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## Workforce Investment Act State Compliance Policies

**SECTION: 5.6**

**Sanctions and Resolution Process**

**January 2008**

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### **I. Responsibility And Authority:**

WIA Regulation 20 CFR 667.705 indicates that the Secretary of Labor holds the recipient (Governor) responsible for all funds granted to the State. In turn, the Governor holds local boards and program providers responsible for all WIA funds they receive, including the proper expenditures of such money. The Governor is responsible for monitoring compliance with WIA requirements as well as other applicable federal and state laws and policies.

The political jurisdiction(s) of the chief elected official(s) in a local workforce investment area is liable for any misuse of any WIA funds (unless an agreement has been reached with the Governor to bear such liability).

When the local workforce area is composed of more than one unit of general local government, the liability of the individual jurisdictions must be specified in a written agreement between the chief elected officials. This agreement becomes part of the local plan [Section 117(c)].

### **II. Sanction Process And Parameters:**

#### **A. Federal Policy:**

1. In determining whether to impose any sanction(s) against a recipient or subrecipient of WIA funds, the Secretary of Labor first determines whether there has been adequate state and/or subrecipient action demonstrated to [Section 184(d), §667.700-667.740]):
  - a. Establish and adhere to an appropriate system for the award and monitoring of grants and contracts with subgrantees and contracted public agencies that contains acceptable standards for ensuring accountability;
  - b. Enter into a written grant agreement or contract with such subgrantee or contracted public agency that established clear goals and obligations in unambiguous terms;
  - c. Act with due diligence to monitor the implementation of the grant agreement or contract, including the carrying out of appropriate monitoring activities (including audits) at reasonable intervals; and
  - d. Take prompt and appropriate corrective action upon becoming aware of any evidence of a violation of WIA statute/regulations, U.S. Department of Labor (DOL), and/or state policies/procedures.

**Note:** for substantial violations of WIA statutory and regulatory requirements, if the Governor fails to promptly take the actions specified in

WIA section 184(b)(1), the Grant Office may impose such actions directly against the local area [§667.700(c)].

2. If the state fails to meet the adjusted levels of performance on the required core indicators or customer satisfaction indicators for any program, the state may request technical assistance from DOL. If the state fails to meet the adjusted levels of performance for the same program for a second consecutive year, the state may receive a reduction up to 5 percent of the succeeding year's grant allotment [Sec. 136(g)(1)(B), §666.240(b)].
3. The state is required to submit an annual performance progress report. If the state fails to do so, the state grant may be reduced [Sec. 136(d), §666.240(d)].
4. If an applicant, subrecipient, or vendor under title I of WIA is denied an award for financial assistance due to a sanction or corrective action imposed by the Grant Officer, they may appeal to DOL (See WIA State Compliance Policy 4.4).

## **B. State Board or Designee Policy:**

1. The state considers its subrecipients accountable for actions taken, directly or indirectly, through service providers. As such, the state will look to its subrecipients for corrective action, even where the violation or deficiency involved a single service provider. Specifically, the state will [§§667.410, 667.500, and 667.700-710]:
  - a. Undertake periodic review and monitoring of its subrecipients' activities, including administrative, financial, and programmatic assessments, as well as compliance with the WIA statute, regulations, DOL, and/or state policies/procedures;
  - b. Identify and notify subrecipients of problem areas discovered during review and monitoring, and outline corrective action required, including time schedules;
  - c. Continue to monitor implementation of corrective actions for improvements in deficient areas. Where corrective action is on-going (e.g., debt collection for inappropriate expenditure of funds), no further action or sanction would be imposed unless corrective action was not completed or had failed.
    - (i) Sanctions not related to Performance Standards: The State Workforce Investment Board (SWIB) or its designee's grievance procedure provides subrecipients with the procedure for appealing state-imposed sanctions. Such an appeal, however, will not forestall the imposition of sanctions. Only the initiation of needed corrective action can halt sanction imposition.
    - (ii) A local workforce area which has failed to meet the adjusted levels of performance for core indicators or customer satisfaction indicators for any program will receive technical assistance from the SWIB, its designee, or DOL, as appropriate. The technical assistance may include development of a performance improvement plan or development of a modified local plan

[§666.420(a) and Section 136(g)].

