

Wisconsin Works Employee Displacement Grievance Policy

No Wisconsin Works (W-2) employment position (i.e., Trial Match Employment Program (TEMP), Community Service Job, or W-2 Transitional placement) may be operated so as to:

- Fill a vacancy created by an employer terminating a regular employee or otherwise reducing its work force for the purpose of hiring an individual into a W-2 employment position.
- Fill a position when any other person is on layoff or strike from the same or a substantially equivalent job within the same organizational unit.
- Fill a position when any other person is engaged in a labor dispute regarding the same or a substantially equivalent job within the same organizational unit.

An employee, former employee, or employee's representative may file a written complaint with the W-2 agency or its designee, or with the local Job Center Complaint Coordinator (JCCC) if s/he believes that s/he or another employee was unlawfully terminated to create a vacancy for a person in a W-2 employment position, or if s/he believes that a person in a federally-funded W-2 employment position has been unlawfully placed in a vacancy created by a labor dispute.

- **Procedure.** Complaints of displacement must follow the Displacement Grievance Procedure contained herein as Appendix 1.
- **Complaint officer.** A W-2 agency must designate staff responsible for receiving, investigating, and resolving complaints of violations of employee displacement. A W-2 agency may maintain an agreement with another Division of Family and Economic Security (DFES) contractor in the same locality for staff from the latter to receive, investigate, and resolve such complaints.
- **Remedies.** A W-2 employer or work training provider found to have engaged in one or more of the prohibited displacement practices listed above is subject to any or all of the following penalties:
 - Termination of existing W-2 or other work training agreements with DFES or its contractors, after ensuring that all W-2 participants at the site are appropriately reassigned to W-2 employment positions at another site.
 - Termination of grants from DFES or its contractors and disqualification for future grants.
 - Disqualification for future work training agreements with DFES or its contractors.
- **Notification.** Each W-2 work training provider or employer of a participant in a W-2 employment position shall inform its employees of the right to file a complaint under this policy, and provide information about how to obtain further information on the grievance procedure. Such notification may take place through such methods as:
 - A sign posted in the workplace.
 - A notification form signed by new employees during the hiring/orientation process (supplemented by other measures to notify current employees).
 - A notification slip periodically included with employee paychecks.
 - Any other means mutually agreed upon by the employer and the local W-2 agency and approved by the W-2 Regional Coordinator or Area Administrator.

Standard language for all these methods of notification is appended to this grievance policy publication (see Appendix 2 below). Work training providers/employers who provide W-2 employment positions must inform the W-2 agency of the notification method being used.

- **Additional provisions.**

- Employees may initiate a group complaint. In such a case, the complainants shall choose one individual to represent the interests of the group. A group complaint shall be so designated at the first step of the grievance procedure and signed by all employees who are parties to the complaint.
- An employer against whom multiple complaints have been lodged may ask that the Job Center Complaint Coordinator (JCCC) or the W-2 agency consolidate complaints. The JCCC or W-2 agency may consolidate complaints where a reasonable basis for consolidation exists.
- No employer may retaliate against an employee, his or her representative, or any witness who participates in the grievance procedure, for initiating or participating in the grievance procedure.

APPENDIX 1: Displacement Grievance Procedure. This procedure is to be followed for resolving displacement complaints.

When an employer or work-training provider acting under an agreement with a DFES contractor is a respondent to complaints/grievances about unlawful employee displacement by a DFES program participant, the following procedures must be used:

