

APPENDIX B**Grievance Rights for CWEP and JOIN Participants
With Respect to On-The-Job Working Conditions,
Workers' Compensation Coverage and Wage Rates****A. DEFINITION**

The Department of Health and Human Resources acknowledges that CWEP and JOIN participants will have the right to request a Grievance with respect to:

1. On-the-job working conditions which include:
 - (a) Employment or training be related to the capability of the participant to perform the tasks on a regular basis, including physical capacity, skills, experience, family responsibilities and place of residence.
 - (b) The total daily commuting time to and from home to the work or training site to which the participant is assigned shall not normally exceed two (2) hours, not including the transporting of a child to and from child care, unless a longer commuting distance and time is generally accepted in the community, in which case the round trip commuting time shall not exceed the generally accepted community standards without the participant's consent.
 - (c) No participant shall be required, without his or her consent to remain away from his or her home overnight.
 - (d) The conditions of participation are reasonable, taking into account in each case the proficiency of the participant and the child care and other supportive service needs of the participant.
 - (e) For training to be appropriate, the nature of the training shall meet local employers' requirements so that the participant will be in a competitive position within the local labor market. The training must also be likely to lead to employment which will meet the appropriate working conditions identified above.
 - (f) Health and safety standards. Participants are subject to the same health and safety standards established under State and Federal law, that otherwise apply to other individuals in similar assignments.
 - (g) Non-discrimination. No persons shall be discriminated against on the basis of race, sex, national origin, religion, age or handicapping condition, and all participants will have such rights as are available under any applicable Federal, State or local law prohibiting discrimination.

2. Workers' Compensation And Tort Claims Protection
 - (a) Each participant must be covered by Workers' Compensation.
 3. Wage rates used in calculating the hours of participation for CWEP.
- B. PROCEDURE TO FOLLOW TO RESOLVE A CWEP OR JOIN PARTICIPANT'S GRIEVANCE
1. The grievance must be filed within 90 days of the date that the perceived infraction occurred.
 2. At the time of the placement each CWEP or JOIN participant will be advised of their right to the Grievance Procedure.
 3. The procedure for resolving complaints by CWEP or JOIN participants or their representatives that a work assignment of a CWEP or JOIN participant violates the above prohibitions are as follows:
 - Step 1: The grievant attempts to resolve the complaint with his/her immediate supervisor within two (2) days of the alleged occurrence. A conference or hearing can be held.

The supervisor shall give a written response to the grievant with three (3) days. The grievant may accept the decision or proceeds to:
 - Step 2: The grievant requests a review from the employer within two (2) days. The employer gives a written response to the grievant within five (5) days. Grievant accepts the decision or proceeds to:
 - Step 3: Written JOBS Grievance for is forwarded by the employer within two (2) days to the local WV WORKS Supervisor.

The Work and Training Supervisor will forward the grievance form to the DHHR Hearing Officer within two (2) days of receipt of the form from the employer. The Hearing Officer will generally render a decision within fifteen (15) days.

Step 4: The decision of the Hearings Officer may be appealed by the grievant within 30 days after the receipt of the Hearings Officer's decision. The appeal must be sent to the:

Office of Administrative Law Judges
U.S. Department of Labor
Vanguard Building
Room 600
1111 20th Street, N.W.
Washington, D.C. 20036

The appeal shall contain:

- (a) The full name, address and telephone number of the appellant;
- (b) The provisions of the Statute or regulations believed to have been violated;
- (c) A copy of the original complaint filed by the appellant with the State; and
- (d) A copy of the State's findings and decision regarding the appellant's complaint.

The Office of Administrative Law Judges will request the following from the Hearings Officer:

4. Upon receipt of an appeal the Office of Administrative Law Judge shall request from the state agency and the State shall, within 30 days of such request, certify and file with the Office of Administrative Law Judges the entire administrative record to the matter under appeal. The DHHR shall send copies of this record to the Assistant Secretary for Employment and Training and the Assistant Secretary for Family Support at the addresses set forth in Step 4 of this section.
5. Upon receipt of the above information, the Assistant Secretary for Employment and Training shall review the record and through the Office of the Solicitor of Labor, file, if appropriate, a brief or a report with the Office of Administrative Law Judges for that office's consideration. DHHR and the Assistant Secretary for the Family Support may also file a report with the Office of Administrative Law Judges.
6. The decision of the Office of Administrative Law Judges outlined in Step 4 of this section shall be the final decision of the Secretary of Labor on the appeal.