**Note:** If the subrecipient fails to meet the adjusted levels of performance for the same program for a second consecutive year, the sanctions outlined in the following chart will apply [§666.420(b)].

- (iii) The SWIB's or its designee's grievance policy provides the subrecipient with the procedure for appealing a proposed WIA reorganization sanction.

### III. Resolution Process:

The following chart summarizes the process for resolving violations of WIA Act and regulations.

ACTION TO BE TAKEN BY THE STATE:	ACTION TO BE TAKEN BY LOCAL BOARD:
<ol style="list-style-type: none"> <li>1. Notify the LWIB Chair in writing indicating the violation and possible sanctions if the violation is not corrected and the appropriate corrective action needed, including time frames, if unresolved;</li> <li>2. Meet, if required, with LWIB Chair and other appropriate parties to review the violation and ways it could be corrected. Meeting to take place within fifteen (15) calendar days after receipt of the letter as indicated by certified mail;</li> <li>3. Submit results of the meeting in writing to the LWIB outlining the agreed upon action(s) that will be taken to correct the deficiencies, if unresolved;</li> <li>4. Notify the LWIB Chair of its intent to impose a specific sanction. Such notification must be received by the parties involved at least ten (10) calendar days before the scheduled imposition of sanctions, as evidenced by certified mail. This letter will also reiterate the violation, acceptable corrective action and the appeal process.</li> </ol>	<p>Respond to the State or its designee’s request for correcting violation(s) and appropriate corrective action required, including time frames, if unresolved;</p> <p>Attend meeting to review the violation and corrective action required.</p> <p>If satisfactory evidence of corrective action initiated is presented to the state within this ten (10) day period, the state will postpone the imposition of sanctions until either:</p> <ol style="list-style-type: none"> <li>1. Completion of the action within SWIB or its designee’s time lines or;</li> <li>2. the reaching of the state deadline without the completion of action.</li> </ol>
<p>Imposition of Sanction(s) in accordance with the charts on the following pages. Sanction(s) will be in effect until the LWIB Chair demonstrates to state’s satisfaction that violation has been corrected.</p>	
<p>NOTE: The state reserves the right to increase the severity of sanction(s) for uncorrected violation(s);</p> <p>If, after lifting a sanction, the LWIB again fails to adhere to agreed upon action, the subsequent sanction(s) will be more severe in nature.</p> <p>Unless otherwise indicated, two or more violations of a similar nature within six months of each other will be deemed to be consecutive for purposes of determining “deliberateness, seriousness, and frequency of the violation.”</p>	

**IV. SPECIFIC VIOLATIONS:**

The numbers in the right hand column of the chart below are cross-referenced to the numbers in the left hand column of Section V - Possible Sanctions chart.

IV. SPECIFIC VIOLATIONS (NOT ALL INCLUSIVE)	POSSIBLE SANCTIONS IMPOSED BY NUMBER
<b>A. ADMINISTRATIVE VIOLATIONS:</b>	
1. Failure to address deficiencies within thirty (30) days after receipt of the state’s monitoring report outlining corrective action required [state requirement to coincide with §667.170(a)(6)];	1-9 (a-e) (depending on deficiency)
2. Failure to obtain/maintain adequate supporting documentation for activities in accordance with state and federal WIA policy and procedures;	3, 4, 5 & 9 (c)
3. Failure to maintain a LWIB as per any of the provisions of §661.300 through 661.325;	4, 8, & 9 (c )
4. Failure to form and maintain a youth council to carry out responsibilities as per §§661.335 and 661.340;	4, 8 & 9 (c )
5. Failure to submit accurate required financial, participant, data collection, and other reports by established due dates without written explanation and local workforce area written acknowledgment [§667.300 and state requirement to coincide with §667.170 (a)(8)]. Sanctions may be imposed if grantee fails to meet the deadline two (2) consecutive times or two (2) times out of three (3) (state requirement);	1 & 4
6. Failure to monitor subrecipients as per §667.410;	1 & 4
7. Failure to maintain accurate, required and current data in the data collection system (§667.300 and Section 185). “Current” means data must be entered into the data collection system no later than thirty (30) days after the start and end of an activity (state requirement). Sanctions may be imposed if a grantee fails to meet the deadline two (2) consecutive times or two (2) out of three (3) (state requirement).	1 & 4
8. Failure to meet the timelines for the submission of either the letters of engagement or the required audit.	10, 11, 12 & 13
<b>B. FISCAL VIOLATIONS:</b>	
1. Failure to conduct procurement according to state and federal policies and procedures, including prior approval where necessary [Section 184(a)(3)(B)];	3
2. Failure to operate within minimum cash balance requirements (i.e., keeping only enough cash on hand to meet immediate cash needs) [state requirement to coincide with §667.170(10)];	4
3. Failure to comply with program cost limitations according to the approved plan budget [§667.220 and 667.410(a)(1)];	3, 4, 5, 8 & 9 (a-e)
4. Failure to comply with expenditure rates in accordance with the approved plan and established state policy and procedures;	2, 3, 4, 8 & 9 (a-e)

