



Higher Education Coordinating Commission Office of Workforce Investments Policy	
Subject: Monitoring, Corrective Actions, and Sanctions	
Focus:	<input checked="" type="checkbox"/> WIOA Title I <input type="checkbox"/> National DWG <input type="checkbox"/> State Grants <input type="checkbox"/> Other:
Publish Date: 8/18/2022	<input type="checkbox"/> New Policy <input checked="" type="checkbox"/> Revised Policy

## Overview

The Workforce Innovation and Opportunity Act (WIOA) Final Regulations direct the Higher Education Coordinating Commission's (HECC) Office of Workforce Investments (OWI), as Oregon's WIOA Title I grant recipient to prescribe standards to be used for monitoring of funds awarded through Title I of WIOA and related activities.

## Policy Statement

One of OWI's roles and responsibilities is determining if subrecipients and contractors have demonstrated substantial compliance with WIOA Title I requirements, as per 20 CFR 683.410(b)(2)(iii).

This policy:

- Provides standards that must be addressed and satisfied by OWI's oversight and monitoring of local workforce boards;
- Provides standards related to corrective actions including informal resolution options;
- Provides details related to the provision of technical assistance by OWI, whether due to a need identified by OWI, or as requested by a local workforce development board (local board, WDB);
- Provides examples of noncompliance and "substantial violations" that may result in corrective actions up to and including sanctions being imposed upon a local WDB;
- Provides examples of sanctions and a description of the sanctions process, including appeals; and
- Provides standards and requirements for local workforce boards, in partnership with the chief elected official for the local area, to conduct oversight of WIOA Adult, Dislocated Worker and Youth program activities and the entire one-stop delivery system in the local area, as defined in WIOA Regulations (CFR) 20 CFR Part 678.

If OWI (or the Governor) fails to promptly take corrective actions when it determines that a local area has failed to comply with the requirements described in 20 CFR 683.720(a), and that the local area has not taken the necessary corrective action, the Grant Officer (Department of Labor) may impose corrective actions directly against the local area.

If, as part of the monitoring of local areas, OWI determines that a local area is not in compliance with [2 CFR part 200](#), including the failure to make the required disclosures in accordance with [2 CFR 200.113](#) or the failure to disclose all violations of Federal criminal law involving fraud, bribery or gratuity violations, OWI must:

- (1) Require corrective action to secure prompt compliance; and
- (2) Impose the sanctions provided for at WIOA sec. 184(b) if the OWI, on behalf of the Governor, finds that the local area has failed to take timely corrective action.

If the Secretary of Labor finds that the OWI has failed to monitor and certify compliance of local areas with the administrative requirements under WIOA sec. 184(a), or that the Governor (or OWI on behalf of the

Governor) has failed to take the actions promptly required upon a determination described in the preceding paragraph, the Secretary must take the action described in [20 CFR 683.700\(b\)](#).

If the Governor (or OWI on behalf of the Governor) fails to take the corrective actions required by the Secretary under [paragraph \(c\)\(1\)](#) of this section, the Secretary may immediately suspend or terminate financial assistance under WIOA sec. 184(e). ([20 CFR 683.720](#)).

### **Effective Date**

August 18, 2022

### **Required Action**

#### **OWI Monitoring**

OWI will conduct regular oversight and monitoring of subrecipients and contractors providing WIOA Title I programs in order to determine:

- That expenditures have been made against the proper cost categories and within cost limitations.
- Whether there is compliance with other provisions of WIOA and the WIOA regulations and other applicable laws and regulations.
- That there is demonstrated compliance with 2 CFR Part 200.
- That there is demonstrated compliance with the nondiscrimination, disability, and equal opportunity requirements of WIOA.
- That local boards have completed monitoring in accordance with this policy.

#### Annual Monitoring

OWI's system provides for annual monitoring reviews of each local area's compliance with 2 CFR Part 200, including on-site tests of administrative compliance elements, and ensures that established policies to achieve program performance and outcomes meet the objectives of WIOA Title I and WIOA regulations. The monitoring system determines if entities have demonstrated substantial compliance with WIOA requirements and determines whether a local plan will be disapproved for failure to make acceptable progress in addressing any identified deficiencies. The system tests components of the local board's monitoring to ensure compliance with non-discrimination, disability, and equal opportunity requirements of Section 188, including Assistive Technology Act (EO/ADA).

OWI will utilize a monitoring review guide, and visit dates will be coordinated with local workforce development board staff. OWI is authorized to monitor any entity receiving WIOA Title I funds, and reviews may include entering sites or premises to examine program and fiscal records, and interview staff.

OWI will review working papers and documents provided in the monitoring review guide, and will retain documents in the OWI monitoring work papers file.

Random-sampling and data validation techniques will be used to draw the samples that will be used to review records. The review may include all (100%) of the record universe if the universe is small or problems are

identified during the review. Requested records are not to be modified between the time of the records request and the arrival of the on-site monitoring team.

