

SANCTIONS POLICIES

- I. **Purpose:** The purpose of these policies is in conjunction with Chapter 6 - General Provisions, of the Workforce Investment Act (WIA) and to establish a comprehensive performance accountability system, comprised of the implementation of the activities described throughout the Act and Regulations and the requirements of the Arkansas Workforce Investment Board (AWIB), as well as to assess the effectiveness of Local Workforce Investment Areas (LWIA) in achieving continuous improvement of workforce investment activities funded under the Act, in order to optimize the return on investment of Federal funds in statewide and local workforce investment activities, in conjunction with the Act and Regulations.
- II **General Information:** The Workforce Investment Act and Regulations provide that the recipient (Governor) is responsible for all funds granted to the State. In turn, the Governor holds Local Boards and Chief Elected Officials (CEO), through the Grant Recipient and/or Administrative Entity, responsible for all WIA funds they receive, including performance and the proper expenditures of such funds. The Governor is also responsible for monitoring and oversight of compliance with WIA requirements, as well as other applicable Federal and State laws and policies.

The political jurisdiction(s) of the CEOs, in a Local Workforce Investment Area (LWIA), is liable for any misuse of any WIA funds (unless an agreement has been reached with the Governor to bear such liability) (reference the Act at Section 300 and the Federal Regulations at Sections 661.300 and 667.705).

When the LWIA is comprised of more than one unit of general local government, the joint liability of the individual jurisdictions must be specified in a written agreement between the chief elected officials and part of the local plan (Reference the Act at Section 117(c)).

The Arkansas Workforce Investment Board (AWIB) and its staff and the Arkansas Employment Security Department (AESD) act on behalf of the Governor for all Workforce Investment Act activities in Arkansas. (Throughout instances in these policies, the AWIB and AESD staffs are referred to as State Staff.) As part of the ongoing responsibilities for the oversight of federal employment and training activities in Arkansas, the State staff conducts continuous desk reviews, captures and reviews performance data, and conducts on-site monitoring reviews on a regularly scheduled basis (not less than once annually).

- III. **Review Implementation:** The State staff (AWIB and AESD) performs as the State's administrative entity responsible for implementing employment and training, monitoring and oversight and capturing performance data associated with Title I B of the Workforce Investment Act, using Federal and/or State developed review guides and performance requirements. The State staff will also be responsible for conducting programmatic, financial, EEO and ADA monitoring reviews.

The primary mission of the desk or on-site monitoring review is to ensure administrative policies, practices, standards and systems are functioning and operational within the parameters established by federal/state legislation, regulations and policy directives. The primary mission of capturing and reviewing performance is to ensure that required performance criteria are being achieved.

The results of each monitoring review will be documented and compiled in a formal report and disseminated for response and, as warranted, include recommended corrective action to the appropriate Local Workforce Investment Board, Administrative Entity and Grant Recipient. Specific activities subject to the State’s on-site and desk monitoring reviews may include, but are not limited to:

Allowable activities	Eligibility	Targeting
Assessment methodology	Selection	Property management
EEO and ADA compliance	Fiscal accountability	Internal controls
Inventory control	Security maintenance	Data validation
Conflict of interest	Nepotism	Customer satisfaction
Record keeping	Data entry and sharing	
Record retention	Contracts and subcontracts	
Compilation of performance data		
Complaint and Grievance policies and procedures		
Management Information Systems and performance data		
Certifications (e.g. Local Workforce Investment Boards, service providers, etc.)		

(A comprehensive Monitoring (Compliance) Review Instrument and Procedures are provided in a separate document.)

IV. Corrective Action: The State staff will review monitoring findings requiring corrective action and make recommendations to the AWIB Executive Director for consideration. Prior to making its recommendation to the Director, OPAR may request additional information from the LWIA, or conduct a meeting with appropriate officials to ascertain all pertinent facts regarding any finding(s).

If corrective action is necessary, the AWIB Executive Director will submit a request for an approved Corrective Action Plan to the LWIB Chairperson. Within fourteen (14) days of receipt of the request, the Local Workforce Investment Area shall submit a CAP signed by the LWIB Chairperson.