IV. SPECIFIC VIOLATIONS (NOT ALL INCLUSIVE)	POSSIBLE SANCTIONS IMPOSED BY NUMBER
5. Failure to properly allocate expenditures among grants and act in accordance with SWIB approved cost allocation plans (§667.220);	3, 8 & 9 (a-e)
6. Incurring costs outside the grant period;	3 & 9 (a-e)
7. Failure to properly report and dispose of government property as instructed by DOL [§667.170(a)(9)] (see WIA State Compliance Policy 3.11);	3, 8 & 9 (a-e)
8. Charging unallowable costs to a grant;	3, 8 & 9 (a-e)
9. Charging the same costs to more than one grant;	3, 8 & 9 (a-e)
10. Expenditures of WIA funds for non-WIA unallowable activities, including, but not limited to, nondiscrimination/equal opportunity/sectarian activities (§667.266), construction (§667.260), employment generation (§667.262), business relocation (§667.268), displacement (§667.270), use on non-eligible training provider (Section 122), and other (§667.264) and Section 184(b)(1).	3, 4, 8 & 9 (a-e)
<b>C. PROGRAM VIOLATIONS:</b>	
1. Failure to obtain proper eligibility determination information as cited in the SWIB's or its designee's monitoring/audit findings indicating ineligible or possibly ineligible participants receiving WIA benefits (where the subrecipient discovered ineligible participants on its own, took appropriate action, and resolved the finding, sanctions would most likely not be imposed) [667.170(a)(5)].	3 & 4
2. Failure to comply with: <ul style="list-style-type: none"> <li>a. Time limitations specified by the LWIB for the participation of individuals in OJTs as identified in monitoring reports [Section 101(31) and §663.700];</li> <li>b. Dollar amounts and/or duration for Individual Training Accounts (§663.420);</li> <li>c. Initial period of eligibility for Training Providers (no training provider may have a period longer than eighteen (18) months (§663.530)), and annually for subsequent eligibility (§663.535);</li> <li>d. Provision to provide at least one (1) core service to an individual before they receive intensive services or numbers established by LWIB (§663.160);</li> <li>e. Provision to provide at least one (1) intensive service to individual before they receive training services or numbers established by LWIB (§663.240);</li> <li>f. Eligibility requirements and established time limits set by LWIB for both supportive services (§663.810) and needs-related payments (§663.815-840).</li> </ul>	3 & 4
3. Failure to meet adjusted levels of performance on required core or customer satisfaction indicators for a program for any program year [Section 136(h)(1)].	7, 8, & 9 (a-e)
4. Failure to meet adjusted levels of performance of the core or customer satisfaction indicators for a second consecutive year [Section 136 (h)(2)].	6, 7, 8, 9 (a-e)

**V. POSSIBLE SANCTIONS:**

The following chart provides a list of possible sanctions. The numbers in the right hand column of the chart below are cross-referenced to the numbers in the left-hand column of Section IV Specific Violation(s).