An entrance conference will be held to confirm receipt of review items, and determine which items might need additional clarification or documentation.

An exit conference will be held, and a draft report will be provided. The draft report will include observations, compliance findings, or items of concern. Local board staff shall provide a response to the draft report within 30 days that addresses each finding or area of concern identified. This response is considered to be an informal resolution effort (see below).

The expected timeline for resolving a compliance finding is 60 days; in cases where more time is needed to resolve a compliance finding, a local board may submit a written extension request to OWI. At its discretion, OWI may require periodic progress check-ins for resolution efforts that take more than 30 days.

In the event it is not possible to resolve findings identified, a request may be made to OWI for technical assistance.

The monitoring review is completed or closed when corrective action is not required, or informal resolution efforts fail.

A final monitoring report will be issued, with copies provided to the local workforce board chair, the local area chief elected official, and the local workforce development board executive director.

#### Ad Hoc Monitoring

Upon its discretion, OWI may determine that ad hoc monitoring activities may be beneficial to ensure compliance or promote effective implementation of a policy or other WIOA Title I program or administrative component. The exact nature and procedures of ad hoc monitoring will be situation dependent and will fall within the general framework of this policy.

State reserve funds awarded to local boards for statewide workforce investment activities (WIOA Section 128) and for statewide rapid response activities (WIOA Section 133) will be monitored on a schedule and scope identified upon award.

#### Data Validation

Data element validation is incorporated into the state's monitoring system, and methodologies and written procedures for conducting review will be established, updated as needed to align with current DOL and state-level guidance (e.g. elements to be validated, allowable values, source documentation requirements, etc.), and published under separate cover. Regular data integrity reviews will be conducted quarterly, and missing data or anomalies will be addressed and resolved. OWI will conduct regular assessments of the effectiveness of the data validation process and revise this policy and related procedures as needed.

### **Technical Assistance**

Technical assistance and training may be recommended by OWI or requested by one or more Local Workforce Development Areas (LWDAs). Technical assistance may be a means of improving operations, implementing corrective action, or providing information. Local WDBs will not be monitored on the quality or compliance of their programs during technical assistance visits, but will be provided direction to improve quality and compliance issues. OWI may provide technical assistance and training directly or outside sources may be used. Such requests should be scheduled with OWI staff.

Requests for minor technical assistance may be submitted verbally or in writing. If major assistance or assistance in several areas is requested, the request should be in writing so that OWI staff has sufficient information to decide on the most appropriate form and level of assistance to provide. If several LWDAs request assistance in related areas, a general training session may be scheduled.

OWI staff may schedule technical assistance visits to LWDAs to provide information or special training, discuss areas of concern, evaluate program operation, or any combination thereof.

### **Prompt Resolution**

All requests from OWI for monitoring documents or responses, informal resolution requirements or other corrective actions, or other time-sensitive materials will include a timeline and/or due dates. Local WDBs must comply with these timelines or risk being considered as *non-responsive* by OWI. In any case where a local WDB feels they may not be able to comply with a timeline, the local WDB may request an extension by submitting a formal request including an explanation of the circumstances and a projected timeframe for resolution to OWI's Director. Any extensions given and any alterations to OWI's timelines are at the sole discretion of OWI's Director.

### **Substantial Violations**

A substantial violation includes an unresolved violation or violations of federal, state, or local laws, regulations, contract provisions, grant agreements, or policies by a local board, local subrecipient, and/or fiscal agent, or a contractor of the local board or local subrecipient and/or fiscal agent. Incidents of fraud, misfeasance, nonfeasance, malfeasance, misapplication of funds, or other similar violations may also be substantial violations. If/when OWI monitoring staff identify a substantial violation they shall inform the Director and Deputy Director(s) of OWI.

A substantial violation may also occur as a result of repeated, recurring, or related infractions with federal or state policies or procedures. Examples include, but are not limited to, a pattern of non-responsiveness (e.g. to a request to schedule monitoring reviews, or to make policies or other documents available) or a pattern of repeat compliance findings (e.g. resolved one year, but recurs subsequently).

If OWI finds that a substantial violation has occurred, OWI shall require corrective action to secure prompt compliance and may assess penalties as provided by WIOA, state and federal guidance, and state, federal, and local contracts and agreements, including financial penalties. Prior to, or in conjunction with, any corrective actions, OWI will notify the chief local elected official(s) of the respective local workforce development area in writing.

If it is determined that a substantial violation has occurred and corrective action has not been taken, OWI may recommend to the Governor that they:

- Issue a notice of intent to revoke approval of all or part of the local plan affected; or
- Impose a reorganization plan, which may include—
  - decertifying the local board involved;
  - prohibiting the use of eligible providers;
  - selecting an alternative entity to administer the program for the local area involved;
  - merging the local area into one or more other local areas; or
  - making such other changes as the (Secretary of Labor or) Governor determines to be necessary to secure compliance with the provision.