- (1) The complainant shall file a written complaint/grievance within one year after the alleged violation took place.
- (2) The W-2 agency or its designee shall review the complaint/grievance to determine if it was filed within the one-year time limit and if it falls within the jurisdiction of the DFES W-2 contractor and meets grievance/complaint criteria under TANF/W-2. If the criteria are not met, the W-2 agency or its designee shall provide the complainant with written notice of the rejection of the complaint/grievance and the reasons for that rejection. If the criteria are met, the W-2 agency or its designee shall provide the complainant with written notice of the acceptance. The filing date shall be included in the notice.
- (3) Upon receipt of the complaint/grievance, the W-2 agency or its designee shall investigate the complaint and assist the parties in attempting to reach an informal resolution.
- (4) If an informal resolution cannot be reached, the W-2 agency or its designee shall:
 - (a) Conduct a hearing within 30 calendar days from the date the complaint was filed.
 - (b) Issue a decision to both the complainant and respondent within 60 calendar days of the date the complaint was filed.
- (5) The format for written decision shall include:
 - (a) **Summary Statement** that identifies issue(s) being contested and which caused the hearing to be called. The summary statement shall include citation of law(s), rule(s), regulation(s) policy(ies) and agreements alleged to have been violated.
 - (b) **Findings of Facts** which enumerate items the hearing examiner accepts as facts based upon demonstration of support (documentation) from complainant's and respondent's presentation of facts and opinions.
 - (c) **Conclusion** is a brief summary of the facts which affirm or deny assertions made by parties at the hearing.
 - (d) **Decision** should be based on the conclusion(s) and provide a remedy for final resolution.
 - (e) **Appeal rights** must be included in the written decision. This statement of appeal rights shall include how, where, and how much time the aggrieved party has to appeal the decision.

- (6) After receiving an adverse decision or no decision on a complaint/grievance within 30 calendar days, either the complainant or the respondent (or both) may file an appeal requesting a state-level independent review. This appeal must be filed with DFES within the following time limitations:
 - (a) The complainant and/or respondent must file the appeal within 10 calendar days after they received the decision; or
 - (b) If the complainant and/or respondent did not receive a decision, they must file the appeal within 15 calendar days after the decision was due.
 - (c) The request for state-level review may be filed electronically at the [W-2 Complaints](#) webpage, or mailed to DFES Administrator at 201 W. Washington Avenue, PO Box 8916, Madison WI 53708.
- (7) After accepting a complaint/grievance that has been appealed from the W-2 agency or its designee requesting a state level review, the DFES Administrator, on behalf of the Governor, shall review the case and issue a final decision within 30 calendar days after the appeal was filed.
- (8) Appeal. A complaint alleging that DFES, on behalf of the Governor, has not issued a decision within 60 days after a complaint is filed or the party to such decision receives an adverse decision may appeal these issues to the Secretary of DCF if federal regulations governing the program in question so provide. The Secretary shall make a final determination no later than 120 days after receiving such an appeal.
- (9) Non-retaliation. No employer or W-2 work training provider may retaliate against an employee, employee's representative, or witness who initiates or participates in the grievance procedure.

APPENDIX 2: Public Notification Language. The following language is for use in notices to regular employees of a W-2 work training provider/employer regarding the displacement grievance policy described in this publication:

This business is proud to be a work training provider/employer for one or more federal or state workforce programs. As a work training provider/employer, this business helps participants gain job skills and work experience that will help them succeed in the workforce.

As a work training provider/employer this business cannot:

- terminate a regular employee or otherwise reduce its workforce for the purpose of placing an individual in a federally subsidized employment position;
- fill a position with a federally subsidized workforce program participant when any other person is on layoff or strike from the same or a substantially equivalent job within the same organizational unit;
- fill a position with a federally subsidized workforce program participant when any other person is engaged in a labor dispute regarding the same or a substantially equivalent job within the same organizational unit.

As a regular employee of this business, you have the right to file a complaint if you believe your employer has engaged in one of these practices.

For further information, including information about how to file a complaint, contact your local Job Center Complaint Coordinator at:

[Insert contact information for nearest JCCC here.]

The Department of Children and Families is an equal opportunity employer and service provider. If you have a disability and need to access services, receive information in an alternate format, or need information translated to another language, please call the Bureau of Working Families at (608) 535-3665. Individuals who are deaf, hard of hearing, deaf-blind or speech disabled can use the free Wisconsin Relay Service (WRS) – 711 to contact the department.