  - b) Full name, telephone number, and mailing address of the respondent (agency or person involved);
  - c) A statement of the allegation(s) to include the clear and concise statement of the facts, dates, and supporting documentation;
  - d) The alleged violations of the statute, regulations, labor standards, grant or agreements, to the best of the complainant's knowledge; and
  - e) Resolution sought by the complainant.
3. Any absence of the required information shall not constitute grounds for dismissal of the grievance/complaint.
4. Upon receipt of the grievance/complaint the Grantee shall, within seven (7) days, forward to DETR/ESD/WISS and the respondent a copy of the written grievance. DETR/ESD/WISS will issue investigative instructions upon receipt of the formal complaint.
5. The Grantee shall encourage informal resolution between the respondent and the complainant. If informal resolution is not possible, grantee must notify the complainant in writing of the next procedural step in the formal grievance process.

#### **B. Notice of hearing**

1. Prior to scheduling a hearing, the Grantee shall conduct investigations and issue findings within thirty (30) days to DETR/ESD/WISS. If evidence determines a problem, Grantee will attempt resolution informally with the complainant. In the event an informal resolution cannot be made with the thirty (30) days, the Grantee must:
  - a) Conduct a hearing by an impartial independent hearing officer within sixty (60) days of filing of grievance/complaint;
  - b) Grantee shall notify the complainant and the respondent of the "Notice of Hearing" not less than ten (10) days prior to the date of the hearing by certified mail (return receipt requested). The time of the hearing may be earlier if mutually agreed to by both parties;
  - c) The "Notice of Hearing" shall be in writing and include the following information:
    - Grievance/complaint case number, name of complainant,
    - Date, time, and location of the hearing before an impartial hearing officer and an opportunity to present evidence; and
    - A statement of the alleged violation(s).

- d) While in preparation for the hearing, both the respondent and complainant are encouraged to attempt informal resolution. A grantee grievance officer will conduct an informal conference in attempt to resolve the problem(s).
- e) A request for a five (5) day postponement may be made by either party upon a showing of good cause to the hearing office, provided the hearing is still conducted within thirty (30) days of the filing of the grievance.
- f) Prior to actual beginning of the hearing the complainant has the right to withdraw the grievance/complaint.
- g) An impartial and independent hearing officer shall be designated by the Grantee.

#### C. Rules of the Hearing:

- 1. The strict rules of evidence will be waived since the hearing shall be conducted in an informal manner by both parties in order to obtain full disclosure of all the facts;
- 2. The presentation of both written and oral testimony will be allowed;
- 3. Both parties may present witnesses and have the right to cross-examine the witnesses;
- 4. Both have the right to examine all relevant records and documents submitted;
- 5. If either the complainant or the respondent fails to appear at the hearing, the impartial hearing officer shall render a decision based on the review of all available information.
- 6. At the conclusion of the hearing, the hearing officer shall submit a written recommendations to the Grantee;
- 7. The hearing officer will forward all hearing records, depositions, exhibits, and other supporting documentation to DETR/ESD/WISS for record retention.

#### D. Role and Responsibility of the Hearing Officer

- 1. Maintain the dignity of the hearing and protect the right of both parties;
- 2. Ensure the hearing is recorded and a record of the hearing is made available to all parties, if requested;
- 3. Begin the hearing by informing both parties of the issues involved;
- 4. Explain that all testimony is under oath;
- 5. Explain the hearing procedures and that the complainant bears the burden of proving the allegation(s) in the grievance by a preponderance of evidence;
- 6. Determine the order of evidence and its relative significance;
- 7. Submit a written recommendation to the Grantee.

#### E. Decision

- 1. The Grantee is required to issue a written decision not later than sixty (60) days from the filing of the grievance. The decision must be delivered by

certified mail, return receipt requested, to both complainant and respondent and include the following;

- a) Case grievance/complaint number, names of complainant and respondent;
- b) Statement of alleged violations;
- c) Decision and reason(s) for decision;
- d) Statement of corrective action, if any, to be taken;
- e) Notice of the right to request a review by the Governor; the request must be made within ten (10) days of receipt of the adverse decision.

***Special Rule:***

***If the decision is not given within the sixty (60) day period or if an unsatisfactory decision was made, the complainant has the right to request a review by the Governor. The request must be made within fifteen (15) days from the date on which the complainant should have received the decision.***

**IV. Grievance/Complaint Resolutions Procedure at the Employer Level:**

- A. State Grantees, and other sub-recipients shall ensure that other employers, including private-for-profit employers of participants, also have a grievance procedure relating to the terms and conditions of employment available to their participant;
- B. Employers may operate their own grievance system or may utilize the system established by the State of Nevada or Grantee. Employers must inform participants when they begin employment which procedure they are to follow;
- C. An employer system shall provide for, upon request of the complainant, a review of an employer's decision by the Grantee and the Governor, if necessary;
- D. If the employer is required to use a certain grievance procedure under a covered collective bargaining agreement, those procedures should be followed.

**V. Grievance/Complaint Resolution Procedure at the State Level:**

- A. A complaint is filed directly with the State when it is inappropriate to file the complaint with the Grantee;
- B. State level procedure is the same as Grantee level procedure.

**VI. Filing a Request for Review by the Governor:**

- A. Complainants shall request a review by the Governor by forwarding the written complaint, documentation, and hearing record to:

Department of Employment, Training and Rehabilitation

Employment Security Division

Workforce Investment Support Services Unit

500 East Third Street

Carson City, NV 89713

- B. The request for review must be in writing, signed, and dated. The date the request is received by DETR/ESD/WISS becomes the official filing of the request review. The request must contain the following complete and accurate information:
1. Full name, telephone number, and mailing address of the complainant;
  2. Full name, telephone number, and mailing address of the respondent (agency or person involved);
  3. A statement of the allegations to include a clear and concise statement of facts, dates, and supporting documentation;
  4. The basis upon which review is sought.

C. Review:

1. The Governor shall provide for an independent review by reviewer not affiliated with the Displaced Homemaker Program;
2. The reviewer must make a decision within twenty-five (25) days after receiving a written request for review. The review is limited to review of the investigative or hearing record.

- D. Decision: The Governor will issue a written decision not later than (30) thirty days from the filing of the request for review. The decision will be sent to both the complainant and respondent by certified mail, return receipt requested. It will include the following:

1. Case grievance/complaint number, name of complainant and respondent;
2. Statement of alleged violations;
3. Statement of facts;
4. Decision of the review and reason (s) for decision; and
5. Statement of corrective action, if any, to be taken.