

COMMONWEALTH OF VIRGINIA
Virginia Workforce Council

Policy Number: 05-03
Effective Date: October 23, 2008
Revision #: 1 - October 17, 2008
2 – March 16, 2013
Rescission Date:
Title: Sanctions for Insufficient Performance under the Workforce investment Act

PURPOSE

Performance standards have been established to measure the results of programs under Title I of the Workforce Investment Act (WIA). When local workforce investment boards (WIBs) fail to meet negotiated levels of performance, it affects the performance of the entire state. This policy describes the guidelines for applying sanctions to local workforce investment boards (LWIBs) for insufficient performance in the WIA program in Virginia.

REFERENCES

1. P.L. 105-220. Workforce Investment Act, Sections 136 and 502.
2. 20 CFR Part 666.
3. Federal Register. Vol. 64, No. 150, Thursday, August 5, 1999, Notices. U.S. Department of Labor, Consultation Papers on Performance Accountability Under Title I of the WIA.
4. Training and Employment Guidance Letter No. 17-05 and subsequent changes.

POLICY STATEMENT

If a WIB fails to meet negotiated levels of performance for the common measures of WIA program performance or negotiated levels for Virginia Workforce Council approved measures for any program year, the Virginia Community College System will make technical assistance available. Technical assistance can include meetings, additional training on matters related to performance measures, and assistance with data analysis.

For WIBs that fail to meet performance in one year, the following actions will occur:

1. The WIA Program Administrator will prepare formal notice to the WIB Director and Chair outlining the impacted performance measures within 30 days of the final performance measure reporting period;
2. The WIB will be required to develop a Performance Improvement Plan covering a period of not less than one program year, that includes the following items:
 - a. Identification of specific areas of performance challenges;
 - b. Analysis of factors that contribute to performance failure; and,
 - c. Description of activities to address factors, including timeline, responsible parties, and intended outcomes.
3. The WIB will be required to provide a Performance Improvement Plan progress

report to the WIA Program Administrator on a quarterly basis for the duration of the Performance Improvement Plan time period.

For WIBs that fail to meet performance for two consecutive program years on any one measure, the following actions will occur:

1. The WIA Program Administrator will prepare formal notice to the WIB Director and Chair outlining the impacted performance measures;
2. The WIB will be required to develop a Performance Improvement Plan covering a period of not less than one program year, that includes the following items:
 - a. Identification of specific areas of performance challenges;
 - b. Analysis of factors that contribute to performance failure; and,
 - c. Description of activities to address factors, including timeline, responsible parties, and intended outcomes.
3. The WIB will be required to provide a quarterly Performance Improvement Plan progress report to the WIA Program Administrator on a quarterly basis for the duration of the Performance Improvement Plan time period.
4. The WIB will be ineligible to apply for Virginia Workforce Council Incentive Awards for the duration of the Performance Improvement Plan time period.

In addition to the actions noted above, the Governor may enforce further corrective actions if a WIB fails to meet negotiated levels of performance on any one measure for two consecutive program years. These actions may include the any of the following:

1. The imposition of a reorganization plan;
2. The application of a S.W.O.T. analysis (Strengths, Weaknesses, Opportunities and Threats) strategies for determining target areas of improvement; or
3. Other actions designed to assist the LWIB in improving performance

For WIBs that do not comply with the actions outlined above or that continue to fail performance in any one measure for two consecutive years, additional sanctions may be imposed as described below and outlined in Virginia Workforce Letter (VWL) #05-01, OVERSIGHT AND COMPLIANCE ACTIVITIES FOR LOCAL WORKFORCE INVESTMENT ACT AREAS

1. Reallocation of unexpended funds (WIA 128 (c); 133(c))
2. Disallowing costs associated with a particular violation or deficiency and the seeking of repayment (WIA 184(c))
3. Disapproval of requests for specific or all WIA fund drawdown requests from an area until the violation or deficiency has been corrected. (WIA 184(b)(B)(v))
4. The state may deduct the amount of mis-expenditure from the local area's amount of allowable administrative funds from of the subsequent program year's allocation. (WIA 184(b)(4))
5. Development of a performance improvement plan or the requirement for a modification to the approved local plan. (WIA 136(h))

6. 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)].

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

7. Revocation of a local area plan approval until required corrections or actions have been taken by the local area. (WIA 184(b)(1)(A))
8. Imposition of a reorganization plan, pursuant to Sections 136(h)(2) and 184(b) of WIA, including but not limited to:
 - a. Decertifying the WIB
 - b. Prohibiting the use of specific providers
 - c. Selecting an alternate entity to administer the WIA program locally
 - d. Merging the local area into one or more local areas
 - e. Making other such changes as determined necessary to ensure compliance
9. Should the state determine it necessary to protect the integrity of the funds or to ensure the proper operation of the program or activity involved, the state may determine it necessary to suspend future federal awards completely or terminate the awards in place. ((WIA 184(b)(B)(v); 184(e))

REVISIONS: This policy replaces the portion of the rescinded policy including this topic, **Policy 00-11, Continuous Improvement, Incentives and Sanctions for the Workforce Investment Act.**

APPROVED:

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**Virginia Community College System
Workforce Development Services**