Kansas Department of Commerce
Workforce Services
Policy and Procedures Manual

Policy Number: 5-37-00

Originating Office: Workforce Services

Subject: Sanction Policy for Workforce Innovation and Opportunity Act - Title I Programs

Issued: 08-02-2017

Revised: 11-7-18 (KWSB Meeting)

Program: Workforce Innovation and Opportunity Act

State Board Approval Date: 08-02-2017, 11-07-2018

Purpose: To provide Local Areas with policy and guidance related to State sanctions under title I of the Workforce Innovation and Opportunity Act (WIOA) for performance accountability.

References: Workforce Innovation and Opportunity Act Section 116 & 184, 20 CFR parts 677 Subpart D & 683 Subpart G, TEGL 9-17, TEGL 10-16 Change 1

Background: Kansas may be subject to financial sanction(s) if it fails to submit timely, accurate and complete performance reports, or fails to meet adjusted levels of performance. Each local area is subject to the same indicators of performance that apply to the State and the cumulative performance of the local areas directly impacts the State's ability to meet adjusted levels of performance.

Action: Distribute to all interested parties.

Contact: Questions should be directed to Administrator, (785) 296-0607, TDD: 1-800-766-3777
email workforcesvcs@ks.gov.

State of Kansas

Workforce Innovation and Opportunity Act Sanctions Policy

Local Area WIOA Sanctions Policy

Following two years of complete data reporting for WIOA Title I programs; the threshold for performance failure is 90 percent of the adjusted level of performance for the overall Local Area program score and the overall Local Area indicator score. The threshold for performance failure for any individual program indicator is 50 percent of the adjusted level of performance. The Local Area must accept technical assistance from the Department of Commerce should performance levels fall below either one of these thresholds. If the Local Area fails to achieve 90 percent of the adjusted level of performance for the same overall Local Area program score for two consecutive years, or the same overall Local Area indicator score for two consecutive years, or 50 percent of any individual program indicator score for two consecutive years, the Local Area may be subject to financial sanctions in the form of a reduction in the annual allotment for the applicable program area, up to a maximum of 5 percent. The application of a financial sanction will be made to the allotment for the program year following the year of poor performance. Any funds withheld from the application of financial sanctions may be made available for technical assistance projects.

The effective use of sanction authority related to performance will include a range of actions, with the ultimate goal of improving services to customers. Financial sanctions will be considered when it is clear the Local Area has not taken reasonable steps to address its poor performance but levying a financial penalty will not be the sole purpose or result of a sanction.

Any Local Area that failed to meet 90 percent of the adjusted level of performance for the same overall Local Area program score for two consecutive years, or the same overall Local Area indicator score for two consecutive years, or 50 percent of any individual program indicator score for two consecutive years will be required to modify its Strategic Plan to incorporate an agreed upon performance improvement plan.

At a minimum, if the Local Area failed to achieve the negotiated levels of performance for two years in a row, the State will work with the appropriate Local Area to develop a performance improvement plan. Such a plan will include changes to program goals, as appropriate, as well as design, management or administration remedies that address any deficiencies in program design or service strategy that have inhibited performance, including reporting problems; appropriate technical assistance to improve program services and continued monitoring by the State.

The amount of a financial sanction for poor performance within a program area will be directly related to the type of measure that was failed but will not be more than 5 percent of the annual allotment for the program area.

In addition to the required performance improvement plan, financial sanctions will be applied to the program area in which the Local Area failed to achieve the negotiated level of performance, i.e., adults, youth, and/or dislocated workers.

When determining the amount of a financial sanction, failure to submit accurate and timely monthly reports, quarterly reports and the Annual Report narrative will increase the financial sanction by an additional 1 percent of the annual allotment in the program area that is being sanctioned. If the Local Area failed to submit a timely and accurate report but has met all of its negotiated levels of performance, then a financial sanction will not be imposed.

A financial sanction may be appropriate for any Local Area that failed one or more measures of performance for workforce investment programs. The following describes the maximum amount of a financial sanction, subject to adjustment upon further review. Since there are three types of measures that will be considered, the amount of the financial sanction will be based the type of measure that was failed:

Adult/Youth/Dislocated Worker Type of Measures Failed	Maximum Amount of Sanction
1. Individual Program Indicator (below 50%)	1%
2. Overall Program Indicator (below 90%)	2%
3. Overall Program Score (below 90%)	2%
*	5%

*Failure to submit an accurate and timely report will increase the level of financial sanction applied to a program by an additional 1 percent if it is otherwise subject to financial sanction.

It is possible for a Local Area to fail multiple types of measures. For example, is a Local Area fails both an Individual Program Indicator and an Overall Program Score, the resulting maximum amount of sanction would be 3%.

There are several general factors to consider in relation to sanctions for performance that will be taken into consideration in determining the actual amount of the sanction (up to the maximum percentages as discussed above), such as performance on other indicators, economic conditions, and the progress of performance on the failed measure between the two program years. The Department of Commerce will work with the Local Area to address the seven mitigating factors:

1. The Local Area's performance relative to other Local Areas;
2. The improvement efforts underway;
3. Incremental improvement on the performance measures;
4. Technical assistance previously provided;
5. Changes in economic conditions and program design;
6. The characteristics of participants served compared to the participant characteristics described in the Local Area Plan; and
7. Performance on other core indicators of performance.

It is important to note that the State's primary interest is in ensuring effective and efficient service delivery and successful outcomes for participants served by WIOA programs. In addressing the mitigating factors, the Local Area should acknowledge areas where performance is failing and provide documentation that either substantiates actions taken by the Local Area to improve performance throughout the period of performance or that provides sufficient context around the Local Area's actual performance results.

The Department of Commerce will provide a final recommendation for a financial sanction based on their analysis of the information received from the Local Area including responses on the seven factors discussed above. The amount of the sanction for each performance measure missed could be reduced if the Local Area provides relevant and sufficient information to explain the performance failure.

If a local area fails to meet the adjusted levels of performance agreed to under 20 CFR 677.210 for the same primary indicators of performance for the same core program under WIOA Title I for a third consecutive year, the Governor/Governor's designee must take corrective action which includes the development of a Local Area reorganization plan requiring:

1. Appointment and certification of a new Local WDB
2. Prohibiting the use of eligible providers and one-stop partners who have been identified as achieving poor levels of performance
3. Any other significant action(s) as the Governor/Governor's designee determines appropriate

Local Areas may request a review of a decision to impose a sanction in accordance with existing appeal procedures.