

§ 645.260

20 CFR Ch. V (4-1-08 Edition)

2938), as well as those listed in paragraph (a) of this section, shall be processed in accordance with those laws and the implementing regulations.

(d) Questions about or complaints alleging a violation of the non-discrimination laws in paragraph (a) of this section may be directed or mailed to the Director, Civil Rights Center, U.S. Department of Labor, Room N-4123, 200 Constitution Avenue, NW, Washington, D.C. 20210 for processing.

§ 645.260 What health and safety provisions apply to participants in Welfare-to-Work programs?

(a) Participants in an employment activity operated with WtW funds, as defined in § 645.220 of this part, are subject to the same health and safety standards established under State and Federal law which are applicable to similarly employed employees, of the same employer, who are not participants in programs under WtW.

(b) Participants alleging a violation of these health and safety standards may file a complaint pursuant to the procedures contained in § 645.270 of this part (section 403(a)(5)(J)(ii)).

§ 645.265 What safeguards are there to ensure that participants in Welfare-to-Work employment activities do not displace other employees?

(a) An adult participating in an employment activity operated with WtW funds, as described in § 645.220 (b) and (c) of this subpart, may fill an established position vacancy subject to the limitations in paragraph (c) of this section.

(b) An employment activity operated with WtW funds, as described in § 645.220(c) of this subpart, must not violate existing contracts for services or collective bargaining agreements. Where such an employment activity would violate a collective bargaining agreement, the appropriate labor organization and employer must provide written concurrence before the employment activity is undertaken.

(c) An adult participating in an employment activity operated with WtW funds, as described in § 645.220(c) of this subpart, must not be employed or assigned:

(1) When any other individual is on layoff from the same or any substan-

tially equivalent job within the same organizational unit;

(2) If the employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the WtW participant; and,

(3) If the employer has caused an involuntary reduction to less than full time in hours of any employee in the same or substantially equivalent job within the same organizational unit.

(d) Regular employees and program participants alleging displacement may file a complaint pursuant to § 645.270 of this part (section 403(a)(5)(J)(i)).

§ 645.270 What procedures are there to ensure that currently employed workers may file grievances regarding displacement and that Welfare-to-Work participants in employment activities may file grievances regarding displacement, health and safety standards and gender discrimination?

(a) The State shall establish and maintain a grievance procedure for resolving complaints from:

(1) Regular employees that the placement of a participant in an employment activity operated with WtW funds, as described in § 645.220 of this part, violates any of the prohibitions described in § 645.265 of this part; and

(2) Program participants in an employment activity operated with WtW funds, as described in § 645.220 of this part, that any employment activity violates any of the prohibitions described in §§ 645.255(d), 645.260, or 645.265 of this part.

(b) Such grievance procedure should include an opportunity for informal resolution.

(c) If no informal resolution can be reached within the specified time as established by the State as part of its grievance procedure, such procedure shall provide an opportunity for the dissatisfied party to receive a hearing upon request.

(d) The State shall specify the time period and format for the hearing portion of the grievance procedure, as well

as the time period by which the complainant will be provided the written decision by the State.

(e) A decision by the State under paragraph (d) of this section may be appealed by any dissatisfied party within 30 days of the receipt of the State's written decision, according to the time period and format for the appeals portion of the grievance procedure as specified by the State.

(f) The State shall designate the State agency which will be responsible for hearing appeals. This agency shall be independent of the State or local agency which is administering, or supervising the administration of the State TANF and WtW programs.

(g) No later than 120 days of receipt of an individual's original grievance, the State agency, as designated in paragraph (f) of this section, shall provide a written final determination of the individual's appeal.

(h) The grievance procedure shall include remedies for violations of §§ 645.255(d), 645.260, and 645.265 of this part which may continue during the grievance process and which may include:

(1) Suspension or termination of payments from funds provided under this part;

(2) Prohibition of placement of a WtW participant with an employer that has violated §§ 645.255(b), 645.260, and 645.265 of this part;

(3) Where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and,

(4) Where appropriate, other equitable relief (section 403(a)(5)(J)(iv)).

(i) Participants alleging gender discrimination by WtW programs that are not part of the One-Stop system may file a complaint using the grievance system procedures described above. Participants alleging gender discrimination by WtW programs that are part of the One-Stop system may file a complaint using the procedures developed by the State under the WIA non-discrimination regulations at 29 CFR 37.70–37.80.

Subpart C—Additional Formula Grant Administrative Standards and Procedures

§ 645.300 What constitutes an allowable match?

(a) A State is entitled to receive two (2) dollars of Federal funds for every one (1) dollar of State match expenditures, up to the amount available for allotment to the State based on the State's percentage for WtW formula grant for the fiscal year. The State is not required to provide a level of match necessary to support the total amount available to it based on the State's percentage for WtW formula grant. However, if the proposed match is less than the amount required to support the full level of Federal funds, the grant amount will be reduced accordingly (section 403(a)(5)(A)(i)(I)).

(b) States shall follow the match or cost-sharing requirements of the "Common Rule" *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments* (codified for DOL at 29 CFR 97.24). Paragraphs (b)(1)(i) and (ii), (b)(3), and (b)(4) and (c)(1) of this section are in addition to the common rule requirements. Also, paragraphs included in the common rule which relate to the use of donated buildings and other real property as match have been excluded from this provision.

(1) Only costs that would be allowable if paid for with WtW grant funds will be accepted as match.

(i) Because the use of Federal funds is prohibited for construction or purchase of facilities or buildings except where there is explicit statutory authority permitting it, costs incurred for the construction or purchase of facilities or buildings shall not be acceptable as match for a WtW grant.

(ii) Because the costs of construction or purchase of facilities or buildings are unallowable as match, the donation of a building or property as a third party in-kind contribution is also unallowable as a match for a WtW grant.

(2) A match or cost-sharing requirement may be satisfied by either or both of the following: