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Henry McMaster
Governor

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STATE INSTRUCTION NUMBER 16-17

To: Local Workforce Development Board Chairs
Local Workforce Area Signatory Officials
Local Workforce Area Administrators

Subject: Sanctions for Violations of Nondiscrimination and Equal Opportunity Provisions of WIOA

Issuance Date: May 31, 2017

Effective Date: Immediately

Purpose: To inform grant recipients of the (1) sanctions that may be imposed for violation of the nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA), and (2) to outline the procedures to achieve voluntary compliance, i.e. corrective action/remedy.

Background: 29 CFR 38.54(c)(2)(vii) requires the Governor (or designee) of each state to establish procedures for obtaining prompt corrective action or, as necessary, applying sanctions when noncompliance with the non-discrimination and equal opportunity provisions of WIOA is found.

Policy: When the SC Department of Employment and Workforce (DEW), as the state administrative agency for WIOA, finds that a violation has occurred, the following steps will be taken to accomplish corrective action:

1. *Initial Determination:* The State EO Officer will issue an Initial Determination containing the following:
 - a) specific findings underlying the finding of noncompliance;
 - b) the corrective or remedial action that the State EO Officer is proposing;
 - c) the time by which the respondent must complete the corrective or remedial action; and
 - d) a statement offering the opportunity to engage in voluntary compliance negotiations.
2. *Written Assurance or Conciliation Agreement:* A written assurance may be issued when the respondent has, within 30 calendar days after receipt of the Initial Determination identifying the noncompliance, taken all corrective actions to remedy the noncompliance. If a respondent

disagrees with the findings or proposed corrective or remedial action in the Initial Determination, the respondent must respond to the Initial Determination in writing within 30 calendar days explaining in detail its disagreement and/or the items over which it desires to negotiate. The State EO Officer will carefully review the response and contact the respondent to begin negotiation regarding a Conciliation Agreement that resolves the matter on mutually agreeable terms. The total time allotted to secure voluntary compliance must not exceed 60 days.

3. *Final Determination:* In the event voluntary compliance cannot be secured through steps (1) and (2) above, or if respondent breaches the agreed-upon Conciliation Agreement, the State EO Officer will issue a Final Determination containing the following:
 - a) a statement of the efforts made to achieve voluntary compliance and a statement that those efforts have been unsuccessful;
 - b) a statement of those matters upon which the respondent and DEW continue to disagree;
 - c) a list of any modifications to the Initial Determination;
 - d) a description of the corrective or remedial actions that the respondent must take to come into compliance; and
 - e) notice that if the respondent fails to come into compliance within 10 calendar days of the date on which it receives the Final Determination, DEW may take the actions listed in (4) below.
4. *Sanctions:* DEW may refer the matter to the United States Department of Labor or take such action as provided by law to secure compliance.

Inquiries: Questions may be directed to Stephani Frese at 803-737-2381 or sfrese@dew.sc.gov.



Patricia Sherlock, Director
Policies and Procedures