The Corrective Action Plan shall include, at a minimum:

- A. An assessment of the current situation, including a review of action that has already been taken to address the problem;
- B. A plan which describes, in detail, the action which will be taken to correct the problem; and
- C. A timetable for the action that identifies what steps will be taken through a specified time period, benchmarking dates by which certain levels of progress will be accomplished.

The AWIB Executive Director will review each Corrective Action Plan and make recommendations for CAP approval or disapproval. Upon approval of the CAP, the Executive Director will determine if the LWIB will be required to submit written progress reports, as well as the frequency of such reports. When required, each progress report shall describe the progress of the action taken; attainment or non-attainment of benchmarks and any necessary revision of the plans.

The progress of each CAP will be reported to the AWIB. In the event of failure or non-implementation of corrective action plans, the AWIB Executive Director may apply sanctions to the LWIA by withholding WIA funds until LWIA funds until a Corrective Action Plan has been submitted to the State or corrective actions have been implemented, or will make recommendations to the AWIB regarding applying more severe sanctions to the LWIA. Notification of any sanction(s) to be imposed beyond corrective action plans will be communicated to the LWIB Chairperson, Lead CEO, Administrative Entity, and Grant Recipient (if these are separate entities).

- V. **Findings:** When appropriate, a follow-up review may be conducted to ascertain if corrective action was implemented, and/or to provide technical assistance. Where performance is determined not to be in line with the requirements of the Workforce Investment Act, applicable Federal Regulations and/or AWIB/State policies governing the program, the AWIB Executive Director shall impose a negotiated Corrective Action Plan or the Sanctions as described in Section VI of this document.

In determining whether to impose a sanction, the frequency, quantity, flagrancy and severity of the finding and whether it was the result of willful disregard of the Act or other applicable laws and regulations will be considered.

The 1) frequency, 2) quantity, 3) flagrancy, 4) severity, and/or 5) willfulness of the finding will also determine the precise sanction imposed. Any one or a combination of any of these conditions could result in sanctions; doesn't have to be all; (for example, frequent late responses or reports could result in no funds until responses or reports are received, even if the violation is not judged as willful).

Specific findings, although not all-inclusive, which may result in the imposition of sanctions, are outlined below. These findings may fall into four major categories: Administrative, Fiscal, Participant, and Performance Standards.

- A. **Administrative Findings:** Sanctions may be imposed for violations of law, regulations and State standards. Major examples of sanctionable findings in the administrative area are failure to:

1. Maintain local board membership in accordance with any of the provisions of 661.300 through 661.325;
2. Maintain a youth council to carry out responsibilities in accordance with any of the provisions of 661.335 through 661.340;

3. Submit accurate required financial, participant, data collection or other reports by established due dates (667.300 and State requirements to coincide with 667.170 (a)(8));
4. Maintain an adequate local/internal review (monitoring) system (at a minimum, monitoring of subrecipients must be conducted on an annual basis, to comply with 667.410);
5. Maintain accurate, required and current data in the State's Information System, and in accordance with applicable federal or state laws (667.300 and Section 185) or state policies. (Current means data must be entered into the information system no later than on the day of the start of an activity);
6. Maintain an up-to-date local workforce investment area plan;
7. Address deficiencies within allowable timeframes after receipt of State's request for corrective action (State requirement to coincide with 667.170 (a)(6));
8. Adhere to federal, state and local policies and procedures regarding EEO and ADA requirements;
9. Provide disallowed services using federal funds.
10. Partner with the required one stop partners or coordinate with other federal partners, and thus maximize the services available to participants (20 CFR 662.200 – 662.230);
11. Solicit, approve, and manage the eligible provider process (20CFR 663.500 – 663.535).

B. Fiscal Findings: Sanctions may be imposed for violations of law, regulations and State standards. Major examples of sanctionable findings in the fiscal area are failure to:

1. Operate within minimum cash balance requirements (State requirement to coincide with 667.170 (3));
2. Maintain effective cash management or cost controls resulting in no excess cash on hand - 667.170 (a) (I));
3. Comply with program cost limitations according to the approved budget (667.220 and 667.410 (a)(1));
4. Conduct procurements according to State and federal policies and procedures, including prior approval where necessary (Section 184 (a)(3)(B));
5. Maintain adequate systems of fiscal control;

6. Submit accurate required fiscal reports within required time frames; a Corrective Action Plan is required at the end of any 3 -month interval in which an organization submits two or more late or inaccurate monthly fiscal reports;
7. Maintain property control system;
8. Resolve audit findings or questioned costs.

