

West Virginia State Workforce Development Board	
<b>Policy Area:</b> Administrative Provisions	
<b>Title of Policy:</b> Sanctions and Corrective Actions	<b>Number:</b> 400-02 (2025)
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## I. Purpose

This issuance outlines the authority of the Governor to issue certain sanctions for failure to meet performance levels or for other substantial violations of the Workforce Innovation and Opportunity Act (WIOA) Title I, as well as the process to be followed if sanctions are levied. The process includes the roles and responsibilities of WorkForce West Virginia (WFWV) acting on behalf of the Governor. Sanctions may include decertification of a Local Workforce Development Board (LWDB), local workforce development area redesignation, or other actions.

## II. Summary

The Workforce Innovation and Opportunity Act (WIOA) provides the Governor with the authority to decertify and require reorganization of a Local Workforce Development Board (LWDB) under certain circumstances and for substantial violations, including fraud or abuse. A LWDB's failure to carry out its responsibilities under WIOA Title I, a failure to meet local performance accountability measures, or any substantial violation of WIOA Title I requirements provides a cause for action by the Governor. LWDBs have the right to appeal any sanctions imposed.

## III. References

- Workforce Innovation and Opportunity Act (Pub. L. 113-128)
- United States Department of Labor, *Workforce Innovation and Opportunity Act; Final Rule*, 20 CFR, Part 683, Subpart G, Sanctions, Corrective Actions, and Waiver of Liability
- Training and Employment Notice No. 05-14, *Workforce Innovation and Opportunity Act Announcement and Initial Informational Resources*
- Training and Guidance Letter No. 19-14, *Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act of 2014*

#### **IV. Policy**

##### **Definition of a Substantial Violation**

A determination of a substantial violation occurs after a sanctionable act. A sanctionable act is a violation of federal, state, and local laws, regulations, contract provisions, grant agreements, or policies by a LWDB, local subrecipient and/or fiscal agent, or a contractor of the LWDB or local subrecipient and/or fiscal agent as determined by the United States Department of Labor (DOL) or any other federal agency on behalf of DOL, or from the Governor, WorkForce West Virginia (WFWV), or any state agency on behalf of the Governor or WFWV. This policy applies only to LWDBs, local subrecipient and/or fiscal agents or their contractors under Title I of WIOA. Such failures may occur during or after the program, grant, fiscal, contract, or calendar year. Routine findings identified and requiring action as a result of the regular monitoring process are not considered to be substantial violations. To the extent allowed, a determination of a substantial violation will not occur until the routine monitoring process has been exhausted. The following are examples of sanctionable acts which may lead to a determination of a substantial violation by DOL, the Governor, and/or WFWV:

- A. Failure of the LWDB to meet agreed upon adjusted levels of performance for a third consecutive program year, using a consistent definition for performance failure applied to states by DOL:
  - 1. If any single individual indicator score falls below 50 percent;
  - 2. If any overall local Title I program score falls below 90% for that single core program; and
  - 3. In any overall local Title I indicator score falls below 90% for that single measure.
  - 4. For these three calculations, the results will not be rounded.
- B. Failure by the LWDB to submit a local plan or local plan modification as required by WFWV.
- C. Failure by the local subrecipient and/or grant recipient to comply with the Uniform Administrative Guidance, found at 2 CFR part 200.
- D. Failure of the LWDB to carry out functions required in Section 107(d) of WIOA.
- E. Failure by the LWDB, local subrecipient and/or fiscal agent, or contractor of the LWDB or local subrecipient and/or fiscal agent, to address findings of noncompliance of applicable federal, state, or local laws, or contractor of the LWDB or local subrecipient and/or fiscal agent to resolve monitoring findings identified by DOL or WFWV.
- F. Incidents of fraud, misfeasance, nonfeasance, malfeasance, misapplication of funds, or other similar violations.

## **V. Procedures**

### **Informal Resolution**

Prior to issuing a formal notice to a local area of a substantial violation of WIOA Title I, WFWV may work with the local workforce development area, including the LWDB, the Chief Local Elected Official (CLEO), and/or the fiscal agent to informally resolve the issue. Examples of informal resolution include providing technical assistance, desk monitoring, additional oversight by WFWV, or agreement of the local area to repay disallowed costs.

