

**§ 627.504 Noncriminal grievance procedure at employer level.**

(a) Recipients, SDA's, SSG's, and other subrecipients shall assure that other employers, including private-for-profit employers of participants under the Act, have a grievance procedure relating to the terms and conditions of employment available to their participants (section 144(b)).

(b)(1) Employers under paragraph (a) of this section may operate their own grievance system or may utilize the grievance system established by the recipient, the SDA, or the SSG under this subpart, except as provided for in paragraph (b)(2) of this section. Employers shall inform participants of the grievance procedures they are to follow when the participant begins employment.

(2) If an employer is required to use a certain grievance procedure under a covered collective bargaining agreement, then those procedures should be followed for the handling of JTPA complaints under this section.

(c) An employer grievance system shall provide for, upon request by the complainant, a review of an employer's decision by the SDA, or the SSG and the recipient if necessary, in accordance with §§627.501 and 627.502 of this part.

**Subpart F—Federal Handling of Noncriminal Complaints and Other Allegations**

**§ 627.600 Scope and purpose.**

(a) This subpart establishes the procedures which apply to the filing, handling, and reviewing of complaints at the Federal level. Nothing in the Act or this chapter shall be construed to allow any person or organization to join or sue the Secretary with respect to the Secretary's responsibilities under JTPA except after exhausting the remedies in subpart E of this part and this subpart F.

(b) Complaints of discrimination pursuant to section 167(a) of the Act shall be handled under 29 CFR part 34.

**§ 627.601 Complaints and allegations at the Federal level.**

(a) The types of complaints and allegations that may be received at the Federal level for review include:

(1) Complaints for which the recipient has failed to issue a timely decision as required by §627.503 of this part;

(2) Alleged violations of the Act and/or the regulations promulgated thereunder resulting from Federal, State, and/or SDA and SSG monitoring and oversight reviews;

(3) Alleged violations of the labor standards provisions at section 143 of the Act;

(4) Alleged violations of the relocation provisions in section 141(c) of the Act; and

(5) Other allegations of violations of the Act or the regulations promulgated thereunder.

(b) Upon receipt of a complaint or allegation alleging any of the violations listed in paragraph (a) of this section, the Secretary may:

(1) Direct the recipient to handle a complaint through local grievance procedures established under §627.502 of this part; or

(2) Investigate and determine whether the recipient or subrecipient(s) are in compliance with the Act and regulations promulgated thereunder (section 163(b) and (c)).

(3) Allegations of violations of sections 141(c) or 143 of the Act and §627.503 of this part shall be handled under paragraph (b)(2) of this section.

**§ 627.602 Resolution of investigative findings.**

(a)(1) As a result of an investigation or monitoring by the Department, or of the actions specified in paragraph (b)(2) of §627.601 of this part, the Grant Officer shall notify the recipient of the findings of the investigation and shall give the recipient a period of time, not to exceed 60 days, depending on the nature of the findings, to comment and to take appropriate corrective actions.

(2) The Grant Officer shall review the complete file of the investigation and the recipient's actions. The Grant Officer's review shall take into account the sanction provisions of subpart G of this

part. If the Grant Officer agrees with the recipient's handling of the situation, the Grant Officer shall so notify the recipient. This notification shall constitute final agency action.

(3) If the Grant Officer disagrees with the recipient's handling of the matter, the Grant Officer shall proceed pursuant to § 627.606 of this part, Grant officer resolution.

**§ 627.603 Special handling of labor standards violations under section 143 of the Act.**

(a) A complaint alleging JTPA section 143 violations may be submitted to the Secretary by either party to the complaint when:

(1) The complainant has exhausted the grievance procedures set forth at subpart E of this part, or

(2) The 60-day time period specified for reaching a decision under a procedure set forth at subpart E of this part has elapsed without a decision (section 144(a) and (d)(1)).

(b)(1) The Secretary shall investigate the allegations contained in a complaint alleging violations of JTPA section 143, make a determination whether a violation has occurred, and issue a decision within 120 days of receipt by the Secretary of the complaint (section 144(c) and (d)).

(2) If the results of the Secretary's investigation indicate that a decision by a recipient under a procedure set forth at subpart E of this part requires modification or reversal, or that the 60-day time period for decision under section 144(a) has elapsed, the Secretary shall modify, reverse, or issue such decision.

(3) If the Secretary modifies or reverses a decision made under a procedure set forth at subpart E of this part, or issues a decision where the 60-day time period has elapsed without a decision, the Secretary shall offer an opportunity for a hearing, in accordance with the procedures under section 166 of the Act and subpart H of this part (sections 144(d)(2) and 166(a)).

(4) If the Secretary upholds a recipient's decision, the determination is the final decision of the Secretary (section 144(d)(3)). This decision is not appealable to the Office of Administrative Law Judges.

(c) Except as provided in paragraph (d) of this section, remedies available under this section to a grievant for violations of section 143 of the Act shall be limited to:

(1) Suspension or termination of payments under the Act;

(2) Prohibition of placement of a participant, for an appropriate period of time, in a program under the Act with an employer that has violated section 143 of the Act, as determined under section 144(d) or (e) of the Act; and/or

(3) Appropriate equitable relief (other than back pay) (section 144(f)(1)).

(d) Available remedies for violations of section 143(a)(4), (b)(1), (b)(3), and (d) of the Act include the remedies listed in paragraph (c) of this section, and may include the following:

(1) Reinstatement of the grievant to the position held prior to displacement;

(2) Payment of lost wages and benefits; and/or

(3) Reestablishment of other relevant terms, conditions, and privileges of employment.

(e) Nothing in this section shall be construed to prohibit a grievant from pursuing a remedy authorized under another Federal, State, or local law for a violation of section 143 of the Act (section 144(g)).

**§ 627.604 Alternative procedure for handling labor standards violations under section 143 of the Act—binding arbitration.**

(a) A person alleging a violation of section 143 of the Act, as an alternative to processing the grievance under a procedure described at section 144 of the Act, may submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides (section 144(e)(1)).

(b) A person electing to have her/his complaint on JTPA section 143 labor standard violations processed under binding arbitration provisions—

(1) Shall choose binding arbitration before, and in lieu of, initiating a complaint under other grievance procedures established pursuant to section 144 of the Act, and

(2) May not elect binding arbitration for a complaint that previously has