C. Program and Performance Findings: Sanctions may be imposed for violations of law, regulations and/or State standards. Major examples of findings which could entail sanctions being applied are failure to:

1. Meet negotiated levels of performance of the core or customer satisfaction indicators for any program year (Section 136(h)(1)) *(may result in technical assistance and modification of operational plans; or for a second consecutive year, Section 136 (h)(2)) may result in the local area being reorganized)*;
2. Obtain proper information for eligibility determination resulting in ineligible participants receiving benefits from the program;
3. Meet required enrollment levels for any group established as priority through State performance standards;
4. Exit participants when the end of the last services funded by the WIA program or funded by a partner program was more than 90 consecutive days earlier (TEGL #07-99 and TEGL #15-03);
5. LWIA setting and following policies regarding maximum (or minimum) amounts and other restrictions, etc., when providing Individual Training Accounts
6. Provide Individual Training Accounts for participants who have been determined eligible and in need of training when funds are available (20 CFR Part 663--Subpart C--Training Services; Subpart D-Individual Training Accounts).

D. Management Concerns: Also, during the monitoring review process, items may be detected that do not completely coincide with the WIA Law, Regulations, or State issued policies. Where warranted, such items will be provided to the monitored entity as Management Concerns. Although such concerns may not constitute a non-compliance issue(s), these concerns are provided to avoid issues that may lead to non-compliance. Such concerns do require response(s) and corrective action(s). These concerns will be provided via a separate document from the official Monitoring Report.

E. **Local Monitoring Requirements:** Each LWIB will establish general policies and procedures related to their oversight responsibilities. These procedures are to be contained in the local operational plan. Minimum standards shall include, but are not limited to:

1. An annual schedule of activities to be reviewed;
2. An instrument or guide and procedures related to the overall monitoring requirements;
3. Operational procedures related to documentation of the reviews;
4. Operational procedures related to resolution of findings;
5. Operational procedures related to corrective action; (20CFR 667.400(c)(1)).

VI. **Application of Sanctions:** Ongoing program evaluation through monitoring and compliance reviews will strive to focus on program improvement. Should it become necessary for the State to entertain sanctions for disregard of the Act, other applicable laws, regulations, or AWIB/State issued policies, the following includes a list of possible sanctions which may be applied:

- A. Withholding LWIA funds until a Corrective Action Plan has been submitted to the State or corrective actions have been implemented;
- B. AWIB or its designee temporarily taking over data entry for both financial and participant data and charging grantee for cost of inputting;
- C. Recapture of unexpended funds;
- D. Disallowing costs associated with a particular violation or deficiency and the seeking of repayment from non-federal funds;
- E. Disapproval of requests for specific or all WIA funds draw-downs, until the violation or deficiency has been corrected;
- F. Deducting the amount of errant-expenditures from the LWIA's administrative funds, either current or those which are part of subsequent program year's allocation;
- G. Development of performance improvement/Corrective Action plan or development of modified local area plan;
- H. Monetary sanctions to reduce the funding allocation for the next program year by up to 5% based upon the degree of failure to meet negotiated level of performance;
- I. Revocation of a local area plan until conditions, violations or deficiencies have been corrected (grantees without approved local plans cannot receive any WIA funds);
- J. Imposition of a Reorganization Plan, pursuant to Sections 136(h)(2) and 184(b) including, but not exclusively limited to;

1. Decertifying the local board involved;
2. Prohibiting the use of specific providers;
3. Selecting an alternative entity to administer the program for the local area involved;
4. Merging the local area into another local area;
5. Making other such changes as determined necessary to secure compliance.

K. Others as deemed appropriate by the Arkansas Workforce Investment Board or by the State staff after approval of the Board.

NOTE: The State reserves the right to increase the severity of sanction(s) for uncorrected violation(s). If, after lifting a sanction, the local workforce investment area again fails to adhere to agreed upon corrective action(s), the subsequent sanction(s) will be more severe in nature.

Additionally, 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, or seriousness, and/or frequency of the violation.

