

## § 667.820

### **§ 667.820 What authority does the Administrative Law Judge have in ordering relief as an outcome of an administrative hearing?**

In ordering relief, the ALJ has the full authority of the Secretary under the Act.

### **§ 667.825 What special rules apply to reviews of NFJP and WIA INA grant selections?**

(a) An applicant whose application for funding as a WIA INA grantee under 20 CFR part 668 or as an NFJP grantee under 20 CFR part 669 is denied in whole or in part may request an administrative review under § 667.800(a) with to determine whether there is a basis in the record to support the decision. This appeal will not in any way interfere with the designation and funding of another organization to serve the area in question during the appeal period. The available remedy in such an appeal is the right to be designated in the future as the WIA INA or NFJP grantee for the remainder of the current grant cycle. Neither retroactive nor immediately effective selection status may be awarded as relief in a non-selection appeal under this section.

(b) If the ALJ rules that the organization should have been selected and the organization continues to meet the requirements of 20 CFR part 668 or part 669, we will select and fund the organization within 90 days of the ALJ's decision unless the end of the 90-day period is within six (6) months of the end of the funding period. An applicant so selected is not entitled to the full grant amount, but will only receive the funds remaining in the grant that have not been expended by the current grantee through its operation of the grant and its subsequent closeout.

(c) Any organization selected and/or funded as a WIA INA or NFJP grantee is subject to being removed as grantee in the event an ALJ decision so orders. The Grant Officer provides instructions on transition and close-out to a grantee which is removed. All parties must agree to the provisions of this paragraph as a condition for WIA INA or NFJP funding.

(d) A successful appellant which has not been awarded relief because of the

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application of paragraph (b) of this section is eligible to compete for funds in the immediately subsequent two-year grant cycle. In such a situation, we will not issue a waiver of competition and for the area and will select a grantee through the normal competitive process.

### **§ 667.830 When will the Administrative Law Judge issue a decision?**

(a) The ALJ should render a written decision not later than 90 days after the closing of the record.

(b) The decision of the ALJ constitutes final agency action unless, within 20 days of the decision, a party dissatisfied with the ALJ's decision has filed a petition for review with the Administrative Review Board (ARB) (established under Secretary's Order No. 2-96), specifically identifying the procedure, fact, law or policy to which exception is taken. Any exception not specifically urged is deemed to have been waived. A copy of the petition for review must be sent to the opposing party at that time. Thereafter, the decision of the ALJ constitutes final agency action unless the ARB, within 30 days of the filing of the petition for review, notifies the parties that the case has been accepted for review. Any case accepted by the ARB must be decided within 180 days of acceptance. If not so decided, the decision of the ALJ constitutes final agency action.

### **§ 667.840 Is there an alternative dispute resolution process that may be used in place of an OALJ hearing?**

(a) Parties to a complaint which has been filed according to the requirements of § 667.800 may choose to waive their rights to an administrative hearing before the OALJ. Instead, they may choose to transfer the settlement of their dispute to an individual acceptable to all parties who will conduct an informal review of the stipulated facts and render a decision in accordance with applicable law. A written decision must be issued within 60 days after submission of the matter for informal review.

(b) The waiver of the right to request a hearing before the OALJ will automatically be revoked if a settlement has not been reached or a decision has

not been issued within the 60 days provided in paragraph (a) of this section.

(c) The decision rendered under this informal review process will be treated as a final decision of an Administrative Law Judge under section 186(b) of the Act.

**§ 667.850 Is there judicial review of a final order of the Secretary issued under section 186 of the Act?**

(a) Any party to a proceeding which resulted in a Secretary's final order under section 186 of the Act may obtain a review in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds involved, by filing a review petition within 30 days of the issuance of the Secretary's final order.

(b) The court has jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary, in whole or in part.

(c) No objection to the Secretary's order may be considered by the court unless the objection was specifically urged, in a timely manner, before the Secretary. The review is limited to questions of law, and the findings of fact of the Secretary are conclusive if supported by substantial evidence.

(d) The judgment of the court is final, subject to certiorari review by the United States Supreme Court.

**§ 667.860 Are there other remedies available outside of the Act?**

Nothing contained in this subpart prejudices the separate exercise of other legal rights in pursuit of remedies and sanctions available outside the Act.

**PART 668—INDIAN AND NATIVE AMERICAN PROGRAMS UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT**

**Subpart A—Purposes and Policies**

Sec.

668.100 What is the purpose of the programs established to serve Native American peoples (INA programs) under section 166 of the Workforce Investment Act?

668.120 How must INA programs be administered?

668.130 What obligation do we have to consult with the INA grantee community in

developing rules, regulations, and standards of accountability for INA programs?

668.140 What WIA regulations apply to the INA program?

668.150 What definitions apply to terms used in the regulations in this part?

**Subpart B—Service Delivery Systems Applicable to Section 166 Programs**

668.200 What are the requirements for designation as an "Indian or Native American (INA) grantee"?

668.210 What priority for designation is given to eligible organizations?

668.220 What is meant by the "ability to administer funds" for designation purposes?

668.230 How will we determine an entity's "ability to administer funds"?

668.240 What is the process for applying for designation as an INA grantee?

668.250 What happens if two or more entities apply for the same area?

668.260 How are INA grantees designated?

668.270 What appeal rights are available to entities that are denied designation?

668.280 Are there any other ways in which an entity may be designated as an INA grantee?

668.290 Can an INA grantee's designation be terminated?

668.292 How does a designated entity become an INA grantee?

668.294 Do we have to designate an INA grantee for every part of the country?

668.296 How are WIA funds allocated to INA grantees?

**Subpart C—Services to Customers**

668.300 Who is eligible to receive services under the INA program?

668.340 What are INA grantee allowable activities?

668.350 Are there any restrictions on allowable activities?

668.360 What is the role of INA grantees in the One-Stop system?

668.370 What policies govern payments to participants, including wages, training allowances or stipends, or direct payments for supportive services?

668.380 What will we do to strengthen the capacity of INA grantees to deliver effective services?

**Subpart D—Supplemental Youth Services**

668.400 What is the purpose of the supplemental youth services program?

668.410 What entities are eligible to receive supplemental youth services funding?

668.420 What are the planning requirements for receiving supplemental youth services funding?

668.430 What individuals are eligible to receive supplemental youth services?