### **Required Corrective Action**

WFWV will require prompt corrective action to be taken for any determination of a substantial violation under WIOA Title I. If WFWV determines a local area has committed a substantial violation, WFWV will provide written notification of the violation to the CLEO, with a copy to the LWDB chair and the State Workforce Development Board. The notification will include information regarding the substantial violation that was committed, any required corrective action by WFWV, and possible sanctions should the local area fail to come into compliance in accordance with the corrective action plan imposed by WFWV.

If a local area satisfies the requirements of a corrective action plan, and WFWV determines the local area is in compliance, WFWV will provide written notification to the CLEO with a copy to the LWDB chair and the State Workforce Development Board, indicating resolution of the findings that led to the corrective action plan.

If there is failure to comply with the corrective action plan, WFWV will provide written notification to the CLEO, with a copy to the LWDB chair and the State Workforce Development Board. WFWV may recommend the Governor impose a sanction against the local area as outlined below. If the local area is partially in compliance, WFWV may recommend extending the timeline for completing the corrective action as an alternative to imposing sanctions.

### **Sanctions Imposition**

The Governor has authority to impose sanctions on a local area if a substantial violation of WIOA Title I has occurred. Sanctions imposed by the Governor may include decertifying a LWDB at any time if the LWDB is found to have engaged in fraud or abuse, has failed to carry out its required functions as outlined in the WIOA statute and implementing regulations, or has failed to meet local performance accountability measures for three consecutive program years.

In addition, the Governor has authority to impose a reorganization plan, which may include decertification of a LWDB, or revoking all or part of a local plan if the local area is found, as a result of financial and compliance audits or otherwise, to have committed a substantial violation of a specific provision of WIOA Title I and corrective action has not been taken by the CLEO.

Following decertification of a LWDB, the Governor may require a new LWDB to be appointed and certified for the region or the Governor may redesignate local areas consistent with Policy 200-01. This action will be completed through a reorganization plan developed by the Governor, in consultation with the CLEO, and in accordance with the requirements of WIOA.

#### **Sanction Notification Process**

If the Governor imposes a reorganization plan, revoke all or part of a local plan, or decertifies a LWDB for any of the reasons listed above, WFWV, on behalf of the Governor, shall notify the CLEO and the LWDB of the sanction in writing. The notice will include the sanction being imposed, the reason for the sanction, as well as information regarding the appeals process. If the Governor seeks to decertify a LWDB, an opportunity for comment will be provided prior to decertification.

#### **Appeals Process**

Following written notification from the Governor and/or WFWV that a reorganization plan will be imposed on a local area, the local plan will be revoked in part or in whole, or the LWDB will be decertified, the local area may appeal the sanction(s) to the Governor or U.S. Secretary of Labor, in accordance with WIOA Sec. 184(b) and WIOA Sec. 116(g)(2)).

#### **Sanctions for Substantial Violations**

If a LWDB is found to have committed a substantial violation and the Governor revokes the local plan in part or in whole or imposes a reorganization plan in accordance with WIOA Sec. 184(b), a local area may file an appeal directly to the U.S. Secretary of Labor. The local area must file the appeal no more than 30 days after receiving written notification of the sanction(s) from the Governor and/or WFWV.

According to WIOA and the implementing regulations, the U.S. Secretary of Labor must make a final decision no later than 45 days after receiving the appeal from the local area. The Governor's sanction may not become effective until the time for appeal has expired or the Secretary issues a decision.

#### **Sanctions for Failure to Meet Performance Levels**

If a local area fails to meet its local performance levels for three consecutive years and the Governor decides to impose a reorganization plan, which may include decertification, the local area may appeal the decision to the Governor to revise or rescind the reorganization plan. The local area must submit the appeal to the Governor no later than 30 days after receiving notice of the reorganization plan. The Governor must make a decision within 30 days after receiving the appeal.

The local area may appeal the Governor's final decision to the U.S. Secretary of Labor no later than 30 days after receiving the decision from the Governor. Such appeals must be jointly submitted by the LWDB and the CLEO and be submitted by certified mail, return receipt requested, to:

U.S. Secretary of Labor  
U.S. Department of Labor  
200 Constitution Ave. NW.  
Washington, DC 20210  
Attention: ASET

A copy of the appeal must be simultaneously provided to the Governor.

The U.S. Secretary of Labor must issue a final decision within 30 days. The Secretary may consider any comments submitted by the Governor in response to the appeals. The decision by the Governor on the appeal becomes effective at the time it is issued and remains effective unless the U.S. Secretary of Labor rescinds or revises the reorganization plan.