<p align="center"><b>V. POSSIBLE SANCTIONS IMPOSED (ARE ARRANGED IN ORDER OF INCREASING SEVERITY) (NOT ALL INCLUSIVE)</b></p>	<p align="center"><b>SPECIFIC VIOLATIONS CROSS REFERENCED</b></p>
<p>1. SWIB or its designee taking over data entry for both financial and participant data and charging grantee for cost of inputting.</p>	<p>A-1, A-5 &amp; A-7</p>
<p>2. Reallocation of unexpended funds.</p>	<p>A-1 &amp; B-4</p>
<p>3. Disallowing costs associated with a particular violation or deficiency and the seeking of repayment.</p>	<p>A-1, A-2, A-6, B-1, B-3, B-4, B-5, B-6, B-7, B-8, B-9, C-1 &amp; C-2</p>
<p>4. Disapproval of requests for specific or all WIA fund drawdowns until the violation or deficiency has been corrected. The SWIB or its designee will temporarily assign WIA administrative and program responsibilities, as appropriate, to alternative program operators. These program operators will be directly responsible to the state.</p>	<p>A-1, A-2, A-3, A-4, A-5, A-6, A-7, B-2, B-3, B-4, B-9, C-1 &amp; C-2</p>
<p>5. The state may deduct the amount of the mis-expenditure from the local area’s administrative funds that are part of subsequent program year’s allocation.</p>	<p>A-1</p>
<p>6. Development of performance improvement plan or development of a modified local plan [Section 136(h)(1)].</p>	<p>A-1, C-3, C-4</p>
<p>7. Monetary sanctions may be imposed to reduce the funding allocation for the next program year by up to 5 percent based on the degree of failure to meet the state adjusted levels of performance [in conformance with the federal policy imposed on the state - Section 136(g)(1)(B)].</p> <p>Using the average percent achieved across relevant indicators for each program, and for the overall program based on customer satisfaction, there will be a 1 percent monetary sanction for every 3 percentage points below 100 percent cumulative attainment of the lower limit of the ranges established. As an example, achievement between 97.0 and 99.99 percent of the lower limit would result in a one percent reduction; achievement between 94.0 and 96.99 percent would result in a two percent deduction, etc. (as per DOL Consultation Paper on Awarding Incentive Grants and Applying Sanctions).</p>	<p>A-1, C-3, &amp; C-4</p>
<p>8. Revocation of a local area plan until conditions, violations, or deficiencies have been corrected (i.e., grantees without approved Plans cannot receive any WIA funds). The SWIB or its designee will temporarily assign WIA administrative and program service responsibilities, as appropriate, to alternative program operators. These program operators will be directly responsible to the state.</p>	<p>A-1, A-2, A-3, A-4, A-6, B-3, B-4, B-5, B-6, B-7, B-8, B-9, C3, &amp; C-4</p>
<p>9. Imposition of a Reorganizational Plan, pursuant to Sections 136(h)(2) and 184(b) including, but not exclusively limited to:</p> <p>a. Decertifying the LWIB involved;</p>	<p>A-1, B-3, B-4, B-5, B-6, B-7, B-8, B-9,</p>

<p style="text-align: center;"><b>V. POSSIBLE SANCTIONS IMPOSED (ARE ARRANGED IN ORDER OF INCREASING SEVERITY) (NOT ALL INCLUSIVE)</b></p>	<p style="text-align: center;"><b>SPECIFIC VIOLATIONS CROSS REFERENCED</b></p>
<p>b. Prohibiting the use of specific providers (performance standard sanctions would include eligible providers and One-Stop partners who have been identified as achieving low level of performance, and other actions as determined appropriate);</p> <p>c. Selecting an alternative entity to administer the program for the local area involved;</p> <p>d. Merging the local area into the other local area; and</p> <p>e. Making other such changes as determined necessary to ensure compliance.</p>	<p>C-3 &amp; C-4 A-1, B-3, B-4, B-5, B-6, B-7, B-8, B-9, C-3 &amp; C-4</p> <p>A-1, A-2, A-3, A-4, B-3, B-4, B-5, B-6, B-7, B-8, B-9, C-3 &amp; C-4</p> <p>A-1, B-3, B-4, B-5, B-6, B-7, B-8, B-9, C-3 &amp; C-4</p> <p>A-1, B-3, B-4, B-5, B-6, B-7, B-8, B-9, C-3 &amp; C-4</p>
<p>10. Withholding a percentage of Federal awards until the audit is completed satisfactorily.</p>	<p>A-8</p>
<p>11. Withholding or disallowing overhead costs</p>	<p>A-8</p>
<p>12. Suspending Federal awards until the audit is conducted</p>	<p>A-8</p>
<p>13. Terminating the award</p>	<p>A-8</p>