### **Corrective Actions**

OWI is responsible for ensuring and determining that subrecipient findings are resolved from monitoring reviews, investigations, other Federal monitoring reviews, and audits of subrecipients awarded WIOA Title I funds.

OWI's system requires that prompt corrective action be taken if any substantial violation of standards is found. Further, OWI may impose remedies for noncompliance in the event of a subrecipient's failure to take required corrective action.

### **Informal Resolution**

The Governor's designated administrative entity, OWI, works with subrecipients to resolve issues informally before violations warrant formal sanctions as described in this policy. Informal resolution is a joint undertaking by OWI and the subrecipient to resolve any potential sanctionable acts without resorting to formal sanctions.

Informal resolution efforts may include:

- Technical assistance
- Additional oversight or ad hoc monitoring
- Mitigating efforts implemented by the subrecipient
- Other corrective actions

During the informal resolution process, knowledgeable program staff and subrecipients can cater the appropriate informal resolution efforts to the special circumstances of the subrecipient's situation and the nature of the issue being addressed. Informal resolution is flexible and customizable with the goal of avoiding the sanctions determination process.

### **Escalation**

If informal resolution fails to resolve the issue(s), OWI, as the Governor's designated administrative entity, will issue a written notice identifying any sanctionable act(s). The written notice will include requirements for a Corrective Action Plan (CAP) and any sanction(s) to be imposed.

For a description of CAPs and the sanction procedures, including appeals, see Attachment A.

### Debt Collection

In the event that HECC must initiate debt collection procedures, the agency will follow the written procedures describe in the [Oregon Accounting Manual](#).

### **Sanctions**

Unless deemed necessary or prudent, sanctions will not be imposed unless informal resolution efforts fail to resolve sanctionable acts. The following non-exhaustive examples of sanctions may be imposed if informal resolution efforts fail and/or may overlap with actions described in a grant agreement:

- Disallowed costs
- Withholding drawdowns and requests for payment, suspension, and termination of funds
- Termination of contract, Memorandum of Understanding (MOU), or any other agreement between the subrecipient and the state [WIOA Section 184(b)]
- Recapture and reallocation of funds
- Reimbursement of funds rather than advanced payments
- Ineligibility for discretionary funds
- Ineligibility to receive a voluntary reallocation from another local area
- Submission of additional or more detailed financial or performance reports
- Reports on activities and progress until performance is satisfactory, by the LWDB's executive director, other administrative officer, or the subrecipient (in person and/or in writing)
- On-site visits to provide technical assistance to the local WDB, the local WDB's contractor, or the subrecipient
- Reorganization plan [WIOA Section 107(c)(2)(C),]
  - Appointment and certification of a new local WDB, consistent with the criteria established under 20 CFR 679.350
  - Prohibition of the use of eligible providers that have been identified as achieving poor levels of performance
  - Other significant actions, as appropriate
- Recommend the initiation of suspension or debarment proceedings
- Other remedies that may be legally available

The sanctions listed above supplement, but do not supplant, applicable civil and criminal actions under other pertinent federal, state, or local laws, regulations, policies, or terms and conditions of applicable awards, contracts, etc.

Penalties may be assessed based on a case-by-case review of the circumstances surrounding the sanctionable acts. OWI will consider the steps necessary to ensure successful service delivery outcomes, customer needs, and accountability for contract management services and activities provided by a local board in the assignment of sanction status and the assessment of penalties.

For a description of the sanction procedures, including appeals, see Attachment A.

### **Local Workforce Development Boards**

Local boards, or the local area Fiscal Agent, if delegated those roles, must establish standards for subrecipient monitoring to include managing, conducting, and reporting the regular oversight of subrecipients and

contractors providing WIOA Title I programs, and determining that expenditures have been made against the proper cost categories and within cost limitations. Chief local elected officials who enter into WIOA grant agreements with the State of Oregon are ultimately liable should there be disallowed costs.

The local board's monitoring must also determine whether there is compliance with other provisions of WIOA and the WIOA regulations and other applicable laws and regulations. Compliance with 2 CFR Part 200 must also be ensured, and there must be demonstration of compliance with the nondiscrimination, disability, and equal opportunity requirements of WIOA.

A monitoring report or summary must be provided at least annually to the local board, the chief local elected officials, and OWI, along with annual programmatic and accessibility reports conducted to ensure that programs and offices are compliant with EO/ADAs standards. Local board policy must include this reporting requirement.

### **Contact**

Questions are to be referred to [hecc.owi-workforce-policy@hecc.oregon.gov](mailto:hecc.owi-workforce-policy@hecc.oregon.gov).

### **References**

WIOA Regulations 20 CFR Part 679.370(i)  
20 CFR 683.700(c)  
20 CFR 683.720  
20 CFR 683.400(d)  
20 CFR 683.410  
20 CFR 683.420  
2 CFR 200