



www.sces.org

COMMISSIONERS  
J. William McLeod  
McKinley Washington, Jr.  
Carole C. Wells

**STATE WIA INSTRUCTION NUMBER:** 02-03

**TO:** Local Workforce Investment Areas

**SUBJECT:** Sanctions Policy for Failure to Meet Negotiated Performance Levels under the Workforce Investment Act (WIA)

**ISSUANCE DATE:** March 14, 2003

**EFFECTIVE DATE:** Immediately

**EXPIRATION DATE:** Indefinite

**PURPOSE:**

To provide Local Workforce Investment Areas (LWIAs) guidance on the State's policy related to application of sanctions for failure to meet local negotiated performance levels under WIA.

**BACKGROUND:**

The stated goal of the Workforce Investment Act is to increase employment, retention, and earnings of participants. A comprehensive performance accountability system has been created that includes core indicators of performance to measure employment, retention, and earnings, as well as attainment of credentials (or diplomas in the case of young people age 14-18), attainment of skills, and customer satisfaction.

States have negotiated levels of performance for each of these indicators, and based on results reported in their Annual Reports that are submitted each December, states may qualify for incentives for performance that exceeds the negotiated performance levels or be subject to sanctions for performance that does not meet the negotiated performance levels.

Section 136(g) of the Act and Section 666.240 of the Regulations address the application of sanctions to states for failure to meet negotiated performance levels. If a state fails to meet negotiated levels of performance for one year, the state may request technical assistance from the Department of Labor. If the state fails to meet negotiated levels of performance for two consecutive years, the state may be subject to financial sanctions, up to 5 percent, in the form of a reduction in the annual allocation for the program area.

Similarly, local areas have negotiated levels of performance on the 17 measures. Based upon actual performance results, local areas may qualify for incentive awards or may be subject to sanctions. **Failure to meet the negotiated level of performance is defined as failing to achieve at least 80 percent of the negotiated level on a specific performance or customer satisfaction measure.** Guidance on the application of sanctions to local areas for failure to meet negotiated performance levels is found in Section 136(h) of the Act and Section 666.420 of the Regulations. Technical assistance must be provided to local areas failing to meet the negotiated levels of performance for any program year. Such technical assistance may include the development of a Performance Improvement Plan (PIP) or other actions designed to assist the local area in improving its performance. Corrective actions must be taken if a local area fails to meet negotiated performance levels for two consecutive program years. Such corrective actions may include the development of a reorganization plan which 1) requires appointment and certification of a new Local Workforce Investment Board (LWIB); or 2) prohibits use of particular service providers or partners identified as poor performers; or 3) requires other appropriate actions designed to improve the performance of the local area.

Throughout the implementation of WIA, the State Workforce Investment Administrative Department (SWIAD) has worked very closely with local areas on planning and performance matters. In Program Year 2000, the SWIAD conducted an assessment of each local area's workforce development system to determine the extent to which key WIA components were operational. The results of this assessment were used to identify technical assistance needs as well as to identify positive tools, techniques, approaches and strategies that could be shared. Additionally, SWIAD staff conduct monthly reviews of local area financial and participation data to identify areas of concern requiring follow-up. SWIAD staff also routinely attend Local Workforce Investment Board and Youth Council meetings. Technical assistance is provided to all LWIAs on an ongoing basis; and, upon request, specialized technical assistance is provided.

**POLICY:**

The ultimate goal of any sanctions policy is to improve services to customers and to promote continuous performance improvement. **The State's Sanctions Policy for local areas failing to meet negotiated levels of performance is as follows:**

**Failed Performance Measure(s) in One Program Year**

If a local workforce investment area failed to meet the negotiated level on a specific performance measure(s) or customer satisfaction measure(s) in a *program year*, **the local workforce investment board (WIB) will be required to develop a *Performance Improvement Plan (PIP)*.**

The **PIP** must identify factors contributing to the performance failure, address strategies the local area will use to improve performance in the specific measure(s) failed and identify and request the technical assistance that will be needed to effectively implement the performance improvement strategies. The **PIP** should be developed in consultation with the SWIAD. Submission of the **PIP** will constitute a modification of the local area's five-year strategic plan.

**Failed Same Performance Measure(s) in Two Consecutive Program Years**

If a local workforce investment area failed to meet the negotiated level for a specific performance measure(s) or customer satisfaction measure(s) for a ***second consecutive program year***, **the local WIB will be required to develop a *Corrective Action Plan (CAP)*.**

The **CAP** must identify factors contributing to the performance failure, indicate why previous performance improvement strategies did not achieve the intended results, indicate the corrective actions to be taken to improve performance in the specific measure(s) failed and identify and request the technical assistance that will be needed to effectively implement the corrective action strategies. The **CAP must** be developed in consultation with the SWIAD. Submission of the **CAP** will constitute a modification of the local area's five-year strategic plan.

**Failed Same Performance Measure(s) in Three Consecutive Program Years**

If a local workforce investment area failed to meet the negotiated level for a specific performance measure(s) or customer satisfaction measure(s) for a ***third consecutive program year***, **the local area will be ineligible to receive any funds that may be awarded under the State's Incentive Policy. In addition, the local WIB will be required to modify its *Corrective Action Plan (CAP)*.**

**Exceptions for Program Years 2000 and 2001**

While employment, earnings and retention goals are traditional measures of performance dating back to the Job Training Partnership Act, credential and diploma measures are new and unfamiliar as indicators of performance in workforce programs. Many concerns about these new measures have been expressed during the past two years. Most of the concern relates to the perceived lack of baseline data when goals were initially negotiated and to problems gathering and reporting data. In South Carolina, credential/diploma measures overwhelmingly accounted for the majority of performance goals missed by local areas. **In acknowledgement of these concerns, the State will not apply the Sanctions Policy for failure on a credentialing goal for PY 2000 or PY 2001. However, in order to take advantage of the range of credentialing options available under the definition, all local workforce investment areas must establish a credential policy prior to July 1, 2003.**

**The State will determine each local area's status as it relates to the application of sanctions. Local areas subject to sanction will be notified in writing.**

**ACTION:**

Each local workforce investment area shall comply with the requirements of this instruction.

**REFERENCES:**

- Workforce Investment Act 1998, (P. L. 105-220), Section 136
- 20CFR Part 666, published at 65 Federal Register 49294,49417 (August 11, 2000), Subpart d, 666.240 and 666.420
- TEGL No. 8-99, "Negotiating Performance Goals; and Incentives and Sanctions Process under Title I of the Workforce Investment Act"
- TEGL No. 19-02, Sanctions Policy for Failure to Meet State Negotiated Performance Levels under title I of the Workforce Investment Act (WIA)

**INQUIRIES:**

If you have questions or need additional assistance, please contact Mr. Samuel "Sam" R. Jordan at (803) 737-2611 or [sjordan@sces.org](mailto:sjordan@sces.org).

  
\_\_\_\_\_  
**Roosevelt T. Halley, Executive Director**